Legislative Council

Tuesday, 3 December 1991

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

MINISTERIAL STATEMENT - BY THE MINISTER FOR CORRECTIVE SERVICES

Criminal Justice Systems in Europe - Study Group Visit Report

HON J.M. BERINSON (North Metropolitan - Minister for Corrective Services) [3.34 pm] - by leave: In a statement to the House on 29 May 1991 I outlined a number of measures aimed at a real and continuing reduction in the State's excessive rate of imprisonment. Among those measures was a study group visit to Europe for discussions with Austrian, German, Finnish and British authorities and judges. The group was also to visit a limited number of institutions. The study group included the Chief Justice, the Chief Stipendiary Magistrate, the Executive Director of the Department of Corrective Services and me. It was joined by the Solicitor General, who was already in Europe as a member of the Australian delegation to a United Nations mission in Vienna. I have now prepared, and propose to table, a report of the visit, which sets out a number of findings and recommendations for reform. I have consulted all other members of the study group, but I make it clear at the outset that the report is a summary of my own views and findings.

Use of imprisonment: If there was one thing in common between all the European criminal justice systems visited, it was that not one of them regarded imprisonment as any sort of solution to the problems of crime and law reinforcement. The first finding of the report reflects the conviction universally expressed in the areas visited that the imprisonment rate for minor offenders can be significantly reduced without placing the community at greater risk.

Coordination: A second common view among those consulted emphasised the importance of coordination within the criminal justice system on the one hand, and between the system and the community - especially those in the community who are victims of crime - on the other. Recommendations in this regard include support for the following -

The establishment of a criminal justice coordinating council;

the establishment, both legislatively and judiciously, of authoritative sentencing guidelines;

the dissemination of statistical and research findings to both better inform the public of the operations of the criminal justice system and to provide feedback to the sentencing courts on the effectiveness and consistency of their sentencing practices;

the creation and expansion of victim-offender mediation and reparation schemes; and

an increase in the level of information, support and assistance for victims of crime.

It will be noted that a number of these recommendations are in line with the recommendations of the Joint Select Committee on Parole and the Premier's charter of victims' rights.

Unit fines: Despite a very active program, alternative procedures for unpaid fines have still not adequately reduced the number of people who are imprisoned in this State for non-payment of fines. One continuing problem with our system of fines is that it fails to distinguish between those who can readily afford to pay them and those with limited means. The report recommends that the European system of relating the monetary value of a fine to both the seriousness of the offence and the level of disposable income of the offender should be piloted here. The European experience with so-called unit fines has shown that these are accepted as providing a fairer, as well as a more realistic, approach to the imposition of fines. They have also enabled the more extensive use of fines as an alternative to imprisonment.

Short sentences: The ineffectiveness of short prison sentences is recognised in the legislation of several European jurisdictions. The report recommends that custodial sentences of six months or less should not be permitted, except where the court determines that there is no other means of properly dealing with the case, and gives reasons.

The European experience is that a sustained reduction in the rate of imprisonment can be achieved without any increase in serious crime or added risk to the public. Although our law enforcement problems have some distinctive features, there is no reason to doubt that a very wide scope exists to adapt to our own purposes the measures which have proved successful overseas.

I would welcome any comment on the report and its recommendations. These, together with the parole committee report and the Premier's charter of victims' rights, will form the basis of substantial work on policy development in the next six to 12 months.

I seek leave to table the report.

Leave granted. [See paper No 930.]

FITZGERALD STREET BUS BRIDGE BILL

Assent

Message from the Governor received and read notifying assent to the Bill.

FITZGERALD STREET BUS BRIDGE ACT

Report Tabling

HON MARK NEVILL (Mining and Pastoral - Parliamentary Secretary) [3.40 pm]: In accordance with the provisions of the Fitzgerald Street Bus Bridge Act I table a report entitled "A Proposal for the Fitzgerald Street Bus Bridge" which is required not later than 3 December 1991. I move -

That the report be noted.

Question put and passed. [See paper No 931.]

STANDING ORDERS COMMITTEE

Report on Various Matters Tabling

HON J.M. BROWN (Agricultural) [3.41 pm]: I present for printing a report of the Standing Orders Committee on various matters. I move, without notice -

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

Question put and passed. [See paper No 932.]

MOTION - JUSTICES ACT (COURT OF PETTY SESSIONS FEES) REGULATIONS (No 2)

Disallowance

HON TOM HELM (Mining and Pastoral) [3.42 pm]: I have on the Notice Paper a Notice of Motion which reads -

> That the Justices Act (Court of Petty Sessions Fees) Regulations (No 2) 1991 published in the *Government Gazette* on 27 September 1991 and tabled in the Legislative Council on 15 October 1991 under the Justices Act 1902 be, and are hereby, disallowed.

I intend to seek leave to withdraw this motion and Notice of Motion No 3 for the disallowance of regulations. In this instance, the Joint Standing Committee on Delegated Legislation considered that the regulations that were published in the *Government Gazette* were ultra vires. The committee felt that the Act did not give the power to pass regulations that would allow the Crown Law Department to strike a levy for the modernisation and computerisation of the court system. I will read out a letter from the Attorney General that goes some way to meeting the committee's concerns.

The PRESIDENT: Hon Tom Helm may speak on Notice of Motion No 2; I am not dealing with any other motion. The member can read out the letter and we will take it from there.

Hon TOM HELM: After consultation with the Attorney General and various members of his

department, including the Under Secretary for Law, the committee requested the Attorney to provide a letter acknowledging the committee's concerns. The Attorney's letter states -

> Thank you for your letter of 28 November 1991.
>
> As you know, I have some reservation about the Joint Committee's view of the above regulations.
>
> Nonetheless, I accept that it is preferable to put the issue beyond doubt and I therefore write to indicate that steps will be taken to wind-up the Courts Modernisation Trust Account so that there can be no question of the fees going other than into CRF for general purposes. The Under Secretary for Law will also ensure that any provision in future years for courts modernisation will be way of ordinary appropriation in the budget process.
>
> I trust this meets the Committee's requirements so as to allow it to proceed with the proposed withdrawal of the notices of motion for disallowance.

In considering these regulations the committee was very concerned that a principle had been breached and that its terms of reference had not been met. The committee is very supportive of the need for the modernisation and computerisation of the courts. However, the committee was very concerned that in the Program Statements that were considered by the Estimates Committee, on two occasions the word "levy" was used. A levy can be construed as being a tax and there is no provision within the Justices Act to provide a tax. The committee recognised the problem that the Crown Law Department would have in modifying its regulations to allow it to continue to collect the levy, and in that regard was prepared to accept a letter of assurance from the Attorney General that its concerns would be met. In the view of most of the members of the Joint Standing Committee on Delegated Legislation the Attorney's letter meets that request.

Hon George Cash: Has your committee met to consider this letter?

Hon TOM HELM: No, it has not. I have sent a copy of the letter to all members of the Committee with a note to get in touch with me if they had any concerns. One member has contacted me and advised that he has no concerns and I have not been contacted by the other member.

Hon George Cash: Given the seriousness of a disallowance of a motion, would it not be appropriate for your committee to meet and consider the content of the letter?

The PRESIDENT: Order!

Hon TOM HELM: The committee instructed me last Thursday not to move to disallow these regulations if the Attorney sent a letter that would meet with the request of the committee and recognise the committee's difficulties. The Attorney's letter indicates that he accepts the committee's concerns although he has some reservations. His letter states "that steps will be taken to wind-up the Courts Modernisation Trust Account so that there can be no question of fees going other than to CRF for general purposes".

Hon Derrick Tomlinson: Do you think that resolves the problem of how the Government is levying taxes?

Hon TOM HELM: I can understand some of the concerns of some members in this Chamber, and it could be that some people in this place are not prepared to take the Attorney's word - I am.

Hon Derrick Tomlinson: It is not a question of the Attorney General's word; it is a question of the law.

Hon TOM HELM: It is a question of the terms of reference of the committee, and its members believe they have not been met. The Attorney General has recognised that.

The PRESIDENT: Order! I will not allow a private discussion. The member is introducing a motion. I took it from the member's initial comments - and the member must bear in mind that I do not know what he is doing because he has not told me - that he wanted to table a letter. I indicated to him that before he could seek leave to table the letter he needed to read out the letter otherwise members would not know what he was talking about. The member is now having a debate and from his comments it is a debate on the first motion. I take it that at

the end of his comments he will take some action. If the member does not have something in mind, he might ask me what he should do - but it is not for me to tell the member what to do.

Hon TOM HELM: I misunderstood the President. I thought that if I read out the letter I would have no need to ask for permission to table it.

I will ask for permission to table the letter. However, before doing that I thought that the House deserved an explanation of why it should agree to the withdrawal of motion No 2 on the Notice Paper. The House should be aware, because I tabled the report of the committee last week, that the committee is concerned about not only the justices department but also the gazetted regulations. Next year the same regulations will be gazetted and they will be brought before the committee again. Therefore, if the appropriate regulations are not moved or if the committee's terms of reference are breached, I will be back before the House asking it to support the committee's recommendation to disallow the regulations. I seek leave to table the letter from the Attorney General.

[See paper No 933.]

Hon TOM HELM: I seek leave to withdraw the motion.

The PRESIDENT: I indicate that one dissenting voice will prevent that.

Leave denied.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [3.52 pm]: I am surprised that Hon Tom Helm would on one day - that being last Thursday - give notice to move to disallow regulations on a request from the Joint Standing Committee on Delegated Legislation, of which he is chairman, and then on another day seek to withdraw that motion. I am not the member of the Liberal Party who should be discussing this matter; Hon Derrick Tomlinson, who is the Liberal Party's shadow Attorney General, will be discussing it in due course. However, Hon Tom Helm not only sought leave to withdraw his disallowance motion but also introduced new material which few members of this House have had the opportunity of examining. Although Hon Tom Helm read the letter to the House, the new material must be considered by this House in a proper manner. It is wrong to withdraw the motion on that basis.

Hon E.J. Charlton: Is it a committee decision?

Hon GEORGE CASH: It cannot be a committee decision because the committee has not met since last Thursday. Although I have no doubt that Hon Tom Helm is acting in good faith, it is a matter for the Joint Standing Committee on Delegated Legislation to consider. Now that the matter is the subject of a notice of motion on the Notice Paper it is a matter for this House to decide.

Hon Garry Kelly: Didn't you hear what the chairman of the committee said?

Hon GEORGE CASH: No, what did he say?

Hon Garry Kelly: He mentioned what the committee's decision would be if the Attorney General gave assurances.

Hon GEORGE CASH: I did not hear Hon Tom Helm say that. This is a serious matter and concerns fees struck by the Government which are deemed to be taxes. The other day the Chairman of the Joint Standing Committee on Delegated Legislation tabled in this House the report of the committee which stated that tests had been applied to some of the fees. It was also stated in the report -

(1) The Courts Modernisation Fund Levy is not a fee within the intents and purposes of the parent legislation.

(2) The Courts Modernisation Fund Levy appears to fulfil all of the attributes of a tax suggested in the case of *Air Caledonie*.

(3) It is not clear that an individual is certain to receive the benefit of the computerisation when lodging a complaint which attracts payment of a fee.

(4) The amount of the levy does not appear to bear any "discernible relationship" to the value of what is received.

The recommendation of the committee on page 6 of the report was as follows -

> In summary, your Committee believes that the levy for the Courts Modernisation Fund applied under the *Justices Act (Courts of Petty Sessions) Regulations, the Justices Act (INREP) Amendment (No. 3) Regulations* and the *Local Courts Amendment Rules (No. 2)* is *ultra vires* the authority in the *Justices Act* and the *Local Courts Act* and **recommends that those regulations which purport to impose the levy as a component of the Courts fees structure should be disallowed.**

That is a serious recommendation and must be given due consideration by the House. It would be wrong at this stage to agree to the request by the Chairman of the Joint Standing Committee on Delegated Legislation to withdraw his disallowance motion. The House should consider the content of the letter referred to by Hon Tom Helm and the substance of the report tabled in this House last week. That report suggested that we are dealing with an important matter and which deals with the State Government's function compared to the Federal Government's function. The setting of fees is properly the function of the State Government, whereas the imposition of taxes is clearly - and as is suggested in many court decisions - the function of the Commonwealth Government.

Debate adjourned, on motion by Hon Mark Nevill.

APPROPRIATION (GENERAL LOAN AND CAPITAL WORKS FUND) BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [4.00 pm]: I move -

> That the Bill be now read a second time.

The purpose of this Bill is to appropriate sums from the General Loan and Capital Works Fund to finance items of capital expenditure. The capital works expenditure program proposed for this year amounts to $1 355 421 000. Of this amount $460.820 million is to be appropriated by this Bill from the General Loan and Capital Works Fund. The works program of $1 355.4 million compares with actual expenditure of $1 194.9 million last year but includes a $50 million appropriation to the Consolidated Revenue Fund for redundancy payments.

The Premier and Treasurer referred to the more significant matters of interest in the Capital Works Program in her Budget speech. Consistent with the need for responsible financial management, the program will stimulate economic activity as well as providing the infrastructure necessary to facilitate growth. Financial details of projects and programs are contained in the Estimates and further descriptive information is provided in the document, Supplement to the Capital Works Estimates, which was tabled in the Legislative Council on 29 August.

The main purpose of the Bill is to appropriate, from the General Loan and Capital Works Fund, the sums required for the works and services as detailed in the General Loan and Capital Works Fund Estimates of Expenditure. An amount of $460.820 million is sought from the General Loan and Capital Works Fund as part of the total financing arrangements required for the Government's planned works program. The amount to be provided from the General Loan and Capital Works Fund, which is subject to appropriation in this Bill, is clearly identified in bold type on page 5 of the Estimates. The Supply Act 1991 has already granted supply of $200 million and the Bill now under consideration seeks further supply of $260.820 million. The total of these two sums, namely $460.820 million, is to be appropriated for the purposes and services expressed in schedule 1 of the Bill. As well as authorising the provision of funds for the present financial year, this measure seeks ratification for amounts spent during 1990-91 in excess of the estimates for that year. Details of these amounts are provided in schedule 2 of the Bill.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Max Evans.

FRUIT GROWING INDUSTRY (TRUST FUND) AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON KAY HALLAHAN (East Metropolitan - Minister for Education) [4.04 pm]: I move -

That the Bill be now read a second time.

The Fruit Growing Industry (Trust Fund) Act provides a mechanism by which sectors of the fruit industry can be levied to provide funds for a number of purposes. These include -

(a) payment of the whole or portion of the costs and expenses of measures taken to prevent or eradicate pests and diseases affecting fruit trees and fruit;

(b) payment of compensation to growers in respect of the whole or portion of losses suffered by them as a result of measures taken to prevent or eradicate pests and diseases;

(c) payment of costs of the promotion and encouragement of scientific research for the improvement and transport of fruit crops;

(d) provision of financial help for the Western Australian Fruit Growers Association and its branches in the carrying out of its activities for the benefit of growers; and

(e) any other purpose which in the opinion of the Minister will promote and encourage the fruit growing industry.

In effect, the Act provides a means by which fruit growers can themselves provide funds to assist their own industry. I wholeheartedly support this approach and believe that such action should be encouraged.

Until recent years the levy, which is applied on the recommendation of a committee that the Act establishes for this and other purposes, has been set at a relatively low level - something of the order of a few cents per carton of fruit. This has been quite sufficient to meet the normal demands of the industry. In fact when the levy was last increased, in 1989, it was anticipated that this would provide for several years of potential increase without further amendments to the Act. However, members would be aware that in 1989 an outbreak of apple scab occurred in the Manjimup area, necessitating the removal of trees and the setting up of extensive spraying programs to control the disease. The trust fund committee, by way of an interest free loan from the Government, was able to pay compensation to growers for the removal of trees. This is being repaid over five years at the rate of $105 000 a year. The Act provides that the actual levy to be applied under the maximum shall be set by the Minister. The current levy for apples is 12¢ per 36 litre carton of fruit. This incorporates a 5¢ additional levy to cover the cost of the $525 000 loan. It is now insufficient to meet the ongoing demands that the industry itself sees as being necessary to maintain its viability.

At the 1991 annual conference of the Western Australian Fruit Growers Association it was resolved that a further 20¢ levy be applied to cover any shortfall in growers' compensation under the apple scab eradication program. This decision has been confirmed at two subsequent industry meetings. At this stage the industry intends that this additional levy should apply for a 12 month period, commencing on 1 January 1992. Essentially, the extra funds will be used to assist growers to meet costs incurred in implementing the required disease control treatments. If the industry request is to be met - and I have said I believe that such self-help measures should be supported - there is a need to raise the maximum levy that can be applied under section 17(1)(5a) of the Act. This currently sets the maximum at 1¢ for every 1.8 litres of fruit, equivalent to 20¢ per 36 litre container. This size is now the industry standard. Elevation of the maximum levy to 32¢ per 36 litre container would thus be sufficient to meet the expressed wishes of the industry in this specific instance. However, I am also aware that the industry rightly believes that at this stage it is not entirely possible to establish that some further funds could be needed and that increased costs could eat into these funds. Therefore, I believe that a little flexibility should be built into the amendment

proposed in this Bill. It is for this reason that the maximum levy is to be set at 1¢ for every litre of fruit, equivalent of course to 36¢ for each 36 litre container. I believe this is a reasonable proposition and should be supported by the House.

Members will also have noted that the Bill contains an amendment to section 17(4) of the Act. This is a housekeeping amendment to remove an anomaly between subsection (4) and subsection (5a). In the former subsection, which was introduced with the Act in 1941, the amount of contribution to the trust fund is to be assessed in relation to the amount of money payable to growers. As a matter of fact, contributions have been calculated on a volumetric basis for many years and this amendment tidies up the Act by providing that the levy shall be collected from moneys payable to growers, as is the practical situation.

In presenting this Bill to the House at such short notice I recognise that members will have little time to deliberate on its clauses, brief as they are. However, I know that the apple growing industry has widely canvassed opinions in this place and I believe that members opposite have been as concerned as I have regarding the need to permit such a worthy self-help project to go ahead. I commend the Bill to the House.

Debate adjourned, on motion by Hon Derrick Tomlinson.

INDUSTRIAL LANDS DEVELOPMENT AUTHORITY AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON KAY HALLAHAN (East Metropolitan - Minister for Education) [4.10 pm]: I move -

That the Bill be now read a second time.

The Treasurer's 1990-91 Budget speech announced the Government's intention to establish an Office of Land Services to facilitate a coordinated and integrated program of urban development and land supply. The Government will give effect to this new organisation through the Western Australian Land Authority Bill 1991 by the amalgamation of the Industrial Lands Development Authority, the Joondalup Development Corporation and LandCorp, the residential land development arm of the Western Australian Development Corporation.

Although the Western Australian Land Authority Bill provides for the continuation of ILDA's activities as part of the new Western Australian Land Authority, it should be borne in mind that ILDA's legislative mandate lapses on 31 December 1991 and there is no guarantee that the Western Australian Land Authority Bill will be passed by Parliament in time to legally continue its activities beyond that date. Therefore, the Government has introduced the Industrial Lands Development Authority Amendment Bill which extends the legislative mandate of ILDA by six months, to 30 June 1992, by which time it is fully expected that the Western Australian Land Authority Bill will have been debated and passed.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

MOTION - SELECT COMMITTEE OF PRIVILEGE

Select Committee on Evidence Supplied to Select Committee on Burswood Management Ltd - Appointment

Debate resumed from 13 November.

HON J.M. BROWN (Agricultural) [4.11 pm]: The motion before the House mirrors the motion moved on 16 June 1988 for the establishment of the Select Committee of Privilege on Burswood Management Ltd, with the exception that the words "the Chairman" are now "the former Chairman" and the words "14 June" are now "14 June 1988".

Hon N.F. Moore: There is another difference.

Hon J.M. BROWN: I listened to the member in silence.

I want to explain to the House my concerns about this motion. First, I was Chairman of the Select Committee of Privilege on Burswood Management Ltd. That committee comprised also Hon Tom Stephens, Hon Eric Charlton and Hon Norman Moore. It was able to report within seven days of being established. Indeed, the establishment of that Select Committee of Privilege was a result of your efforts, Mr President, in bringing the matter to the attention of the House. As a result of your efforts, the Attorney General moved, and the House determined, that a Committee of Privilege be established. On that occasion, the committee comprised four members. I note that, on this occasion, the committee shall comprise five members. I note also that the motion seeks that the committee have power to move from place to place. The committee of which I was chairman considered the matter here at Parliament House. Committee members also had the privilege of being able to conduct their deliberations while the House was sitting. However, the House was not sitting at 2.00 am when I was writing my report!

Hon Norman Moore stated in his speech that he presented a minority report, that Hon Eric Charlton, Hon Tom Stephens and I presented a majority report, and that Hon Tom Stephens presented a dissenting report. However, the dissenting report did not make any difference to the deliberations of the committee. Hon Norman Moore expressed his views, as every member is entitled to do and will continue to do. He stated -

> I will relate some of the history of this issue before asking members to support my motion which is, in effect, an endeavour to reconstitute that Select Committee of Privilege.

He stated also that -

> Essentially, the role of the Committee of Privilege was to ascertain whether the evidence referred to by Hon Tom McNeil in his special report and supplied to him by persons unnamed represented an attempt to influence him and other members of the committee . . .

However, he omitted to say whether the attempt to influence was an improper attempt. It is very important that members of the community have an opportunity to approach members of Parliament, irrespective of what position they hold or what involvement they have. The motion states that the committee be appointed to inquire whether there was an improper attempt to influence the committee. The operative word is "improper". Hon Norman Moore did not suggest in his report whether it was an improper attempt. I have read some of the reports that the Committee of Privilege accumulated during its deliberations, and Hon Norman Moore did not necessarily agree in his report that the word "improper" applied to the attempt to influence the committee. However, the other members of the committee considered it important to determine whether it was an improper attempt, and that was really the basis on which the majority report was handed down.

Hon Norman Moore stated also that -

> In evidence Mr Smith denied that he had been involved in telephone tapping . . . It is now history that Robert Smith was tried and found guilty on charges relating to the tapping of telephones which resulted in the supplying of tapes and transcripts to three of the members of the McNeil committee. Further, Mr Smith has now been found guilty of perjury in that the evidence he gave to the Committee of Privilege was found to be false.

Indeed, I had to attend court and give evidence on behalf of the committee in respect of that matter. Mr Smith refused at that hearing to cross-examine or make any utterances, despite the appeals of the judge. A judge and a jury were in attendance at the court. Despite the judge's appeals, Mr Smith just sat there and, to my knowledge, did not cross-examine or ask questions; nor, indeed, did he seek to defend himself. He was found guilty. I think it was through Hon Norman Moore's raising this question in Parliament that the matter went before that court. The Standing Orders of the Parliament set out what the Attorney General should do in such matters, so that was the procedure. In his speech supporting his motion for a Select Committee of Privilege, nowhere did Hon Norman Moore identify an attempt to influence as an improper attempt; and that, to my mind, is very important. In his speech Hon Norman Moore said -

> . . . it is now my view that he should again be asked a number of questions in relation to the provision of material to the McNeil committee.

I do not want to denigrate Mr Smith, who is not in a position to come forward. However, he has already been proved a liar. The courts have found him guilty twice and he has already served gaol sentences.

Hon Max Evans: Three times - with two more to come.

Hon J.M. BROWN: Two more to come? I do not know whether that is lust on Hon Max Evans' part, or otherwise.

Hon Max Evans: No, it is true. There are two more.

Hon J.M. BROWN: I said he had already done gaol twice.

Hon Max Evans: He has been in gaol three times and there are two more charges to come.

Hon J.M. BROWN: I said twice, Hon Max Evans said three times and two more to come; and now he qualifies it by saying there are two more charges to come. But where does Mr Smith's credibility stand if we bring him before the Select Committee of Privilege? What is the purpose of that? Does Hon Norman Moore consider that the Select Committee of June 1988 did not carry out its functions in accordance with the Standing Orders and present a substantial report, concerning exactly the same wording as contained in Hon Norman Moore's motion? Its full context is exactly the same as that which we had in June 1988, except for those two matters I raised; namely, it is now the former chairman, and the date was June 1988. Hon Norman Moore said in his speech in support of his motion -

> Mr Smith should be called by a reconstituted committee to explain his motivation for tapping the telephone conversations. Once we know his motivation it will be possible to reconsider the question of a breach of privilege.

Let us look at the report of the Select Committee and see what the Clerk of the Legislative Council said, because he is quoted in Hon Norman Moore's dissenting report, or his minority report as he calls it. Hon Norman Moore says that Mr Smith should be called by a reconstituted committee to explain his motivation for tapping the telephone conversations. However, this is what the Clerk said on page 2 of that minority report in respect of the question of a penalty -

> In this context, strictly the state of mind or the intention of the person supplying the tape is irrelevant -

That is important; the Clerk goes on -

> - although the committee should have regard to intention, or lack of it, when considering its recommendation (if any) as to penalty.

There are two questions there, of course. One is the irrelevance of the state of mind, intention or motivation of the person; however, if it is found that there is some guilt or otherwise in a person, one can give consideration to the intention or motivation of that person. But in the context of an argument as to the state of mind or motivation of that person, Hon Norman Moore's report says it is irrelevant.

Hon N.F. Moore: Irrelevant in the context of whether or not he is guilty.

Hon J.M. BROWN: That is what Hon Norman Moore's report said, and he thought it was very necessary to state that. I want to point out his own state of mind in this, because that is very important. In his speech in support of his motion he states -

> It is my strongly held view that the events of May/June 1988 represented an attempt to prevent a member of Parliament from carrying out his duties.

He said, "It is my strongly held view".

Hon N.F. Moore: It is.

Hon J.M. BROWN: If that is Hon Norman Moore's strongly held view - and no-one denies that - what is the state of his mind when he wants to be a member of a Select Committee? He already has that state of mind. It is his intent; it is his "strongly held view". Hon Norman Moore has said that is so. What fairness would there be to a witness who said something that did not agree with Hon Norman Moore's strongly held views? If we are to be the highest

court in the land we should have an open mind on these matters. We should not go in there with a closed mind, with tunnel vision or an attitude: We are determined to get you. The person Hon Norman Moore is determined to get has already been convicted as a proven liar in the courts and has been proved to have lied to the Parliament. Is Hon Norman Moore going to ask him to come back, and then go through the whole sequence of events again so that he is proved to be a liar again and so that instead of having two more cases to answer, as Hon Max Evans said, he will have three, or four, or five?

I am saying that the previous Select Committee very effectively carried out its responsibilities under the terms of reference it had.

Hon P.G. Pendal: He might be able to tell us who put him up to these things. Don't you want to know that?

Hon J.M. BROWN: In my view four members of the committee adequately handled the question that was put to them.

Hon N.F. Moore: Nobody is denying that.

Hon J.M. BROWN: I am saying that this motion for a Select Committee of Privilege completely ignores the findings of the previous committee. The man has already been convicted of perjuring himself. On page 4 of the report the committee says -

> 4.5 In as much as the Chairman reached this decision after consulting the Clerk, he was clearly influenced by the contents of the tape. It could be argued, however, that whatever contact Members have or material they receive from the public could influence them, however, there is no evidence before the Committee to support a proposition that there was an improper attempt to influence or intimidate the Committee or any of its Members.

In Hon Norman Moore's speech in support of his motion he gave no evidence whatsoever to show that we should reconstitute the committee.

Hon N.F. Moore: You made that decision based on Mr Smith's evidence.

Hon J.M. BROWN: I have just told the House what the Clerk said about the irrelevance of motivation.

Hon P.G. Pendal: Who put Smith up to it?

Hon J.M. BROWN: I want to go a stage further. This was what was said in the Select Committee of Privilege's minority report, or an addendum put forward by Hon Tom Stephens. At the commencement he said -

> When Mr Oliver came before the Committee he claimed first that he had not been intimidated by any actions surrounding these events.
>
> Mr Oliver subsequently told the Committee that he subsequently felt intimidated.

I took the opportunity of going through the transcripts. I do not want to relate them to the House, but they confirm exactly what was said here. He was not intimidated on the first occasion because he had a Queen's Counsel's advice. However, the second time he was intimidated when he came before the Select Committee, and overnight he managed to change his mind. He did not feel in any way intimidated when he first appeared before the committee. He had the reassurance of a Queen's Counsel from the Eastern States who gave him advice. Mr Oliver was a member of this Chamber and in certain matters there was conflict and that is why the committee was appointed. Nothing in the report mentions Hon Fred McKenzie and Hon Mark Nevill, who were given the same copies of the transcript -

Hon Fred McKenzie: We were never intimidated.

Hon J.M. BROWN: That is what I was going to say: They were never intimidated, or felt intimidated. They came before the committee and gave their evidence.

Hon N.F. Moore: Mr Oliver was not given copies of the transcript.

Hon J.M. BROWN: Mr Oliver was not intimidated. Hon Norman Moore does not know what he is talking about. Mr Oliver had a transcript which gave him all the details of the tape.

Hon N.F. Moore: Hon Jim Brown does not know what he is talking about.

Hon P.G. Pendal: Who put Smith up to it?

Hon J.M. BROWN: Hon Norman Moore only has to read what is in the report.

Hon N.F. Moore: He did not receive the transcript.

Hon J.M. BROWN: Of course, Mr Oliver did. Mr Oliver said that he did not receive the tapes, but he did say he had the transcripts. He also said that he was aware of what was written in the newspapers. He was well aware of what was in the tapes that were presented to the committee. Hon Norman Moore was not aware, because he refused to listen to the tapes when they were presented to the Select Committee. Does Hon Norman Moore remember how he refused to listen to the tapes?

Hon N.F. Moore: I did not want to sit there watching Hon Jim Brown and Hon Tom Stephens with silly grins on their faces, getting great satisfaction from making fools of themselves.

The PRESIDENT: Order!

Hon J.M. BROWN: Hon Norman Moore knows what transpired; from listening to those tapes he knows where the guilt lies .

Hon N.F. Moore: I do, and I am about to prove it.

Hon J.M. BROWN: He knows without my telling this House that he had the opportunity to hear the tapes; although during the deliberations of the committee, right up to the eleventh hour, he denied any knowledge of the tapes - as he did a little while ago. Hon Norman Moore knew what was in the tapes.

Hon N.F. Moore: Neil Oliver did not even see the tapes from Mr Coulson.

Hon J.M. BROWN: The member gave the committee the general impression that he had not heard the tapes.

Hon N.F. Moore: I am talking about Mr Oliver; he did not hear the tapes. I read the transcript, and Hon Jim Brown sat and listened to the tapes.

Hon J.M. BROWN: Hon Norman Moore secretly heard the tapes outside the committee meeting. That is why the member took the opportunity he did.

Hon N.F. Moore: I did not.

Withdrawal of Remark

Hon N.F. MOORE: The member is reflecting on my activities as a member of a committee and is suggesting that I was given evidence outside of the Select Committee, which is patently false. The information was provided to me at the same time it was provided to him - during the committee proceedings - but not elsewhere at any time. I object to that and ask him to withdraw as it is an imputation of my membership of that committee.

The PRESIDENT: The member seeks to have Hon Jim Brown withdraw that reflection on him.

Hon J.M. BROWN: I withdraw with a great deal of diffidence.

Hon N.F. MOORE: The member should withdraw unconditionally.

Debate Resumed

Hon J.M. BROWN: I could relate matters to this Chamber that would reflect much more seriously -

Hon N.F. Moore: Perhaps you should.

The PRESIDENT: Order! What the honourable member should relate to the Chamber is whether we should appoint this Select Committee. The House will be content to hear the member's view on that.

Hon J.M. BROWN: I will recapitulate what I have already said: No good purpose will be served by appointing a committee of four members, let alone five. The Select Committee carried out its functions in accordance with the resolution that was passed in 1988. The motion before the House is very similar. Perhaps Hon Norman Moore is on a witch hunt or wild goose chase.

Hon N.F. Moore: I just want to find the truth.

Hon J.M. BROWN: The member who has moved the motion has preconceived ideas, which presents a danger in a Select Committee.

Hon D.J. Wordsworth: It sounds like Hon Jim Brown has them too.

Hon J.M. BROWN: The full information that we have received indicates the thoroughness with which the Select Committee in those seven days completely examined whether there was a matter of privilege that should be pursued further. It did not find that to be so. No evidence has been presented today that would indicate we should reconstitute that committee, and I urge members not to support the proposition.

Debate adjourned, on motion by Hon Murray Montgomery.

EAST PERTH REDEVELOPMENT BILL

Committee

Resumed from 28 November. The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Kay Hallahan (Minister for Education) in charge of the Bill.

Clause 21: Compulsory taking of land -

Progress was reported after the clause had been partly considered.

Hon KAY HALLAHAN: Last week when we considered clause 21, Hon Phillip Pendal correctly stated that this clause treats the East Perth Redevelopment Authority as a local authority with respect to the acquisition of land. He also acted correctly in reassuring property owners that the powers of resumption in the Bill are no different from the powers of resumption that operate normally for planning acquisition. It is true that the latter powers apply over the whole of the State and not just to the metropolitan area, as may have been inferred from my comments last week. Section 13(2) of the Town Planning and Development Act exempts all local authorities from the provisions of subsections 17(2) to 17(7) and section 17A of the Public Works Act where land is being acquired for the purposes of a town planning scheme.

Local Governments have been exempted from these clauses of the Public Works Act for the acquisition of land for town planning purposes because the future planning intentions for a defined area usually have been the subject of extensive public consultation during the formulation of a scheme or any subsequent amendments. Gazettal and public advertising of planning schemes and amendments are provided for under the procedures of planning legislation. Subsections 17(2) to 17(7) of the Public Works Act relate to the procedures for obtaining land through publication of the notice of intent to take or resume land. This intention is therefore considered to be already present through the advertising of a town planning scheme. Section 17A, which relates to the power to enter land after the serving of notice, is also exempted because it refers to procedures contained in subsections 17(2) to 17(7) and therefore would have no effect. A distinction should be made between a notice of intention and a notice of resumption. That is where I think we did not make ourselves clear in the debate the other evening.

The East Perth Redevelopment Bill does not affect the requirement to gazette notice of resumption and the machinery of formally serving the notice on a landowner. The Bill relates only to the notice of intention. Part 4 of the Bill sets out the procedures for the introduction and amendment of a redevelopment scheme. Clauses 30, 31 and 32 specifically provide for public notification of a proposed redevelopment scheme and for consideration of any submissions by the scheme proponent and separately by the Minister. Subclause 30(2) specifies public notification by publication in the *Government Gazette* and in two issues of a daily newspaper circulating in the City of Perth. The notice must also specify where the scheme may be inspected or obtained for the duration of submissions. Subclause 27(3) requires that the scheme, once adopted, be made publicly available for inspection at all reasonable times.

The provisions of this Bill do not affect compensation rights. The method of assessment or the procedures for compensation are provided throughout the current working of the planning legislation in conjunction with the Public Works Act. Those provisions are echoed in this

Bill. I should add that negotiation should always be attempted before resumption unless there is an exceptional circumstance, and resumption would normally be a last resort. Therefore it could be expected in discussions that the intention of the authority would be known ahead of any resumption procedure. Wholesale resumption is not intended. However, members will appreciate the need to link this Bill to the Public Works Act because of the unusual situation. In drafting this Bill, the Government has sought to provide consistency with existing provisions and established practices of the Town Planning and Development Act. I hope that clears up the concerns expressed about clause 21.

Hon P.G. PENDAL: I thank the Minister. In the thirty seconds I have had to consider the matter I am none the wiser. It may give us all the assurances we sought on Thursday, but the Minister has had the advantage of reading - I do not blame her for that - into the record a very carefully prepared response. In order that we can satisfy ourselves that all eventualities are covered we are at least entitled to have some time today to absorb what the Minister just read.

Hon PETER FOSS: I agree with the remarks by Hon Phil Pendal. Could the Minister refer me to the section of the Town Planning and Development Act which says that section 29 of the Public Works Act does not apply?

Hon KAY HALLAHAN: I thought it would be a matter Hon Phillip Pendal would want to look at carefully and officers tried to contact him this morning in order to provide information, but like all parliamentarians on a Tuesday of a sitting week he was unable to be contacted. I am happy to postpone further consideration of this clause and to provide copies of my notes to members.

Further consideration of the clause postponed, on motion by Hon Kay Hallahan (Minister for Education).

Clauses 22 to 24 put and passed.

Clause 25: Minister may give directions -

Hon GEORGE CASH: I move -

> (3) The text of any direction given under subsection (1) shall be -
>
> (a) published in the Gazette within 28 days and laid before each House within 14 sitting days of being published if Parliament is in session or within 14 sitting days of the commencement of the next ensuing session; and
>
> (b) included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985*.

So that members will fully understand the need for my amendment, the clause reads as follows -

> 25 (1) The Minister may give directions in writing to the Authority with respect to the performance of its functions, either generally or in relation to a particular matter, and the Authority shall give effect to any such direction.
>
> (2) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable authority of the Authority under section 66 of the *Financial Administration and Audit Act 1985*.

The amendment relates to accountability. We have said before that directions given by a Minister to a Government agency or instrumentality should be brought to the attention of the Parliament. Much of the WA Inc saga that we read about every day has come about because of alleged directions by Government Ministers to Government instrumentalities and agencies. I do not want to go into that matter because we do not have the three days it would take to enumerate the many directions that the Opposition believes were given to Government agencies and instrumentalities by Ministers. Suffice to say that the Leader of the Opposition in another place, Mr Barry MacKinnon, recently said that the Opposition believes the losses of WA Inc will total about $1.5 billion by the time the balance sheet is finalised.

The East Perth Redevelopment Authority will have very wide powers, objectives and functions under this legislation and therefore there is a need that, where a direction is given by the Minister, the direction be published in the manner proposed in the amendment. I believe that this amendment will be supported by all members of the Committee because it relates to accountability. However, before they make their decision, I want them to consider section 7 of the State Supply Commission Act which was passed by this Legislative Council earlier this year. Section 7(2) states -

> The text of any direction given by the Commission under subsection (1) shall be -
>
> (a) published in the Gazette within 21 days and laid before each House within 12 sitting days of being published if Parliament is in session or within 12 sitting days of the commencement of the next ensuing session; and
>
> (b) included in the annual report submitted by the accountable authority of the Commission under section 66 of the *Financial Administration and Audit Act 1985*.

My amendment corresponds with that of a previously agreed subsection in the State Supply Commission Act. The only difference is that my amendment will require that that be done within 14 sitting days whereas the State Supply Commission Act requires that it be done within 12 sitting days. This amendment is necessary if we are to abide by the recommendations of the Burt Commission on Accountability and the Government's previous statements that it will comply with those recommendations.

Hon KAY HALLAHAN: I ask the Committee to oppose the amendment to clause 25. The clause as it stands meets the requirements of the Burt Commission on Accountability and reflects the wording agreed to by the Government and used in other Bills following that commission's inquiry. The Government has been constant in the implementation of those recommendations, as is evidenced by their inclusion in clause 25. It eludes me why Hon George Cash moved paragraph (b), because it is the same -

Hon George Cash: The two are different.

Hon KAY HALLAHAN: My advice is that they are similar. The Government believes the requirements of the Burt Commission have been met by the provisions in this Bill and for that reason it opposes the amendment.

Hon P.G. PENDAL: I am astonished that the Government would oppose an amendment that ensures nothing more onerous than that which we have already put into the State Supply Commission Act, by agreement. Something sticks out in my mind quite vividly as a result of evidence that was given to the Royal Commission only a couple of days ago by Ross Bowe, the Under Treasurer. During early WA Inc debates in this Chamber, the Leader of the House and Ross Bowe were occupying the places that are now occupied by the Minister for Education and her adviser. At that time I happened to be pursuing whether the Treasury had given the Government advice on certain matters relating to the Government Employees Superannuation Board. I eyeballed not only the Leader of the House but also Mr Bowe, a very competent Under Treasurer, and alarm bells rang about a similar clause to that which is now before us because, at that time, I suggested that had any advice been given by the Under Treasurer many of the appalling decisions relating to WA Inc may not have been made. It took three years for Mr Bowe's real views to come out. He said in the Royal Commission last week things that I assumed to be the case some three years ago when he sat at this Table. It is an utter absurdity for the Government, whether at a political or an administrative level, to say that it is opposed to Opposition moves to demand that any direction first be published in the *Government Gazette*, and secondly, be tabled in this Chamber quick smart. How anyone could mount an argument that that is unreasonable I will never know.

[Questions without notice taken.]

Hon P.G. PENDAL: Can the Minister tell the Committee why it will be onerous for the Minister administering the East Perth Redevelopment Act to publish in the *Gazette* a direction of the Minister and then table that direction within, I think, 14 sitting days. If the Minister can demonstrate that it would require enormous resources or that some onerous consequences will occur we might be satisfied.

Hon J.N. CALDWELL: Although I agree with Hon George Cash's amendment for proposed

new subclause 25(3)(a) I am sure he has a perfectly reasonable explanation why proposed new subclause 25(3)(b) and clause 25(2) of the Bill are the same.

Hon GEORGE CASH: I clearly did not include the words "to delete subclause (2)" when submitting the amendment for the Supplementary Notice Paper. The Clerks have obviously taken it to be a new subclause 25(3). However, little will be harmed if the current wording of proposed subclause (3)(b) on the Supplementary Notice Paper is carried. For administrative convenience, it would seem that I should move to delete subclause 25(2) with a view to inserting the words in my name on the Supplementary Notice Paper and that subclause 25(3) on the Notice Paper should become subclause 25(2).

The CHAIRMAN: Order! I took the advice of the officers of Parliament concerning this matter at the commencement of the Committee when I signified I thought it was a duplication. However, I was informed that proposed subclause 25(3)(b) was in fact in reference to clause 25(3)(a). I accepted the proposition that it was 25(3)(a). I will accept the decision of the Committee, but I do not see any reason to alter the proposition.

Hon GEORGE CASH: I am happy for the Committee to agree to the insertion of subclause 25(3) as it appears on the Supplementary Notice Paper in its present form.

Hon KAY HALLAHAN: The Government will not agree to this amendment. It has heard much rhetoric about the Royal Commission from the Opposition. The Government appointed the Royal Commission to examine the matters which were of concern to the community, and the commission is the place in which that examination must be carried out. Clause 25 as it now stands reflects the accountability that is required and the recommendations by the Burt Commission on Accountability, by which the Government stands. The Government is not avoiding any accountability measures but believes that this clause should stand as it is. Therefore, members should vote against the amendment.

Hon PETER FOSS: Once again the Committee is hearing the suggestion that while the Royal Commission is sitting members of Parliament might as well go home and do nothing. The Government seems to be saying that this Parliament has had its functions superseded and it uses this as an excuse to say, "Let's wait and see what the Royal Commission has to say." That is not the role of this Parliament. Its role is to make decisions and to legislate for how things should be done. This Parliament has considered that this is the appropriate way for directions to be dealt with. Members must remember that the Royal Commission is an emanation of the Executive and could be used as a useful instrument to provide advice to the Parliament. However, Ministers are ultimately responsible to the Parliament; they are not responsible to the Royal Commission. Furthermore, Parliament is responsible to the people and should make sure that the appropriate legislation is introduced. That is why the Opposition believes the amendment should be included. The continual reference that we should wait until we hear the recommendations of the Royal Commission is an excuse just as it is when Ministers answer questions.

Hon P.G. PENDAL: The Minister does not see any connection between what the Chamber is dealing with and the existence of a Royal Commission. I remind her that had the Government, of which she has been a Minister for five years, been prepared to be frank with the Parliament over the last eight or nine years the Royal Commission would not be required. The East Perth Redevelopment Authority should be required to tell the Parliament what it is up to every inch of the way. If that suggestion is considered to be mistrust on the part of the Opposition, that is a direct result of the untruths perpetrated by the Government for so long. No-one in the East Perth Redevelopment Authority need have any fear. We assume that those running the authority will be reputable people. When a Minister of the Crown tells the authority what to do the Government should be required to publish that in the *Government Gazette*. Furthermore, the text of that direction should be laid on the Table of both Houses of Parliament within 14 sitting days and there should be a direct connection between those two requirements.

The people associated with the East Perth Redevelopment Authority should not feel that they are being singled out; it is just that the Parliament is fed up with the assurances of this Government and its predecessors. In many cases those assurances have turned out to be utter distortions of the truth, as has been discovered on every day's sitting of the Royal Commission. The Opposition is not asking for a lot when it asks that the Minister tell the Parliament the nature of a direction to the redevelopment authority. One would hope that in

most cases no concern would need to be expressed. However, this type of provision would prevent a future Government doing the diabolical things that this Minister and this Government have been involved in over the last five years.

Hon Kay Hallahan: Watch what you say, mate!

Hon P.G. PENDAL: Even the Minister must understand that she has been one of the people singled out in the Royal Commission for having been silent. With this amendment the Opposition is attempting to make sure that no Minister remains silent when he or she gives a direction to a body set up by this Chamber. We must desist from the habit of referring to these organisations as Government agencies. They are agencies created by the Parliament, not by the Government.

Hon Garry Kelly interjected.

Hon P.G. PENDAL: That would be the least of my worries and should be the least of Hon Garry Kelly's worries in his current circumstances. This amendment should be passed. If it is not, historians should note that even in 1991 the Government has learnt nothing from its mistakes of the past five years. The Government believes that it is good enough for the least information to be given to the Parliament - witness question time and Hon Joe Berinson's answer tonight about the Permanent Building Society.

The CHAIRMAN: Order! The Chamber is discussing the amendment to insert subclause (3) as outlined in Supplementary Notice Paper 15-5. Unfortunately, I have allowed a wide discourse on matters that members may consider refer to this proposed subclause (3) but which in my own mind do not. The question is that the new subclause be inserted and I call on Hon Philip Pendal and all members to stick to the question before the Committee.

Hon P.G. PENDAL: I am most happy to do that to avoid the repetition of what has produced discredit on this Government in the past five or six years. The Minister was not able to answer my question about why it was so onerous for the Parliament to be informed of a ministerial direction. Why does the Government accept that it is good enough to include this constraint in the State Supply Commission Act and the State Government Insurance Commission Act but not good enough to include in this Bill? Is it not time we threw the Bill out, because from the beginning people have had suspicions about it? When those suspicions were expressed by the Leader of the Opposition the Leader of the House became very annoyed that anyone should reflect on one or two people who had been behind this proposal. I have never had any fears about this group's answers.

If the Minister is saying that this Bill will create a massive organisation which will deal with big money, at least as big as the likes of what the State Superannuation Board and others have been dealing with, she must accept that the Opposition will put some constraint on it. If the Minister holds out on this I predict that the historians who research these matters in the future will be constantly amazed that this Government did not learn anything from what has taken place over the last four or five years. We do not trust the Government any more, and that is the reason that Hon George Cash moved this amendment and a similar amendment was inserted in the State Supply Commission Bill. In fact, a similar provision will be inserted in other legislation which does not already contain it. I suggest to the Committee that it support the Leader of the Opposition's amendment to insert this restraint provision in the Bill for no better reason than we cannot trust the Government which introduced this Bill.

Hon PETER FOSS: I refer to the question raised by the Leader of the Opposition about whether the amendment should be to include an additional subclause or to add words to the existing subclause (2). The reason I ask this question is that I suggest it is appropriate to add words to existing subclause (2) because the opening words of proposed subclause (3) state, "The text of any direction given under subsection (1) shall be -" and paragraphs (a) and (b) follow. In legislation with paragraphs (a) and (b) it is similar to having two subclauses, each preceded by the opening words of the subclause, standing on their own. Notwithstanding the advice given to you, Mr Chairman, by the Clerk it would be appropriate for the Leader of the Opposition to withdraw his amendment and move another amendment to add certain words to existing subclause (2).

Hon GEORGE CASH: I have listened to Hon Peter Foss and I also consider that there may be an unnecessary duplication. Therefore, I seek leave of the House to withdraw my amendment.

Amendment, by leave, withdrawn.

Hon GEORGE CASH: I move -

Page 15, after line 14 - To add to subclause (2) the following -

and published in the Gazette within 28 days and laid before each House within 14 sitting days of being published if Parliament is in session or within 14 sitting days of the commencement of the next ensuing session.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 26 to 28 put and passed.

Clause 29: Proposed redevelopment scheme -

Hon KAY HALLAHAN: I move -

Page 17, after line 10 - To insert the following subclause -

(2) The Authority may, under subsection (1), submit a proposed redevelopment scheme in 2 or more stages, each one being applicable to a part of the redevelopment area; and if it does so -

(a) this Part applies to each stage separately; and

(b) a reference in this Act or another written law to a or the redevelopment scheme may be read as a reference to a redevelopment scheme for part of the redevelopment area as provided for by this subsection.

The proposed new subclause allows flexibility in the introduction of the scheme and for agreed works and redevelopment to proceed quickly. It will mean that any controversial matters can be dealt with separately without delaying the entire scheme. It is a practical measure to allow work to proceed on noncontroversial development. The redevelopment causing concern can be set aside while work on other aspects of the redevelopment can proceed. The existing planning scheme approvals will prevail until the new scheme is in place. There is nothing underhand about this amendment; it is a practical measure to facilitate work in the redevelopment area and I ask members to agree to it.

Amendment put and passed.

Hon GEORGE CASH: I move -

Page 17, line 13 - To add after the word "with" the words "the community and".

I remind members that it was agreed to amend clause 4 to provide for consultation with the community on aspects of the redevelopment proposal. It is important that we continue to provide the opportunity for consultation with the community and I ask members to support this amendment to enable the community to have a significant input into the future of the redevelopment of East Perth. This amendment becomes even more important given that the Committee has agreed that the redevelopment scheme can be submitted to the Minister in two or more stages. It is critical that the community be kept abreast of the proposals and that it take an active part in the proposals put to the Minister.

Sitting suspended from 6.01 to 7.30 pm

Hon KAY HALLAHAN: This is an important clause, and I do not think our views about the necessity for community consultation are fundamentally different. Therefore, in this instance the problem is one of understanding how the processes will work. Proposed sections 30 and 31 provide for structured input by landowners and other members of the community. There is an absolute necessity to have public consultation within the planning legislation. If we do not have that consultation, we would have chaos in all our planning proposals. However, the proposed amendment will add a prior phase of community consultation which does not have any structure or definitions. I am told by Crown Law that it is very worried about the definitions and the legal appeals that that could give rise to. I do not understand the reason for the amendment, but it will not add anything to the concept of consultation. In fact, it has the potential to complicate what I hope will end up being a good piece of legislation. Many people argue that the planning law is already too convoluted, but I think everyone here would

agree that we must have consultation and that time must be allowed for that consultation to occur. That is already provided for and will occur with regard to the East Perth Redevelopment Authority.

This amendment will add, in an ad hoc way, another phase of consultation which does not equate with any other form of community consultation in any other planning legislation. I am sure that Hon George Cash moved this amendment with the best intent, but he is making a grave error in pursuing this amendment. I assure him that adequate community consultation is already structured into the development of the East Perth redevelopment area. I cannot find any reason for his having moved the amendment, except that it might be a nice notion held by some person who does not understand planning law and does not appreciate the way that public consultation is achieved within the Bill as it stands now and that that is a legal requirement about which people can make legal appeals. This is an unknown and virtually shapeless amendment about community consultation which I fear will provide great problems for the future. The Government is concerned about the ramifications of this amendment and about how it would work in practice. I therefore ask members to vote against the amendment.

Hon PETER FOSS: I cannot see that a particularly onerous obligation would be placed upon the East Perth Redevelopment Authority were the amendment accepted, and I think it is proper for the Minister to answer two questions: Firstly, would the authority contemplate checking with people in the community before it drew up a scheme in order to find out what was required by the community? Secondly, once the authority had drawn up a scheme, what would be the practicalities of the community's making fundamental changes to that scheme should that turn out to be its requirement? I ask that second question because we have all faced the problem time and time again where we have been told, "It is too difficult to change that now. It is too late to change that now. We really must have this or that. We can make some small compromises to suit you but we cannot change it." I do not have to quote for members examples from my own electorate where we have had the problem of being told, "It is too late and this is the way it has to be." All too often at the consultation stage people find themselves faced with no real chance of changing a scheme fundamentally. If the answer to the first question is yes, and the answer to the second question is, "No, not really", I would have thought that we should insert this amendment.

Hon KAY HALLAHAN: We often hear at great length about Hon Peter Foss' legal prowess and his knowledge of law. My understanding is that if this amendment were included in the legislation, an inordinate number of legal challenges could take place as to what constitutes community consultation. This proposition is outside the formal structures which apply to planning legislation. I am told that numerous questions have been asked about this: Does it mean that people within the East Perth area should be consulted? Does it apply to people within the City of Perth, or to the people of Western Australia generally? This amendment has some serious difficulties in a legal sense. I am not trying to be obtuse, of which the member accuses Government members from time to time, but I am told in a practical sense that difficulties will be created by the amendment. Anyway, planning law requires consultation. I do not know the examples to which the member referred where people were told about a decision when it was too late.

The CHAIRMAN: Order! There is too much audible conversation. The Minister is attempting to answer questions and Hansard is having difficulty hearing.

Hon KAY HALLAHAN: I am endeavouring to imagine the circumstances described by Hon Peter Foss in which constituents complain about the consultative phase of the planning process. We have a metropolitan region scheme, and when an amendment is proposed, and people have fundamental differences with the amendment, it is possible that they are told that it is too late to change the scheme because public consultation has already taken place. Maybe the scheme was adopted a year or two prior to the query. I am attempting to put my mind to the situations referred to by the member.

However, that situation would be quite different from that of the East Perth Redevelopment Authority, because it will operate in a clearly defined area. Inordinate interest will be created in this scheme by people living within the area, adjacent to the area, and within the City of Perth. It will involve a planning structure in which proposals will be open for public responses. I can understand the temptation to say these problems are occurring within a

member's electorate, but Hon Peter Foss must consider the tightly confined area covered by this Bill, and how this compares with the areas with which most of us deal in our electorates. Although it may be possible to have consultation in an informal way - which will probably happen - prescribing that in the legislation will result in legal appeals. The member's body language is very interesting.

Hon PETER FOSS: I blush as I rise to my feet following that comment. I am not sure that I received an answer to my question. I think the answer to the first question, which related to public consultation, was yes. I hope I am correct in saying that.

Hon KAY HALLAHAN: It is an absolute, holy writ that the East Perth Redevelopment Authority will follow planning law to the letter. That does not necessarily mean that it will do what is suggested by the member - it may do so. The member should be clear that we are dealing with a legal issue.

Hon Peter Foss: Leave the legal issue to one side; let us consider the practicalities.

Hon KAY HALLAHAN: That is what I am arguing!

Hon PETER FOSS: I want to know as a matter of practical application whether the Minister's answer to my first question was yes.

Hon Kay Hallahan: It is, "Not necessarily, but maybe."

Hon PETER FOSS: Okay. There may be no public consultation before the scheme is adopted. The answer to the first question is, "Not necessarily." What about the second question? Having promulgated a scheme, does the Minister believe there is any chance of a fundamental change taking place to that scheme as a result of public consultation?

Hon KAY HALLAHAN: Yes, I do. I speak with some experience and confidence regarding the operation of planning law. I was the Minister for Planning for one year and in that time I saw remarkable changes occur as a result of public consultation. That is a very important part of planning law.

Hon Peter Foss: If I may compliment the Minister without people thinking something is going on, that may have happened because you were the Minister for Planning.

Hon KAY HALLAHAN: No. That is a requirement under law. It is not possible to ignore public input into the process, but I accept the member's compliment anyway.

Hon PETER FOSS: That is my point; it is unlikely with the current Minister that any changes will take place as a result of public consultation.

Hon Kay Hallahan: That is not fair.

Hon PETER FOSS: I refer the Minister to the Heritage of Western Australia Act, with which she was involved, section 45(4) of which reads -

> The council of a municipality shall ensure that the inventory required by this section is compiled with proper public consultation.

That section is not causing huge problems. I agree with the Minister that lawyers tend to find numerous objections to words which appear in legislation and claim that they are not clearly defined. I freely confess that that is a characteristic of lawyers: If they are asked to interpret legislation, they produce a vast number of reasons as to why it will not work and what is wrong with it. That is the habit of my profession, and this has resulted in some convoluted legislation; this is done in an attempt to dot every "i" and cross every "t" to produce legislation which will cover every possibility, although it never does. Although I can see that the instant reaction of a lawyer might be to object to the amendment, if a provision for public consultation is included I cannot see a problem. There will certainly be no problems if the public consultation takes place. I am concerned to hear that it is not necessarily the case that public consultation will take place before the scheme is introduced. I would have thought that this was a worthwhile amendment, and I would prefer to see it included in this legislation.

Hon KAY HALLAHAN: In his reference to the Heritage of Western Australia Act, Hon Peter Foss referred to the drawing up of an inventory. In relation to the consultation of the scheme, that is quite a different matter from the structured and rightly formal consultation phase which is undertaken publicly in planning legislation. It is necessary and we certainly

will not detract from that process. However, the member says that lawyers have a way of raising concerns over interpretation, and in this case lawyers are raising concerns. Having had a good look at the amendment, I agree with them because the phase 1 proposal is formally gazetted and can be viewed publicly. This is the case with other such planning proposals. Therefore, we are aware that consultation is possible and interested parties can gain access and take part in the process and make their views known. If the amendment is inserted in the Bill, the situation will not be clear. This point will be appealable. Although I do not wish to upset any members of the Committee at this early hour, I am amazed that Mr Foss does not agree with me about the legal difficulties this amendment poses.

Amendment put and a division called for.

Bells rung and the Committee divided.

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

Division resulted as follows -

Ayes (13)

Hon J.N. Caldwell	Hon Barry House	Hon W.N. Stretch
Hon George Cash	Hon P.H. Lockyer	Hon D.J. Wordsworth
Hon E.J. Charlton	Hon Murray Montgomery	Hon Margaret McAleer
Hon Max Evans	Hon N.F. Moore	*(Teller)*
Hon Peter Foss	Hon R.G. Pike	

Noes (14)

Hon J.M. Berinson	Hon John Halden	Hon Mark Nevill
Hon J.M. Brown	Hon Kay Hallahan	Hon Sam Piantadosi
Hon T.G. Butler	Hon Tom Helm	Hon Tom Stephens
Hon Cheryl Davenport	Hon B.L. Jones	Hon Fred McKenzie
Hon Reg Davies	Hon Garry Kelly	*(Teller)*

Pairs

Hon Derrick Tomlinson	Hon Bob Thomas
Hon P.G. Pendal	Hon Graham Edwards
Hon Muriel Patterson	Hon Doug Wenn

Amendment thus negatived.

Clause, as amended, put and passed.

Clauses 30 to 47 put and passed.

Clause 48: Compensation -

Hon W.N. STRETCH: What is the situation with compensation to Government instrumentalities, some of which are very extensive landholders and own areas such as the East Perth power station and old gasworks site?

Hon KAY HALLAHAN: I am advised that this clause sets out a method for dealing with compensation and that all those agencies would be involved in negotiations.

Hon W.N. STRETCH: For the sake of argument, the State Energy Commission of Western Australia has spent between $10 million and $20 million cleaning up its site. What sort of compensation would it receive for that sort of expenditure?

Hon KAY HALLAHAN: I am not sure why the member's query has arisen, but I am advised that there would be negotiations about such matters. I imagine there would be protracted negotiations - and very easily resolved negotiations - given the number of Government landholders in the area.

Hon PETER FOSS: This raises the question of how compensation negotiations will be carried out within the scheme area. The SEC power station is a substantial area which has on it a building which may very well end up being a heritage building. The Minister may recall that recently there was some suggestion that the old Emu Brewery should be preserved as a heritage building because of its art deco style and its position as one of the few remaining

examples of an industrial building on the river. This may also happen with the East Perth power station. In view of the provisions of the Heritage of Western Australian Act with regard to buildings owned by Government and its agencies, if the Heritage Council of Western Australia were to recommend listing the building on the Heritage Register the Government would have no choice in the matter. I am concerned that, with this sort of town planning scheme, we may have a scheme which requires the compulsory acquisition of land and enables people to share in the profits from the sale of that land. That is one way in which the scheme can be carried out and that is the way I have always understood the redevelopment of East Perth will proceed. Is it intended that it proceed by way of a large compulsory acquisition scheme whereby the owners contribute their land or will it be a guided development scheme? How does the Minister see it functioning?

Hon KAY HALLAHAN: The Heritage of Western Australia Act takes priority over this Bill as I have stated before. Therefore, if the East Perth power station were designated a building of heritage value and significance, as is likely, it will be developed according to that Act and accommodated within the redevelopment area. The redevelopment will involve the redevelopment of surplus public land; wholesale acquisition of the area is not contemplated. I am not sure how that answers the members question or what notion he had in mind that generated the question.

Hon W.N. STRETCH: I take a slightly different tack from my colleague. I am very concerned about the status of this land and the money already spent on it. What will happen with that land? It is SECWA land and it has an old power station on it. Taking the view that it is not considered heritage land and SECWA continued to clean up the site - it has already spent many millions of dollars on it - will it be compensated? Will we end up with another transfer of land at a strange value as we had with the railway land in Bunbury which went onto the South West Development Authority's books and showed as a profit, but for which the authority did not pay? It was not until it was picked up in this House by Hon Max Evans that we finally tracked a transfer which was definitely, to be kind, suspect and which later had to be tidied up in the books. I am worried that SECWA will be left with a clean up bill for that land and no compensation. SECWA is struggling to get rid of its capital debt now without having to take on another $20 million for this land. Where in this deal is provision made for compensating those instrumentalities, including SECWA, the Department of State Services, Transperth, Westrail, the Water Authority, and Perth City Council?

Hon KAY HALLAHAN: SECWA's board represents its interests. It has an enormous number of professional staff. They will negotiate on behalf of SECWA - as it will do with other Government departments whenever appropriate - about the development of that area and what might be due to it in relation to cleaning up expenditures already incurred. That is the normal process. There will be a lot of intergovernmental department and agency negotiations about the East Perth redevelopment area.

Hon PETER FOSS: I do not fully understand the manner in which the authority will proceed. From what I have read, it seems that there will be a massive redrawing of boundaries and much of it may go over roads, require the cutting out of new bits of water and a fairly substantial reorganising of land titles. That indicates a guided development scheme if nothing else is needed and I would have thought that a compulsory acquisition scheme was needed. Merely to bring down a scheme drawn along the lines of current land ownership limits the way it should proceed. Therefore, is not a wholesale redrawing of property boundaries to occur?

Hon KAY HALLAHAN: From the early days when I had anything to do with this area, it was clear that there would be massive reorganisation. The waterway will be dredged. At the moment it is polluted, but it can be made into a beautiful area. What may be built on today may be parkland tomorrow. A guided development scheme will not meet the needs of the East Perth area. This Bill is about the redevelopment of the area. The Government is setting out the framework for it all to occur. I am advised that clause 22(3) refers to land owned by public authorities being transferred to the East Perth Redevelopment Authority subject to payments to the relevant public authority. Therefore, these matters are covered, but the whole Bill is about the redevelopment of a very complex area. It will depend on cooperation between Government departments. It will be a very complex exercise. We have not dealt with anything like this before. It complies with planning legislation in every way possible but it is bigger than a guided development.

Hon PETER FOSS: I am pleased to hear that it is more than a guided development. I thought it would require acquisition, because I could not see how the Government could do what it proposes without compulsory acquisition.

Hon Kay Hallahan: It can be a mix. It may be, but it does not have to be.

Hon PETER FOSS: I have not had my concerns allayed by reference to clause 22(3). Quite the contrary. That provision enables the Government to take a different attitude to Government authorities than that which it takes to other bodies and people because it can say to a public authority, "You hand over that land and we will decide what you will get for it." Other bodies and people will be able to protect themselves with the Public Works Act. Public authorities will do what the Government orders. What is the Government's intention in relation to compensating public authorities for land transferred? Is it intended that they should not be commercially disadvantaged in relation to any land that is compulsorily transferred?

Hon KAY HALLAHAN: I have made it clear from the beginning and I will state again that negotiations will occur with each of the authorities.

Hon Max Evans: One sided!

Hon KAY HALLAHAN: It will not be one sided. There will be negotiations. Why are members opposite presenting Government agencies of the type we are talking about tonight as powerless little petals. They are very powerful, well resourced agencies.

Hon Tom Stephens: With very capable Ministers advocating their causes.

Hon KAY HALLAHAN: Yes. The Ministers will be able to come together and negotiate in the best interests of their departments. The redevelopment of East Perth will require a lot of vision from everybody who has land there, and every agency that has land there agrees that it is time the area was redeveloped. Many of the holdings have outlived their purposes. Either the agencies have moved to much more modern facilities or, because they like the convenience of the area, they will have to invest huge amounts to modernise their plant and equipment. It has become very rundown over time.

If members look at the history of how most agencies got their land they will find that it was by way of Crown grant. The Government must negotiate on what is to be replaced. That is a reasonable negotiating point. As Hon Bill Stretch has said, if bodies have spent money removing pollutants that is a reasonable point for negotiation. I am not sure why the matter has assumed the importance that it has.

Hon PETER FOSS: The mechanism provided under clause 22 allows the Government to exercise powers which are so strong that no legal remedy against them is available to public authorities. When negotiating with public authorities will appropriate terms be invoked to deal with them fairly as if they were not subject to the deprivation of their powers but were to be compensated as ordinary citizens, so that the net result of what the Government is negotiating about is fair compensation and not whether public authorities should be compensated at all?

Hon KAY HALLAHAN: They should be dealt with fairly.

Hon W.N. Stretch: Will they be?

Hon KAY HALLAHAN: Yes.

Hon MAX EVANS: The Minister said that this was probably originally Crown grant land, therefore the authorities got the land for nothing. Therefore, when it is passed back, will they get nothing for it?

Hon KAY HALLAHAN: If they have to replace property which is in a convenient location that will be taken into account. That is what I mean about being fair. I do not understand where members opposite are coming from. Another question is whether, although these bodies have been spending money cleaning up pollution, they were also the polluters.

Hon W.N. Stretch: I was asking from the taxpayers' point of view.

Hon KAY HALLAHAN: I am pleased to hear that. In that case, Hon Bill Stretch will be happy to go along with this redevelopment of an extraordinary area knowing that Government agencies will be reasonably and fairly dealt with.

Hon W.N. STRETCH: In the case of SECWA we are looking at in the vicinity of $40 million of taxpayers' funds. Where will the Government pick up that money from the redevelopment costs? It does not add up. The Minister is looking at land worth $15 million to $20 million and clean up costs of $20 million. That money is not now available to SECWA. We are already battling to get SECWA's costs down so it can compete for industry and reduce its tariffs. If the Government lumbers it with another $40 million for this social development I wonder where those dollars will come from. If they are not coming from taxpayers, will they come from another part of the Budget? Is there a Budget provision for that compensation?

Hon KAY HALLAHAN: It is not intended to lumber SECWA or any other agency with a $40 million bill for the redevelopment of the area.

Hon W.N. Stretch: So you are going to compensate SECWA for the site, are you?

Hon KAY HALLAHAN: I have already said that all these factors will be taken into account in a reasonable and fair-minded way.

Hon GEORGE CASH: Earlier when talking about compensation reference was made to land owned by private persons. I refer in particular to the Public Works Act which makes provision for persons being compensated to market value plus an agreed percentage for their land. Will the Minister confirm that various Government agencies and instrumentalities owning land in the defined area will also be compensated to market value and, if not, will the Minister make clear to the Committee what method of valuation will be used to compensate those agencies?

Hon KAY HALLAHAN: I have indicated to the Committee that negotiations will take place between the redevelopment authority and each of the agencies that owns land in the area. I do not have the formula that will determine the ultimate outcome. It may be that a different requirement will be reached for each agency. Everything I say seems to raise other questions and does not seem to reassure members opposite that processes acceptable to the ongoing redevelopment of the area and to agencies that presently hold land there will be reached. However, it is not beyond the wit of people to achieve the desired result in these negotiations.

Hon GEORGE CASH: I am becoming concerned about the land currently owned by SECWA to which both Hon Bill Stretch and Hon Peter Foss have referred. Given that SECWA is a Government instrumentality and that it has massive borrowing on which it is required to pay interest, will the Minister confirm that it will be compensated at not less than market value for its land and will not be treated any differently from an ordinary, private landowner within the defined area?

Hon KAY HALLAHAN: The sorts of requirements that the honourable member is looking for cannot be related to an ordinary land holder who owns between 900 and 1 000 square metres usually. That cannot be equated with the holding of a big industrial complex like SECWA. I know it is a simple formula.

Hon George Cash: I am not asking for a formula. I am talking about market value.

Hon KAY HALLAHAN: It is more complex than that.

Hon George Cash: Explain how.

Hon KAY HALLAHAN: The area is different in volume and degree of pollution from private areas and that will be a factor in negotiations. Hon Bill Stretch made that point when referring to expenditure that the authority has undertaken. All that will be taken into account. I have never seen SECWA not ably negotiate on its behalf and nothing in this Bill precludes it from doing that.

Clause put and passed.

Clause 49: Funds of Authority -

Hon KAY HALLAHAN: I move -

> Page 28, line 14 - To delete "at the Treasury" and substitute "at a bank approved by the Treasurer".

This amendment is necessary to provide consistency in the arrangements proposed for the

day to day administration of the authority's Act. I am told that similar provisions apply to the Joondalup Development Corporation and other statutory bodies. This should have appeared in the original drafting of the Bill but somehow the word "Treasury" appeared rather than the words "at a bank approved by the Treasurer". This is merely an administrative amendment that members can feel comfortable supporting.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 50 and 51 put and passed.

Clause 52: Guarantee by Treasurer -

Hon GEORGE CASH: I move -

Page 30, after line 20 - To insert a new subclause as follows -

(6) Where a guarantee is given by the Treasurer under subsection (1) the Treasurer shall cause the text of such guarantee to be published in the *Gazette* within 28 days and laid before each House within 14 sitting days of being published if Parliament is in session or within 14 sitting days of the commencement of the next ensuing session.

Members will be aware that part 6 of the East Perth Redevelopment Bill involves the financial provisions in respect of the general operations of the East Perth Redevelopment Authority, and debate to date has indicated that when the authority is formally established it will need to borrow a massive amount of money to pay for the cost of acquisition or resumption of certain lands for the massive capital outlays which will be required for the redevelopment projects in which the authority will be engaged.

A few minutes ago, we raised the question of compensation for the State Energy Commission. It is my understanding that the 30 acres or thereabouts SECWA owns represents the old East Perth power station and the land adjacent to it, including the gas works. That land is probably worth something in the order of $15 million to $20 million, so the amount borrowed by the authority will be huge by any standards. Any moneys borrowed by the authority must be guaranteed by the Treasurer, and the Bill deals with the need for the authority to be fully accountable for the money it borrows. But more than that, the Parliament, and indeed the community, must be aware of just how much the State might be liable for at any time in regard to guarantees given by the Treasurer on behalf of the authority.

We have dealt with similar clauses requiring accountability on the part of the authority in earlier parts of this Bill, and I ask members to support this amendment. The amendment will enable the Parliament to ascertain the liability of the Treasurer in respect of this authority at any one stage. If this provision were placed in other Bills as they come forward in which other instrumentalities or authorities of the Government are guaranteed by the Treasurer, it will enable the State better to understand just how much its contingent liabilities might be at any one stage. There is some question whether the State is able to determine the amount of the many guarantees which the Treasurer has entered into from time to time on behalf of various authorities.

Hon KAY HALLAHAN: This amendment is quite unnecessary, because the provision for a Treasurer's guarantee under clause 52 is to ensure that the authority benefits from the attractive semi-Government borrowing rate. The borrowings themselves will be in the Budget and will be scrutinised by the Parliament through the General Loan and Capital Works Fund. It is the Government's view that the matter is adequately set out in the Bill as it now stands. We therefore ask the Committee to vote against this amendment.

Hon GEORGE CASH: The Minister clearly does not understand the manner in which the Government reports its liabilities at the moment. For that reason the Opposition in another place has moved for a Select Committee to try to ascertain the exact indebtedness of the State at this time. The Minister is quite wrong in her answer.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 53 to 59 put and passed.

Postponed clause 21: Compulsory taking of land -

Hon P.G. PENDAL: I am prepared to accept the assurance contained in the prepared briefing note read by the Minister into the record prior to the dinner adjournment. However, I want to make one thing clear if I may. Firstly, I accept the word of the Minister for Education that there will be no dilution of the rights of property owners. My concern is that, as late as 8.10 pm today, I received a telephone call from Councillor David Cole of the Perth City Council, who was the person to whom I referred when I spoke on the matter last week. When I left Councillor Cole last week, not knowing that later in the week we would report progress on the Bill for the reasons I mentioned then, I left him with the request that his council and the Chief Executive of the Perth City Council, Mr Reg Dawson, have a very quick look at the resumption clauses and, if necessary, refer them to their legal advisers. I received notice at 8.10 pm that a letter from Mr Dawson to me had been delivered at Parliament House at 12.30 pm today, in which he apparently mirrors the sorts of concerns I expressed to the Parliament last week. It may be that once Mr Dawson and the Perth City Council have read the debates of this afternoon, and in particular the assurances read into the record by the Minister, their fears on that point will be allayed. I hope that is the case, because I am taking the Government on trust that the rights of property owners and the powers of resumption are no different from those which operate normally. I am in the somewhat difficult position of not having received that letter. Someone rang me at 8.10 pm and said I should have received the letter at 12.30 pm as it was delivered to Parliament House, but some eight hours later I have not seen it.

I repeat that I have expressed the concerns of certain people. I have seen the Government's assurances on clause 21 and I am left with two options. One is to further delay the passage of the Bill, and we must be realistic enough to say that if we were to do that the Bill would probably not pass this session and would go over into the new session. Frankly, I am not sure that that would be a bad thing. However, I will not do that, again because I accept the assurances that have been given to the Committee by the Minister handling this Bill. I believe that the Perth City Council and property owners will be in the position in which I now find myself; that is, of accepting those assurances that were given in writing today. It is therefore my intention, with those reservations, to remove my concerns about clause 21 sufficient to allow it to pass.

Postponed clause put and passed.

Schedule 1 -

Hon KAY HALLAHAN: I move -

To delete paragraph (a) and substitute the following -

(a) to the south by a line that -

(i) is an extension of the southern boundary of Wellington Street for 100 metres into the Swan River and that follows the southern boundary of Wellington Street to the point where it intersects a line drawn approximately 100 metres west of Plain Street;

(ii) is then drawn approximately 100 metres west of Plain Street to the point where the line intersects the southern boundary of Wittenoom Street; and

(iii) then follows the southern boundary of Wittenoom Street to the western boundary of Lord Street.

I have circulated this amendment since the dinner suspension. I indicated when we debated the Bill last week that I would be seeking the Committee's endorsement of a change to the boundary. The reason that change is proposed is that there is quite clearly great merit in including the additional area. For those members who can see the map I am holding, I advise that the green line on it indicates the additional area proposed. I ask members to consider the proposal seriously because it is quite important. It proposes to take the redevelopment area down to the river. That will bring into the East Perth redevelopment area places such as the old Perth Girls' School - my old school - which now houses the Police Traffic Branch, the

vehicle inspection centre, the Main Roads Department building, the East Perth Cemetery, other Crown land, the Gloucester Park trotting track and a few residences.

One of the reasons for this proposal is that in the public exhibition phase of the concept plan, and in subsequent debate that followed the bringing forward of the proposal of the East Perth redevelopment area, many people indicated that they had presumed that the areas included in the new boundary were within the redevelopment area. As members know, there is a good deal of attachment to the East Perth Cemetery. The proposal makes a good deal of sense. Of course, nothing will be able to happen in the additional area, just as it will not be able to happen in any part of the redevelopment area, without a planning proposal and all of the formal public consultative mechanisms that come into play; so nothing untoward can happen. The proposed amendment simply gives the East Perth Redevelopment Authority the power to integrate the planning schemes around the East Perth Cemetery, the lovely old Perth Girls' School building, the not so lovely MRD building, and Gloucester Park.

I ask members to support the proposal. I have not had time to consult members in great depth about it, but I know some members are in favour of it and others feel that we should stay with the boundary with which we are familiar. This is a good opportunity to enlarge the redevelopment area while we have the capacity to do so at this stage.

Hon GEORGE CASH: The Minister has provided me, at least, with a copy of the proposed amendment to schedule 1. I have spent a good deal of time trying to read the plan, because it is not reproduced as well as the Minister might have wished. This proposal includes the land under the control of the Western Australian Trotting Association. Before indicating the Opposition's support for this amendment, I want the Minister to indicate whether the WATA has been consulted about this change. Has the responsible body of that association agreed to the inclusion of the land in the new boundary? If the Minister can provide that assurance, the Opposition will support the redefined area; if the Minister cannot provide that assurance, the Opposition cannot support the amendment in an arbitrary way, especially considering the Minister's rather unconvincing arguments regarding the redefined area of land. I am told that the other land is under the control of the Main Roads Department - including the East Perth Cemetery - and the Police Department. A limited amount of private land is within the area to which the Minister wishes to extend the provision of this legislation. An assurance that consultation has taken place is important in determining the Opposition's position on this matter.

Hon PETER FOSS: This is an interesting amendment. Logically, I would have thought that if we went beyond the current boundaries of the legislation, we could go further than this. Perhaps the authority could apply to Wellington Square, the Homeswest area, the former Metropolitan Transport Trust land, the East Perth Police Station and the Western Australian Cricket Association ground.

Hon George Cash: Perhaps it could include a park near Leederville!

Hon PETER FOSS: It could apply across to the Causeway. That is one of the strange aspects of moving an amendment such as this. Why stop at this area? Are we making decisions on the run?

Hon E.J. Charlton: Yes!

Hon Kay Hallahan: It is a decision made through public consultation, if you don't mind.

Hon PETER FOSS: I am concerned about this because I received a telephone call from the Western Australian Trotting Association - admittedly a week or so ago - and the person said, "I was told to ring you up to tell you that we agreed to this amendment, but we are not sure whether we do. We are not sure of the consequences."

Hon Kay Hallahan: You are not suggesting that they are melons?

Hon PETER FOSS: I am not saying that. It is reasonable that people should understand what is being proposed when an amendment is moved. That is a basic step in the process. People need to know whether proposed legislation is right or wrong so that they can make a decision or develop some argument to fight against or agree to its provisions. Having two Houses and three readings of legislation in each House provides an opportunity for people to have a go at presenting arguments.

I do not know whether the six people living in privately-owned houses in Nelson Crescent

will be able to work out whether changes during the Committee stage in the Legislative Council affect them; if they do, they deserve a prize. They should receive the "East Perth medallion", which would use the crest on the front page of the relevant document! My philosophical objection to this amendment is that it should have been handled in a more public way.

I echo the Leader of the Opposition's point about the WATA. Has its position changed from that of a week or so ago when it indicated that it was not keen on the amendment? The association felt that it was not in a position to make a decision before considering the ramifications of the amendment.

Hon KAY HALLAHAN: Consultation has been taking place with the Western Australian Trotting Association at officer level. However, it could be true to say that no resolution has been made by its governing body. I am not misleading the Committee in any way on that. We have heard evidence in the course of the debate of consultation with the association, and it has had an opportunity, through its own devices, to lodge an objection. It has not done that. A great deal of conjecture has taken place about the redevelopment of that area, and it would not be detrimental to the interests of the WATA to be part of the redevelopment area.

I indicate to Hon Peter Foss that this matter has been given a great deal of consideration. Most of the land involved with the new boundary is publicly-owned land of some form or another; it has not been extended to include extensive areas of private land. I take the member's point that if one were to include many private premises, a much fuller consultation phase would be necessary. Nothing detrimental will occur as a result of the extending of the authority's boundary. The Committee could do a very constructive thing tonight by agreeing to the proposed boundary, which is a workable and legitimate proposal. We have flagged the new boundaries; the Leader of the Opposition had already been provided with a map. Also, the WATA has been consulted and has had ample time to look at the ramifications and to lodge its objections. No ulterior agenda is involved with this amendment. It is an opportunity to integrate the redevelopment of the area of the East Perth Cemetery and public buildings which lend themselves ideally to this total project. This is an opportunity which may or may not be taken; we may regret a decision not to pass this amendment. It will take courage to do so and I ask members to be courageous; members will not act to the detriment of the community if they vote, as they should, in favour of the amendment.

Amendment put and passed.

Hon KAY HALLAHAN: I move -

Page 33, line 18 - To delete "Nile" and substitute "Wellington".

Amendment put and passed.

Schedule, as amended, put and passed.

Schedule 2 -

Hon KAY HALLAHAN: I am advised that after the Bill was passed through the other place clause 6(3) suffered some drafting inconsistencies. The proposed amendment maintains the object of the amendments moved in the other place but makes the wording more consistent. I move -

Page 35, lines 26 and 27 - To delete the subclause and substitute the following -

(3) Persons appointed under subclause (1) are subject to the provisions of section 13.

Hon GEORGE CASH: The Opposition has given deep and meaningful consideration to this amendment and supports it.

Amendment put and passed.

Schedule, as amended, put and passed.

Schedule 3 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

HON KAY HALLAHAN (East Metropolitan - Minister for Education) [8.56 pm]: I move -

That the Bill be now read a third time.

HON W.N. STRETCH (South West) [8.58 pm]: I hope I will never be cast in the role of the little boy at the fair who cried out that the emperor had no clothes. I distrust the activities of this Government in its land dealings from a long time back. The Perth Technical College, the Midland saleyard and a number of other ventures, at the time of their purchase, filled members on this side with a great deal of dread. Unfortunately, those chickens have now come home to roost. I am concerned that some Government instrumentalities will have land transferred to the East Perth Redevelopment Authority and eventually will face large financial deficits for some of the work involved. I urge the Government to ensure that that does not happen and that all dealings are done publicly so that everybody in Western Australia knows what is happening and who is benefiting from the deals.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.

MOTION - BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION REGULATIONS

Order of the Day Discharged

HON E.J. CHARLTON (Agricultural) [8.57 pm]: I move -

That Order of the Day No 2 be discharged from the Notice Paper.

It has been brought to the Opposition's notice that the levies under these regulations are contained in the Act relating to the building and construction industry training fund. Disallowance of the regulation would not satisfy our concerns. Nonetheless our total opposition to the regulations remains.

Question put and passed.

Order discharged.

MOTION - WATER AUTHORITY (CHARGES) AMENDMENT BY-LAWS 1991 - DISALLOWANCE

Order of the Day Discharged

HON E.J. CHARLTON (Agricultural) [8.59 pm]: I move -

That Order of the Day No 3 be discharged from the Notice Paper.

The reason for the disallowance concerns the imposition of a $97 fee which is applied for waste disposal.

In the last couple of days the National Party received correspondence from the Minister for Water Resources advising that the Water Authority of Western Australia will not impose these charges. The Minister's letter states in part -

> I know that you and your colleagues have also received similar representations and that you share my concern. This is quite evident from the action you have initiated from the Legislative Council and this is why I am writing to advise you of my decision.
>
> The Water Authority has reviewed the matter and advises that the implementation process for the Minor Permit fee has not yet been completed.
>
> I have therefore agreed that the introduction of the Minor Permit fee should be deferred to 1992/93, by which time all potentially affected businesses will have received additional information.

While I do not agree with some of the terminology in the Minister's letter, the bottom line is that the Water Authority has agreed not to impose this fee on small businesses in country towns of Western Australia. While $97 may not seem a large amount of money to many people, it is another substantial impost on those concerned.

As a consequence of the Minister's advice that the Water Authority will not proceed to impose the industrial waste charge on its country customers, the National Party seeks the approval of the House to discharge this Order from the Notice Paper. The National Party will watch with interest to see what transpires next year and I advise the House and the Government that under no circumstances will it agree to this levy being imposed.

HON D.J. WORDSWORTH (Agricultural) [9.02 pm]: I am happy to support the motion, but I wonder how it is possible to have a regulation and not implement it.

HON PETER FOSS (East Metropolitan) [9.03 pm]: Mr President, I raise the same concern as Hon David Wordsworth: The whole reason for passing laws is to enforce them. It was the dispensing power which lost Charles I his head and James II his throne. The Parliament has never accepted the proposition that the Government can dispense people from observing the law. The regulation will have to be either repealed or enforced.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [9.04 pm]: I ask the only Minister in the House, the Attorney General, whether he will indicate the Government's intention in respect of this regulation.

HON J.M. BERINSON (North Metropolitan - Attorney General) [9.05 pm]: I am unable to do that. I have had no connection with this motion or with the Minister's dealing with it.

HON E.J. CHARLTON (Agricultural) [9.06 pm]: Mr President, for the information of members I will table the letter from the Minister about the disallowance motion.

[See paper No 934.]

Question put and passed.

Order discharged.

RESERVES AND LAND REVESTMENT BILL

Second Reading

Debate resumed from 28 November.

HON BARRY HOUSE (South West) [9.07 pm]: The Reserves and Land Revestment Bill is a piece of legislation which is introduced annually and it seeks Parliament's approval to vary A class reserves, to remove trusts over reserve land and to close nominated pedestrian access ways and rights of way. Clauses 5 to 21 of the Bill will be better dealt with individually during the Committee stage instead of the second reading debate. These clauses deal with changes to A class reserve status and although the Opposition will raise queries on several of these clauses it does not intend to oppose them.

In discussions I have had on this Bill with various organisations, local authorities, interested parties and members of Parliament several comments were made which are worth conveying to this House. The Conservation Council of Western Australia made some interesting observations about the proposals concerning national parks. It complained that the three-parks policy, which has been given a lot of mileage by the Government, is effectively now a six-parks policy with excisions of limestone and granite quarries as a result of this legislation. Several people commented on the fact that the Government appears to be adding to the State's national parks without putting in place proper management plans.

I received a very extensive reply from the Western Australian National Parks and Reserves Association which took extracts from *Hansard* of about 25 years ago which demonstrate in the words of members of the day the procedural problems they encountered with this legislation and it is worth noting some of them. I found out that things have not changed much over time. The procedural problems the association identified were as follows -

> Bills introduced too late in the dying period of the Parliamentary Session.
>
> Proposed changes to Class A reserves saved up for a year for inclusion in an annual Bill.
>
> A large number of proposals included in individual Bills requiring time-consuming consideration.
>
> Only a small number of copies (eg 2) of briefing notes being tabled in Parliament.
>
> Explanatory maps being in rolls and being mislaid in Parliament.

Maps used often being inappropriate for giving Members clear pictures of proposals and overviews of broader concepts.

The association went one step further and suggested improvements that could be made when considering the reserves Bill and its suggestions included -

* Firstly, why not have two Reserves Bills a year - one introduced early in the Autumn session and another later in the year early in the Spring session? This would alleviate the long wait for early proposals when only annual Bills are presented. It would also shorten the number of proposals included in each Bill and assist with improved handling of them.

* Secondly, if there are relatively long adjournments for debate following the Minister's presentation, there is greater opportunity for Members to obtain local government and community feedback.

That is certainly true of this year because we had such a long adjournment that I thought the Government had forgotten about it. I continue to quote -

* While the present format of briefing notes is a great step forward, there still remains the need for some proposals to also include overview briefings. Sometimes overviews could be provided graphically (eg in map form). For example, the proposed excision from the Neerabup National Park (for yet another limestone quarry) should not be considered in isolation - an overview map of the whole reserve with both past, present and future quarry proposals should be provided, along with boundary "rationalisation" proposals under the NW Corridor Structure Plan.

I thought those comments were worth raising at this stage.

The legislation provides also for the closure of pedestrian accessways and rights of way. However, only eight closures are dealt with in this year's legislation, and I have received responses from many local councils throughout the State, particularly the Stirling and Armadale City Councils, which are very disappointed that many of their proposals have not been included in this legislation. Clause 23 is possibly the most important clause in the Bill, and I shall deal with that in more depth at the Committee stage. That clause seeks parliamentary approval for the removal of the application of section 167A of the Transfer of Land Act to pedestrian accessways and rights of way. That will mean that those closures can be dealt with administratively - in a similar manner to road closures by the Department of Land Administration - to overcome a situation which has developed since 1984. The legislation does do a few things, but it does not do others. It does delegate the administration to the Minister, and it will certainly speed up the process because there will be no further need to bring these closures to the Parliament. However, it will not solve the problem of control. It will not totally clarify the authority and responsibilities of local government and the Department of Land Administration. Therefore, only half of the job will be done.

I have talked extensively to people from various councils and also to people associated with DOLA and the Western Australian Municipal Association. We had proposed an amendment to the legislation to provide the full solution. That amendment would have delivered to local government the authority to close pedestrian accessways and rights of way, which are frankly a nuisance to a lot of councils. They provide a haven for vandals, trail bike riders and cats and dogs, and the councils want them closed. They are certainly a continual nuisance to the people who live on neighbouring properties. The discussions with WAMA and DOLA officers seemed to stir some response, with which I was very pleased. They agreed eventually to resolve the situation administratively, and I will seek from the Parliamentary Secretary at the Committee stage an assurance that DOLA officers will deliver on those assurances. This seems to satisfy the City of Stirling and the other local government bodies, and I understand that the situation will be addressed totally during the rewrite of the Land Act, which I am led to believe is 12 to 18 months away, although I will not hold my breath. I will deal with many of the clauses in greater depth at the Committee stage.

HON J.N. CALDWELL (Agricultural) [9.14 pm]: I support the Reserves and Land Revestment Bill and the comments made by Hon Barry House. I agree that it would be a good idea to introduce two of these reserves Bills a year, one in the autumn session and one in the spring session. I can remember a time when a reserve had to be altered in the Albany

area to include a rifle range in which I was interested because I was the President of the Great Southern Rifle Association. We had to wait for many months before we were given the right to commence building the rifle range. We knew that we would get that right because everyone had told us that it was okay and that the land would be excised from the A class reserve. However, we had to wait, and that put back the project approximately 12 months. This Bill has 23 clauses and probably deals with a similar number of pieces of land. Some of those matters could have been dealt with in the autumn session and that would auger well for the running of this State and make it easier for many local authorities. With those comments, I support the Bill.

HON TOM STEPHENS (Mining and Pastoral - Parliamentary Secretary) [9.16 pm]: I welcome the support of the Opposition parties for the Bill and look forward to being able to clarify questions raised during the Committee stage.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon D.J. Wordsworth) in the Chair; Hon Tom Stephens (Parliamentary Secretary) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Reserve No. 18720 in the Shire of Augusta-Margaret River -

Hon BARRY HOUSE: This clause changes the vesting of a reserve at the entrance to the Margaret River townsite from "national park" to "park and recreation". In most senses this is not a typical national park and it is already used for park and recreation purposes. However, I have been asked the question, "What is the management plan for the area?". What is the plan? Whose responsibility will it be?

Hon TOM STEPHENS: The responsibility is clearly that of the shire in which it is vested, which is the Shire of Augusta-Margaret River.

Clause put and passed.

Clauses 6 and 7 put and passed.

Clause 8: Reserves Nos. 39960, 40841 and 41466 (D'Entrecasteaux National Park) -

Hon BARRY HOUSE: The D'Entrecasteaux National Park is a pristine area in many ways and has become a focus for many activities because it is one of the three national parks identified by the State Government for exploration and currently there are proposals to mine it. However, the amendments proposed by this Bill involve the introduction of water as an additional purpose of national park; it introduces a concept of multiple use in national parks. That means that the Water Authority of Western Australia and a future Government may consider that it provides the legal right to dam a river or develop a bore field without the need for further reference to Parliament. We support the intent to protect the water resource and maintain the possible development as a future option.

The DEPUTY CHAIRMAN (Hon D.J. Wordsworth): Some doubt has been cast on the number of hectares involved; I believe it is 18 600. Will the Parliamentary Secretary confirm that?

Hon TOM STEPHENS: It is an area containing 18 600 hectares.

Clause put and passed.

Clause 9 put and passed.

Clause 10: Reserve No. 30082 (Hamersley Range National Park) -

Hon TOM STEPHENS: I move -

Page 4, lines 5 to 9 - To delete the lines and substitute the following -

(a) by excising -

(i) 6272.2 hectares or thereabouts of the reserve, shown coloured pink and yellow on CD Plan No. 4171; and

(ii) 111.2 hectares or thereabouts being Windell Location 130;

and

(b) by including -

(i) 5737.6 hectares or thereabouts, shown coloured green and orange on CD Plan No. 4171;

and

(ii) 150.5 hectares or thereabouts being Windell Location 131,

so that the reserve is comprised of an area of 606 597 hectares or thereabouts, being Windell Locations 126, 127 and 131 shown on Reserve Plan No. 333.

Members will recall that the Marandoo mining area and associated infrastructure corridor were excised from the Hamersley Range National Park, now the Karijini National Park, as part of the 1990 Reserves and Land Revestment Act. Hamersley Iron Pty Ltd has now requested urgent modification to the Marandoo area. The company has reviewed eight potential sites for a construction camp and the preferred site is located adjacent to mine infrastructure but within the national park. This location is preferred as it is superior to the others for the control and management of the construction work force. It is not legally possible to site a construction camp within the national park without excision, thus Hamersley Iron has requested excision of the area identified as Windell location 130 from the national park and in exchange has offered another piece of land identified as Windell location 131, Bangima Pool, from the project area to revert to the park. This area was identified by the Karijini Aboriginal Corporation as an area of cultural concern within the Marandoo project area. The proposed exchange arrangement was discussed with officers from the Department of Conservation and Land Management in principle.

The urgency of the request results from the company's work on its environmental review and management program documentation. Hamersley Iron plans to issue the ERMP for public comment in January 1992. The location of the construction camp should be accurately defined in the ERMP. It is therefore proposed to amend clause 10 to provide for the excision of Windell location 130 from the national park and the inclusion of Windell location 131. At the same time it is proposed to amend the clause by making more specific reference to the areas already being excised and included. These are now identified by colour on a specified CD plan No 4171, which was circulated just prior to the commencement of debate on this Bill.

The final area of the national park is an approximation because boundaries have not been surveyed. However, redefinition by reserve plan No 333 has allowed a more accurate estimation of area.

Hon N.F. MOORE: I looked at this Reserves and Land Revestment Bill when it first came out and saw that amendments were proposed to the Hamersley Range National Park - I would prefer to call it that because that is what I believe it should be called. I did not find any great problems with the way in which the boundaries had been rearranged to take account of the surrounding pastoral properties and the needs of the national park. However, about four minutes ago I was given a copy of a map which shows another decision the Government has made, to remove Windell location 130 from the national park and to include Windell location 131 instead.

Members will be aware of the difficulty the Marandoo iron ore project is facing and the way in which the Aboriginal so-called traditional owners have been complaining about the effect the proposed Marandoo mine will have on sacred sites. From what the Parliamentary Secretary has just said, I understand that this last minute proposition - that is, this amendment - is to overcome a problem in relation to the Karijini people's complaints. The suggestion is that the new excision from the national park - namely, Windell location 130 - is to provide an area for the company to operate a camp, and that Windell location 131 is being added to the national park to allow for the preservation of some areas that the Karijini people want preserved. I have sought advice from people in my own party about whether the Liberal Party has been briefed on this matter and whether it agrees to it. Regrettably the person who is responsible is not available at present and I cannot get that assurance.

Hon Tom Stephens: Allow me to assure you, Mr Moore.

Hon N.F. MOORE: Hon Tom Stephens has assured me on other occasions about things, which have not always been strictly accurate. I will be referring to his speech about Exmouth at another time, when we can perhaps discuss it in more detail. I was pleased on one occasion to say what a good speech it was, and I will be happy on another occasion to explain that Hon Tom Stephens was perhaps not quite accurate in some areas.

Hon Tom Stephens: I was accurate. Whether what was relayed to me was accurate is another matter.

Hon N.F. MOORE: Therein lies the problem; and Hon Tom Stephens has had information relayed to him about whether the Liberal Party supports this amendment or does not. I do not know. However, if the company supports the amendment and it solves the company's problem, and if the Karijini people think it will solve their problem, perhaps this is the way to go. However, I do not want us to come back here every five minutes with another map showing another bit of land to be taken out of the national park, with another bit being included in order to compensate. I want an assurance that this is the be all and end all, and that at the end of the day the Marandoo project will get off the ground - or under the ground, because it will be an open pit. The Hamersley Iron Company desperately needs to get the Marandoo project going because the ore body at Tom Price is rapidly diminishing and it is necessary, in order to preserve the infrastructure at Tom Price, to establish a mine at Marandoo. With the combination of the ore from Marandoo and the diminishing ore supply from Tom Price the company will be able to maintain its operations for a considerably longer period than it could without this project being established. We all know that the company has been waiting for at least 12 months since the projected start date. The project has been held up by a variety of people claiming a variety of things. The situation has become desperate. I would like the Parliamentary Secretary to tell us, firstly, whether the proposition in this amendment will solve the problem. Does this mean that the Karijini people, or the people who purport to represent them, agree that putting Windell location 131 back into the national park solves the sacred site problem? If it does, that is good. However, if it does not, how many more times will we see amendments coming to this place? Secondly, I want to know whether the excision of Windell location 130 from the national park to enable the company to carry out its operations is what the company requires, and is it satisfactory for its needs? I wonder whether it would be appropriate, in view of the difficulty I have in knowing whether my party supports the amendment, and if the Parliamentary Secretary was prepared to allow it, to have this matter debated at the end of debate in Committee. I am advised that the shadow Minister responsible will be in the Chamber in half an hour. That may provide enough time to seek clarification of the Opposition's official position.

Hon J.N. CALDWELL: I am one member who is fortunate enough to have received a briefing by the Minister for Land's advisers on this proposal. The National Party is reasonably satisfied with what is envisaged. It appears that the Government wants to excise a piece of land from the park, namely Windell location 130, in order to establish a camp. The map appears to indicate that this will involve a more convenient spot; however, I would like clarification on that point. The area to be added to the park, Windell location 131, seems to be in an unusual position. Can the Parliamentary Secretary tell us whether any problems with sites of significance exist in that area? Not all sites are sacred; many types of Aboriginal sites exist in country areas. I expect many more such sites exist in the north than in other areas. A site of significance could cause problems as well. Can the Parliamentary Secretary give some idea of the number of significant sites in the area, and whether they were the cause of this land being returned to the reserve? Perhaps he can explain fully about the camp, its location, and the reason the area was selected.

Hon BARRY HOUSE: I am very pleased that Hon John Caldwell received a briefing on this matter, because it seems that he is aware of the situation. Hon Norman Moore and I are completely in the dark. We were presented with the information a few moments ago, and I hardly think that is a good enough parliamentary process. However, it follows a pattern. Two years ago, two minutes before legislation was introduced in this place a controversial clause on the Subiaco Oval was dropped on us, and it took months to resolve. Last year, a clause concerning the Hamersley Range National Park and relating to the Marandoo project was dropped on us a few moments before debate - that obviously received our full support. However, it is not the most appropriate way to go about asking for Opposition support for a piece of legislation.

As to the amendment, one of the stated purposes of redrawing the boundaries of national parks has often been that the Government of the day has wanted to rationalise boundaries to assist in the management of the park. Therefore, we end up with straight lines rather than curves on the map. This amendment will not improve the management of the park; it involves taking out Windell location 131 in a strange chunk and adding another piece at the end. Perhaps good reasons exist for that.

As we have not had time to digest the implications of the amendment, the Parliamentary Secretary should take on board the suggestion made by Hon Norman Moore to consider this amendment at a later stage of the sitting.

Hon TOM STEPHENS: I was proposing to accommodate the requests of the Opposition. I will endeavour to ensure that Opposition members have the opportunity to consult with the Opposition spokesman, and I understand he will be in the Chamber within half an hour. I will also endeavour to make sure that the Minister for State Development is available to go over any areas of concern that members have.

Progress

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

[Continued on p 7329.]

TRANSFER AND USE OF FUNDS (SHIRES OF HARVEY AND WAROONA) BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [9.38 pm]: I move -

That the Bill be now read a second time.

The Shires of Harvey and Waroona currently hold in trust accounts moneys that were raised to meet anticipated Commonwealth charges for meat inspections performed by the Commonwealth in association with its export inspections. To date the balance of moneys held by the two shires in these trust accounts amounts to approximately $300 000 and $500 000 respectively. The shires are seeking to use the funds for community purposes; however, under section 264F of the Health Act the moneys can only be used for meat inspection services. As neither shire currently provides inspection services, the funds have remained locked away in trust accounts. Through seeking advice from the Solicitor General, the State has been endeavouring to resolve this impasse.

In May of this year the member for Wellington introduced a Bill which sought to amend the Health Act to enable the shires to have access to the funds. The reasons for the Government's opposition to the member for Wellington's Bill were fully explained during the second reading debate and the Bill was adjourned on the motion of the member for Wagin to enable him and his colleagues to examine the Bill in more detail. Since that time the Solicitor General has provided further advice as to the unsuitability of the member for Wellington's Bill. The Solicitor General's principal concerns are -

(1) Clauses 3 and 4 are of future as well as present operation. Should either shire collect fees at some time in the future under section 246F of the Health Act, once deposited in the statutory trust fund, the Bill would require the transfer of those moneys to the credit of the municipal funds of the two shires. This would spell invalidity to section 246F for all purposes.

(2) While clauses 3 and 4 are drawn with some care to avoid the precise operation of sections 246(5) and (6) of the Health Act, there is left some scope of uncertainty as to whether Parliament really intended to free the funds from the restrictions imposed by subsections (5) and (6). An express declaration that the transferred funds could then be used for the public purposes of the shire would have been more preferable.

For these reasons it is now proposed to introduce a revised Bill which clearly identifies the

moneys deposited with trust funds held by both shires and that those moneys can be used only, with the approval of the Minister, by the shires for community purposes. The requirement to seek the approval of the Minister will act as a mechanism to ensure that the funds once transferred will be used for community purposes. The Minister will approve only on the basis of being satisfied that the use is in fact for community purposes. However, there is no intention on the part of the State Government to direct the shires on how the funds may be spent. The Shire of Harvey has already indicated that the funds will be used as a contribution towards the recreation centre, but the Government has not yet been informed of the intended purpose by the Shire of Waroona.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Barry House.

PRISONS AMENDMENT BILL (No 2)

Introduction and First Reading

Bill introduced, on motion by Hon J.M. Berinson (Minister for Corrective Services), and read a first time.

Second Reading

HON J.M. BERINSON (North Metropolitan - Minister for Corrective Services) [9.44 pm]: I move -

That the Bill be now read a second time.

This Bill provides for amendments to the Prisons Act 1981 in respect of three separate considerations: Security aspects of prison, drug use in prison, and appeal rights by prison officers who are subject to disciplinary charges.

New security measures: The Bill provides for the implementation of new security measures in prisons. The amendments allow the prison authorities to impose conditions of entry into prison, including the provision of reasonable force for the purposes of security. The major initiative for which these amendments are required is an infra-red security system which is to be installed at Casuarina Prison. As members may be aware, the gatehouse of a prison is a priority security area. The infra-red security system requires all visitors to a prison to submit to the imposition of an invisible stamp before entering the prison. The stamp is shown up under infra-red light when the visitor leaves. Although very slight, the use of the infra-red security system requires some physical contact, for which legislative authority is needed.

Drug abuse: With the increase of drug use in society, prisons are also subject to an increasing risk of the unlawful use of drugs by prisoners. The Department of Corrective Services has implemented a strict drug policy which includes the withdrawal or restriction of prisoner privileges, such as contact visits and eligibility for home leave programs, for prisoners convicted of drug related offences in prison. Despite these measures, serious management problems have arisen relating to the detection and conviction of prisoners for drug related offences. The current provisions of the Prisons Act enable prison authorities to test prisoners to obtain evidence of drug use only where there is reasonable suspicion that the prisoner may be under the influence of drugs. However, if a prisoner refuses to provide a test sample, there is no equivalent offence to the Road Traffic Act offence of refusing a breathalyser test. In circumstances where a prisoner does provide a test sample which is positive, the prison authorities must also prove that the prisoner is under the influence of drugs for that offence to be an "aggravated offence" for the purposes of the Act. Proof that a prisoner has merely used a drug - as distinct from being under the influence of the drug - establishes a minor prison offence only.

A separate problem arises from the increased use in the community of glue as a drug. Currently, the provisions of the Prisons Act do not recognise glue as a drug. To meet the position referred to, the Bill makes provision for three additional aggravated prison offences under the Prisons Act, namely, an offence of refusing or failing to comply with an order to provide a sample for testing; an offence of using drugs or alcohol; and an offence of having unauthorised possession of glue containing toluene or another intoxicant. The amendments also enable the prison authorities to randomly request body samples from prisoners for evidentiary purposes, that is, without the need for the prison authorities to have reasonable suspicion of drug use.

Disciplinary appeal rights: A third group of amendments proposed in this Bill redress a drafting problem which has recently emerged in respect of the appeal rights of prison officers who are subject to disciplinary proceedings under the Prisons Act. A prison officers' appeal tribunal is constituted under the Prisons Act and this may hear appeals by a prison officer against the findings and penalties imposed on that officer arising from disciplinary proceedings. The Prisons Act currently provides for the executive director to hold an inquiry into a more serious disciplinary offence or, in the alternative, to appoint another person to hold such an inquiry. Unfortunately, although the Act provides for a right of appeal by a prison officer to the prison officers' appeal tribunal against the finding of the executive director, or a penalty imposed by the executive director or a person appointed by him, the Act does not provide for the right of appeal against the finding of a person appointed by the executive director. This anomaly was never intended and unnecessarily restricts a prison officer's right of appeal. Because the penalties for more serious offences may result in the dismissal of a prison officer, the right of appeal should not be restricted. This Bill therefore provides for the inclusion of a right for a prison officer to appeal against the finding of a person appointed by the executive director, and also allows any disciplinary proceedings under way prior to the amendment to be dealt with by way of appeal under the proposed amendments.

I commend the Bill to the House.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [9.49 pm]: The Opposition supports the Bill. As the Minister has pointed out the Bill provides for amendments in three separate areas of the operational and administrative functions of the Prisons Act: Drug use; security aspects of persons entering and leaving a prison; and appeal rights of prison officers. Members would be aware that section 49 of the Prisons Act sets out conditions of entry to prisons. It states -

> (1) The superintendent of a prison may require and direct -
>
> (a) a search of the person entering or seeking to enter a prison; and
>
> (b) the examination of any article in the possession or under the control of that person.
>
> (2) A person who is permitted to enter a prison or having been permitted to enter has just left a prison shall, if required by the superintendent, permit a search to be made of his person and that of any child accompanying him and shall, if so required, permit the examination of any article in his possession or under his control or in the possession or under the control of such a child.
>
> *Penalty: $500 or six months' imprisonment, or both.*

I raise those matters contained in subsections (1) and (2) purely to indicate the power that is contained in the principal Act for searching and questioning persons who enter into a prison. I refer to the recently opened Casuarina maximum security prison and members will be well aware that in the first two weeks of its operation a maximum security prisoner managed to escape from the establishment. Members will also be aware that this $100 million prison was suggested to be escape proof, and the recent escape clearly indicates that it is possible to breach the security arrangements, but in a maximum security prison such as Casuarina the only way out to all intents and purposes is through the gatehouse area. The security in that area of the Casuarina Prison should be improved. Casuarina Prison was designed essentially to reduce the risk of further prisoners escaping through the front gate. The amendments in the Bill are designed to reduce even further the risk of a prisoner's escape through the front gate. Today, in modern prisons it is recognised that if an escape is to occur from a maximum security prison, like Casuarina, it will normally occur through the front gate. Members who have visited the Casuarina Prison will know that the perimeter fences are covered with razor wire and other security devices and that a prisoner would experience great difficulty in breaching the perimeter fences. Casuarina also has an infra-red security system which, for security reasons, I will not mention in any detail.

Hon Peter Foss: There is nothing in the second reading about wooden boxes.

Hon GEORGE CASH: The Bill will allow prison officers to use an infra-red system to place non-visible stamps on the hands of visitors. The stamp is intended to be coded with the day of entry and will be read by machines upon a visitor's exiting the prison. The idea of that

infra-red stamping system is to prevent a different person from the one who entered from leaving the prison. It has been suggested that a muster check would be an adequate way of maintaining security within the prison. However, I remind members that the size of the Casuarina establishment would make it impractical to implement muster checks to check the number of prisoners present at any one time . It may also be said that prison officers should be able to physically identify those persons who have entered the prison in any one day and be able to sign them off as they exit the prison. However, changes of shift occur in the operation of the prison and the mere sighting of a person on his way in does not guarantee that the same prison officer will be on duty when that visitor exits the prison later in the day. The Opposition supports the amendment which will enable prison officers to place a stamp on the hand of people entering the prison.

The Opposition also acknowledges that in some respects prisons are no different from the outside community, especially regarding the increasing use of drugs. Over the years the annual reports of the Commissioner of Police have outlined the substantial increase in the use of drugs in Western Australia. There has been a corresponding increase in the use of illegal drugs in prisons. Five years ago the use of illegal drugs in a prison was irregular. However, today the use of drugs in prisons has increased significantly and presents various problems for prison officers. It is said that the only way to stop drug use in prisons is to stop contact visits. Of course, that discretion rests with the Executive Director of the Department of Corrective Services. However, within the general management of the prison system in Western Australia it is not believed that non-contact of prisoners with visitors is a viable option. The Prisons Act provides for a prisoner to submit to a blood test if it is reasonably suspected that he is using drugs. However, under the Act prison officers must identify a prisoner and form the reasonable belief that he has been using unlawful drugs. Some difficulty is experienced in this area, especially if, upon identifying a prisoner, the prisoner refuses to present himself for a test. Under the Act that would constitute a minor breach of the prisons regulations and it does not allow for proper management of the prison system. Therefore, an amendment to the Act will enable prison officers to require prisoners to submit to a blood test in cases irrespective of whether it is reasonably suspected that they are under the influence of drugs. The Opposition recognises that this provision is a substantial variation to what exists. However, it also recognises the need for the proper management of the prison system in Western Australia. The Opposition also recognises the situations that prevail in other States in Australia and overseas and that prisons must be secure places which have conditions imposed on the prisoners which are different from the conditions that exist outside a prison. The Opposition is prepared to support the Government's amendments to those provisions.

The Prisons Act provides that the Executive Director of the Department of Corrective Services hears a charge of a breach in the prisons regulations against a prison officer. The Act also contains a right of appeal. However, when the executive director deputises another person to act in his place and that deputy finds a prison officer guilty of a breach of the regulations, it must now be shown that the appeal provisions previously believed to be operative do not apply in the case of a deputy. That is, they apply only when the executive director finds a prison officer guilty of a breach of either the Prisons Act or the prison regulations. To substantiate the Opposition's support of the proposed appeal provisions contained in the Bill, part 10 of the Prisons Act prescribes procedures for the discipline of prison officers. The provisions were believed to provide the right for an officer convicted of an offence to appeal both the conviction and/or the penalty imposed. The Act was intended to provide appeal provisions and successive Governments, the Department of Corrective Services, the Western Australian Prison Officers Union of Workers and the legal advisers to all those groups believed that the appeal provision existed and in the past acted accordingly. However, in 1985 the Supreme Court pointed out that under certain circumstances no appeal right existed under the Act; that is, that where the executive director appointed a person to conduct an inquiry and that person being the deputy of the executive director found the officer guilty as charged an appeal provision existed only in respect of the penalty and not the conviction. A prison officer in such circumstances would be denied natural justice because there would be no appeal against conviction.

The Opposition believes that the right of appeal is an important and fundamental one. That right does, however, assume an even greater importance in disciplinary procedures

prescribed by the Prisons Act. I will not go into other information relating to appeals generally that deals with the introduction of hearsay evidence because that is not necessary at this stage of the debate given that I have indicated that the Opposition supports changes to the appeal provisions of the legislation. Over a period of years the present Government, the Opposition and the prison officers' union believed that such an appeal provision existed. The former chairman of the prison officers' appeal tribunal also apparently believed that such an appeal mechanism was available to prison officers. If it was unclear, it is fair to say that the ordinary practice in recent years has been to allow those appeals to be heard. However, the Supreme Court made it clear that it believed no right of appeal existed, and that was reinforced by the newly appointed chairman of the prison officers' appeal tribunal, Mr Lawrence, who is a stipendiary magistrate and who indicated that he was not prepared to proceed on the old notion of appeal, so it was found necessary to amend the Act.

I do not offer any criticism of the Government or the Parliament for not having instituted these appeal provisions earlier. What happened in the past was done in good faith and as a matter of continuing practice. However, given the views of the new chairman of the prison officers' appeal tribunal it is clear that a need exists to amend the Act. It is even more important that be done when one recognises that a number of charges have recently been laid against certain prison officers from the Casuarina Prison and unless an early amendment is made to the Act along the lines proposed in the Bill it is fair to say that those prison officers will be clearly disadvantaged and will be unable to appeal convictions, if imposed. My discussions with the prison officers' union have indicated it is keen to see the appeal provisions of this Bill supported. I therefore indicate the Opposition's support not only for the appeal provisions but also for the two specific areas involving security aspects on entry to a prison and the requirement for prisoners to submit to blood sampling under certain circumstances.

HON J.N. CALDWELL (Agricultural) [10.06 pm]: In speaking to the Prisons Amendment Bill I realise that Hon George Cash has spoken on behalf of the Opposition parties and that his knowledge of the prison system is greater than mine - how I do not know. Perhaps he visits them in a learning capacity. The National Party supports the Bill. Three areas of concern have arisen with the Bill, the first related to security measures. We must support this legislation as one escape has already occurred from a major security prison. A concern about such an escape is that generally the person who escapes is someone feared by the public, someone with a bad record. It is important that such criminals be put away for the term of their sentence and that they do not escape. Many members would have seen a documentary on television showing how some criminals are unrepentant. They are a law unto themselves and show no remorse whatever. Such a person should be kept away from the public for their protection.

The next area of concern mentioned in the Bill relates to drug abuse. One of the sad things about society today is that we see drug abuse not only outside prisons but also inside them. Some people now use glue as a drug. That substance is used extensively in prisons in such places as the woodwork shop.

The third important provision of the Bill relates to the right of appeal of prison officers, and it has the National Party's support. Hon George Cash has said that entry is gained to major prisons through the main gate. I guess there is only one main gate in the prison under consideration so it is important that security be adhered to strictly. Nothing is impossible in this world. I hope that jet propulsion is not available to prisoners who may be able to make it out of glue, boot polish or methylated spirits and use it to escape from prison. We have seen in American movies a helicopter hovering above a prison and lowering a rope for a prisoner to escape, so nothing is impossible in this day and age. One can only attempt to secure prisons as best one can. I am sure that this Bill will help in that regard.

HON D.J. WORDSWORTH (Agricultural) [10.09 pm]: I regret that we have not had more time to study this Bill as it is one of the few Bills of consequence to have come before the House lately.

Hon George Cash: It was by agreement.

Hon D.J. WORDSWORTH: It may have been, but I must make my speech only having had time to peruse the legislation while one speaker was on his feet. The infra-red stamp interests me. I do not believe it is an infra-red stamp, but a stamp which lights up under

infra-red light, somewhat similar to what we see in agricultural shows. I think it is used in Disneyland also.

Hon J.M. Berinson: My second reading speech modified that sentence to indicate that it was an invisible stamp which showed up under infra-red light.

Hon D.J. WORDSWORTH: It is the same device as that used in agricultural shows, in Disneyland and in other places. I wonder how secure that will be. I would not think it is a very rare dye which could not be smuggled in.

Hon J.M. Berinson: It operates on the basis of a code number which is changed daily.

Hon D.J. WORDSWORTH: The prisoner escaping would have to know the code of the day to be able to utilise the stamp?

Hon J.M. Berinson: That is correct.

Hon D.J. WORDSWORTH: Turning to the matter of random testing for drugs, I gather the Minister is saying that at random times prisoners can be tested. I presume every prisoner will be tested when random testing is done.

Hon J.M. Berinson: No; I shall deal with that in my reply.

Hon D.J. WORDSWORTH: Will we line up 50 prisoners and take every tenth?

Hon J.M. Berinson: There will have to be a reason.

Hon D.J. WORDSWORTH: The Bill talks about taking blood and other samples from prisoners. I would have thought it authorised the superintendent at random to direct an officer. In other words, the superintendent does the random selecting of the day. It is not a random selection of who shall be done. Will a group be lined up in a certain cell section when someone says, "We are suspicious of this group; we will do them all"? Or will the prison officers go along and say, "You, you and you; have a medical and have a blood test"?

Proposed new section 70 provides for a person who does not submit himself to have a body sample taken. This clause refers to a body sample, and new section 110 refers to taking blood and other body samples. Why should there be a difference between those provisions? Perhaps that could be brought up during the Committee stage. I believe it is necessary, in view of what is happening with AIDS, for samples to be taken. One day every person entering a prison will have to give a blood sample so that at least those looking after the prison know what is happening, not only for the protection of themselves but for the protection of other prisoners. After all, we are locking people up together, in many cases in an undesirable situation where it is known that homosexual activities take place. If nothing else, the prisoners have the right to know who among them have AIDS and what are the results of the tests.

This legislation does not indicate what this information will be used for, other than charging prisoners with possession of or taking drugs. In other words, is it suggested that the authorities are trying to identify a chemical and not a disease?

Hon J.M. Berinson: For this purpose, yes.

Hon D.J. WORDSWORTH: In other words, the prison will not be looking for a disease, only for chemicals?

Hon J.M. Berinson: Not under this provision, no.

Hon D.J. WORDSWORTH: It seems to me that one is very close to the other, particularly when we consider the case where a prisoner attacked a warder with a needle which he claimed contained blood from himself and that he had AIDS. This legislation only half covers the situation.

I raised the question before with the Minister whether clean needles and condoms would be issued to prisoners. He took strong exception to that question and said that in no instance would that happen while he was the Minister responsible.

Hon J.M. Berinson: I did not take exception to the question but to the suggestion.

Hon D.J. WORDSWORTH: I wonder whether we have to get down to facing some of the modern day problems of the outside world which must be very prevalent inside a prison. I notice that the Minister refers specifically to glue containing toluene. I am not sure if this

legislation specifically states that substance, but perhaps there may be others tomorrow and a wider interpretation of the legislation might avoid this legislation having to come back to this House with a request to include another substance.

Hon George Cash: It talks about other intoxicants.

Hon D.J. WORDSWORTH: I hope the Minister will be able to respond to those queries.

HON PETER FOSS (East Metropolitan) [10.17 pm]: Has this Bill been looked at by Amnesty International? Has it been checked to see whether it complies with the International Covenant on Civil and Political Rights? I do not have any personal concern with what is proposed, but I would like to be sure that we are not unwittingly entering into any arrangements which may be seen as violating those rights, because I know they are quite strongly defended, particularly as far as prisoners are concerned. I would hate to think that Western Australia was doing something wrong.

HON J.M. BERINSON (North Metropolitan - Minister for Corrective Services) [10.18 pm]: I thank honourable members for their support of the legislation, and I also express my appreciation for the willingness of the Opposition to expedite consideration of this Bill. In saying that I am sure I can safely convey the appreciation of the Prison Officers Union as well.

There are two major reasons for the urgency attached to this Bill which the Opposition has acknowledged by its agreement to expedite it. The first relates to the additional security measures which are regarded as important to institute as soon as possible in Casuarina. The second relates to the very serious concern of the Prison Officers Union, which is well placed, that officers facing impending charges, and in fact one charge which has already been heard, should not be deprived of the capacity to appeal, which everyone thought had always been in the Act.

I have already responded to a couple of matters raised by Hon David Wordsworth in relation to the nature of the stamp and the infra-red testing of the stamp. I do not believe that requires any further elaboration.

In relation to the body samples that have been talked about, so far as I am aware blood samples are certainly the major, single body sample that is contemplated, but obviously breath testing would also be in order for suspected alcohol use. There could be some tests - and I say this subject to correction - where the samples and even the best manner of testing would be by way of a urine sample, but there is no question of that sample in that case being taken. It can only be asked for, and, if refused, the refusal made subject to the separate penalty provisions.

Hon D.J. Wordsworth: Are those provisions in place now?

Hon J.M. BERINSON: Yes, but the circumstances in which these may be taken are deliberately extended by this Bill. That brings me to the question about the degree of randomness contemplated. It is not suggested there will ever be a situation where every prisoner has a blood sample taken for the purpose of testing for drugs. On the other hand, it is regarded as desirable to move away from closely defined circumstances where a blood sample can be taken. That is the position which now applies; namely, a requirement to be satisfied that a prisoner is actually under the influence of drugs rather than has simply taken the drug or obviously had possession of it. To the extent that drugs are used at all in prisons, the object of this exercise is to constitute that to be an aggravated offence rather than a simple offence. I think that is fully justified because of the special circumstances in a prison where the requirement for good order and security can very easily be jeopardised where a prisoner has taken either alcohol or other drugs. That is even apart from the general undesirability of allowing the circulation of these substances within the prison.

In response to Hon Peter Foss, it has not been my practice to circulate Bills to Amnesty International, and this Bill has not been presented to it. I believe there can be nothing in this Bill that would be contrary to the International Covenant on Civil and Political Rights, if only because the procedures themselves are not out of the ordinary - it is only the circumstances in which they are to be applied.

When we go the Committee stage I will seek to move a small amendment in respect of the commencement date but I can leave any discussion of that to that time. For the moment, I

again thank the Opposition for its general support of the legislation and for its cooperation in ensuring that its progress through the Parliament is expedited.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon J.M. Berinson (Minister for Corrective Services) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement -

Hon J.M. BERINSON: I move -

Page 1, line 6 - To delete the clause and substitute the following -

2. (1) This Act, other than section 6, shall come into operation on the day on which it receives the Royal Assent.

(2) Section 6 shall come into operation on such day as is fixed by proclamation.

The effect of this is to leave most of the Bill to come into operation on the date of Royal assent but to put aside clause 6 for operation on a day to be fixed by proclamation. The reason for that is that clause 6 of the Bill effects amendments which require regulations, and the existing regulations would not make sense against the new provisions. However, if I can anticipate Hon Peter Foss' inquiry, I indicate that the date of assent will be very soon; it is obviously consistent with our whole approach to the enactment of this Bill that all parts of it should come into operation at the earliest date possible.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 3 put and passed.

Clause 4: Section 70 repealed and a section substituted -

Hon D.J. WORDSWORTH: Subsection (f) of proposed new section 70 reads "consumes, or is in possession, alcohol not lawfully issued to him". Are there occasions on which alcohol is lawfully issued to prisoners?

Hon J.M. BERINSON: I would think there would be occasions where, for example, medicines are taken which include alcohol, sufficient to show up in the testing.

Hon D.J. WORDSWORTH: In other words, the Minister does not believe that alcohol for normal drinking purposes is ever issued?

Hon J.M. BERINSON: I do not think that they splice the mainbrace, as they used to in the Navy.

Hon D.J. WORDSWORTH: I refer also to proposed new section 70(i), which reads "does not submit himself for the purpose of having a body sample taken where he is required to do so under this Act". In this case, why the reference only to a body sample when elsewhere the reference is to blood and body samples?

Hon J.M. BERINSON: I cannot give a reason for that other than to say that my understanding is that a body sample would also include blood.

Clause put and passed.

Clause 5 put and passed.

Clause 6: Section 110 amended -

Hon D.J. WORDSWORTH: If a body sample means blood, why is a reference made here to the taking of blood and other body samples?

Hon J.M. BERINSON: I can only suggest that it is for greater caution; in either event it makes it clear that all body samples other than blood are included. I still believe "body samples" in the previous clause would include blood, and I frankly cannot suggest any good

reason for the difference in terminology in the two sections. I do not believe any harm would be done by that, since both expressions cover the whole range of body samples that would be sought.

Hon D.J. WORDSWORTH: What is the meaning of "random" within proposed section 110(1)(ka)? That has not been explained to us. Does this mean that prisoners will be lined up at random, or does it relate to random times? Its placement within the sentence does not indicate the nature of its meaning.

Hon J.M. BERINSON: I revert to the explanation which I gave the Committee a few moments ago: The ability to take samples at random is directed at meeting the problem which would otherwise arise if an attempt were made to specify every instance or situation where the taking of a body sample was authorised. It can safely be taken that this will not lead to an unreasonably widespread sample, if only, but not only, because of the substantial cost involved. The experience in prisons is that circumstances arise in all manner of ways which one would not think about until they arose. To attempt to specify those circumstances in advance would potentially lead to a series of situations such as the one which now exists; namely, the constitution of an aggravated offence is limited to circumstances where a prisoner can be shown to be under the influence of substances. This is intended to tighten up considerably on the penalties applying to the possession of alcohol or other drugs, irrespective of whether they have been taken, or when they are taken. It is irrespective also of whether that leads to a situation that can properly be said to be putting the prisoner under the influence. Having possession and having consumed to any degree these drugs has to be regarded within the prison context as an aggravated offence. That is the point of this provision.

Hon DERRICK TOMLINSON: I am provoked to speak by the answer I heard to Hon David Wordsworth's question. There is a difference between taking a body sample from a random sample of prisoners and taking a sample at random from prisoners. If samples of blood, or other body samples, are taken from a random sample of prisoners, it is quite an uncontrolled group of prisoners from which the sample is taken. If samples are taken at random, they can be taken from anyone at any time under any circumstances.

Hon J.M. Berinson: That is right.

Hon DERRICK TOMLINSON: Is it the latter example to which the Minister is referring? That is, not from a random sample but from a prisoner at any time, under any circumstances from anyone.

Hon J.M. Berinson: Yes.

Clause put and passed.

Clause 7 put and passed.

Title put and passed.

Report

Bill reported, with an amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Minister for Corrective Services), and transmitted to the Assembly.

SITTINGS OF THE HOUSE - EXTENDED AFTER 11.00 PM

Tuesday, 3 December

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.34 pm]: I wish to move a procedural motion, but I preface doing so by indicating that I have not had the opportunity, except in a most scrappy manner, to consult with the Opposition on this. With the indulgence of the House, I shall indicate my intent.

It appears that the Opposition speakers wished to consult with the Opposition spokesman for the purposes of finalising debate on the Reserves and Land Revestment Bill; however, the Opposition is still not in a position to proceed on this matter. The House has moved that further consideration today must be given to this legislation, and it is essential that we do that

before we adjourn. I propose to move for consideration of Orders of the Day Nos 7 and 8, followed by No 13. Before doing so, I would move an extension of time beyond 11.00 pm. I certainly do not propose to go beyond 12 midnight, and it may be that Orders of the Day Nos 7 and 8 can be completed quickly. - I understand that to be the position. In that case, we can consider the Reserves and Land Revestment Bill to ensure that it is not lost by default. For that reason, I move -

That the time of sitting be extended beyond 11.00 pm.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [10.37 pm]: The Opposition is prepared to support an extension of the sitting in the following terms -

That consideration be given to completing Orders of the Day Nos 7 and 8, and with a view to further considering Order of the Day No 13, but with a provision that the sitting of the House is not extended beyond 12 midnight.

In that case we will be able to satisfy the Government's position. Also, I believe we will be able to complete at least Orders of the Day Nos 7 and 8, and I hope we shall consider Order of the Day No 13. However, it is important that we maintain a 12 midnight limit.

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.38 pm]: I am happy to proceed on that basis. I hope that we can deal with this legislation on these terms.

Question put and passed.

HOME BUILDING CONTRACTS BILL

Committee

Resumed from 5 November. The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon John Halden (Parliamentary Secretary) in charge of the Bill.

Clause 17: Application for relief, and orders -

Progress was reported on the clause after Hon Peter Foss had moved an amendment.

Hon PETER FOSS: Since this Bill was last before the Chamber, I have discussed with Hon John Halden how best to achieve what I am seeking to achieve and also be consistent with the Government's intentions. As a result, Hon John Halden has placed on the Notice Paper a series of amendments that he will move and which will have the same result as that which I was seeking to achieve. I seek leave, therefore, to withdraw my amendment.

Amendment, by leave, withdrawn.

Hon JOHN HALDEN: I move -

Page 17, lines 22 and 23 - To delete the subclause and substitute the following -

(2) An application under subsection (1) cannot be made -

(a) before the applicant has given to the other party a preliminary notice under subsection (3); or

(b) after the expiry of 3 years from the time when the cause of action arose.

(3) A preliminary notice is a notice in writing setting out the matters of which the intending applicant complains and calling on the other party to -

(a) rectify them; or

(b) otherwise attempt to settle any matters that are in dispute.

Amendment put and passed.

Hon GEORGE CASH: I move -

Page 18, line 25 - To delete "$10 000" and substitute "$5 000".

In past debates on this Bill I have suggested to the Committee that the penalties originally prescribed were harsh and unrealistic when related to the building industry and when related to the practical problems associated with the building industry. I do not believe there is a need for me to canvass the arguments previously put in this debate in support of the amendment and I ask for the Committee's support.

Hon JOHN HALDEN: I will illustrate my objection to the amendment with an example. If a disputes committee were to order $10 000 of rectification work, under this proposal, the penalty for not doing that would be $500. Quite obviously, there is an incentive for builders not to comply with the orders of the disputes committee in those circumstances. That has been the problem in the past. There is no point in further pursuing the matter.

Amendment put and negatived.

Hon PETER FOSS: I move -

Page 19, lines 5 to 8 - To delete subclause (7).

I understand the Government will agree to this amendment. Paragraph (a) does not add anything and we were keen to see paragraph (b) left out because of the possibility of its giving rise to a multiplicity of proceedings. It is also somewhat an ambiguous provision because we were not sure whether it would affect proceedings already in train or when it would take effect. It would lead to an extremely complicated result. I understand it was requested by the Master Builders Association.

Hon JOHN HALDEN: The Government supports the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 18 to 23 put and passed.

Clause 24: Settlement by conciliation -

Hon JOHN HALDEN: I move -

Page 22, lines 10 to 18 - To delete the subclause and substitute the following subclause -

(1) If before or during the hearing of any proceedings under this Part it appears to the Disputes Committee either from the nature of the case or from the attitude of the parties that -

(a) one or each of the parties has not made sufficient attempt to settle the matters in dispute; or

(b) there is a reasonable possibility of the matters in dispute being settled,

the Disputes Committee may -

(c) interview the parties in private (either with or without a person who may be representing any party) and endeavour to bring about a settlement of the matters in dispute on terms that are fair to all parties; or

(d) require the parties themselves to attempt to bring about a settlement of the matters in dispute.

Hon PETER FOSS: I support this amendment, which is essentially similar to an amendment that I was proposing to move and is consequent upon the last amendment that we made to clause 17. The intent is to try to prevent the parties just shooting into the disputes committee as their first step. It is obviously far better that the parties at least notify each other about what they think is wrong and see whether they can resolve it themselves. The amendment that we made recently to clause 17 in respect of the concept of a preliminary notice requires that before a person can go to the disputes committee he must tell the other person what is wrong. We hope that most disputes will be worked out that way without a person's having to go anywhere near the disputes committee. This amendment provides also that the disputes committee will have the ability to take some of these measures if one or each of the parties has not made sufficient attempt to settle the matters in dispute. Previously the disputes committee had to find that there was a reasonable possibility of the matters in dispute being settled. In this case it is clearly sufficient for the disputes committee to come to the conclusion that the people involved have not tried to fix up the matters themselves; therefore, they should be told to go away, stop being so silly, and have a go at settling it themselves. This is reflected also in proposed subclause (1)(d), which provides that the disputes

committee may require the parties themselves to attempt to bring about a settlement of the matters in dispute. It is clearly socially desirable that people be encouraged to settle their own disputes rather than run off to the disputes committee. Accordingly, I believe that this amendment is in the spirit of the legislation, which attempts to prevent people running off to litigation and tries to get them to reach a sensible solution themselves. It is only if people cannot reach a sensible solution, after they have genuinely tried, that they will be able to resort to the disputes committee.

Amendment put and passed.

Hon JOHN HALDEN: I move -

Page 22, lines 19 to 23 - To delete subclause (2) and substitute the following -

(2) Nothing said or done in the course of any attempt to settle proceedings under this section may subsequently be given in evidence in any proceedings under this Part.

(3) Subject to the rules of natural justice, neither the Disputes Committee or any member is disqualified, by reason of anything done under subsection (1), from hearing or continuing to hear the proceedings if the Disputes Committee thinks fit to do so.

Hon PETER FOSS: This amendment is somewhat attached to previous amendments that have been passed by the Committee. The biggest difference to subclause (3) is the addition of the reference to the rules of natural justice. Previously it was an unqualified right of the disputes committee to continue to hear proceedings if it thought fit to do so. The amendment provides that the mere participation in anything under subsection (1) will not of itself disqualify, but it may very well be that other things that happened during the course of that participation would disqualify them and that would be contrary to the rules of natural justice, so that is preserved. It is fairly important that the parties feel free to discuss and admit frankly what may or may not have been the case, because if they are unable to discuss these things freely they will be unlikely to reach a resolution. On the other hand, people are unlikely to be frank in their discussions if as a result of what they say frankly in those discussions they end up having what they said given in evidence in the proceedings for prosecution. That is likely to lead to their being very guarded and watchful in what they are saying. Therefore, this amendment is important.

Amendment put and passed.

Hon PETER FOSS: I move -

Page 22, after line 25 - To insert a new subclause (4) as follows -

(4) Where proceedings are settled under this section, the Disputes Committee may not impose any penalty provided for by this Act.

The concern here is to try to get to a situation where people are keen to settle the matter. There is a concern that if a threat of prosecution is hanging over a party, he will be reluctant to settle, whereas if everything can be settled at the same time, it is best to do so.

Hon JOHN HALDEN: The intention of this Bill was never for the disputes committee to have any opportunity or potential to impose a penalty, but in trying to achieve what Hon Peter Foss wants I will guarantee that in legislation. I am happy to support the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 25: Presentation of cases before Disputes Committee -

Hon GEORGE CASH: I move -

Page 24, line 6 - To delete "$5 000" and substitute "$1 000".

Members will be aware that this clause deals with the presentation of cases before the disputes committee. As has been my practice, I indicate my belief, and the belief of the Opposition, that the penalties as originally prescribed in the Bill are both harsh and oppressive, and I ask members to support the amendment.

Hon JOHN HALDEN: The Government opposes the Leader of the Opposition's amendment. Clearly the provision here is not draconian; the likely penalty will be $500. The effect is to ensure that those receiving financial compensation are only legal practitioners or officers of a company entitled to receive or demand fees for reward to represent or assist in representing a party before the disputes committee. I oppose the amendment.

Amendment put and negatived.

Clause put and passed.

Clause 26: Access for inspection of building work -

Hon GEORGE CASH: I move -

Page 24, line 22 - To delete "$1 000" and substitute "$500".

This clause concerns access to inspection for building work, and the Government proposes a penalty of $1 000 for a breach of the clause. Again I argue that the proposed $1 000 penalty is both harsh and oppressive and ask the Committee to support the amendment.

Amendment put and negatived.

Clause put and passed.

Clause 27 put and passed.

Clause 28: Contracting out forbidden -

Hon GEORGE CASH: I move -

Page 25, line 21 - To delete "$10 000" and substitute "$5 000".

This clause concerns the provisions for contracting out, which are forbidden in certain circumstances as described in the Bill. Again I argue that the penalty is harsh and oppressive and ask members to support my amendment.

Amendment put and negatived.

Clause put and passed.

Clauses 29 to 33 put and passed.

Clause 34: Review of Act -

Hon PETER FOSS: I move -

Page 27, line 11 - To add after the words "Master Builders Association of Western Australia," the words "The Institute of Arbitrators Australia (WA Chapter) and the Royal Australian Institute of Architects (WA Chapter),".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 35 put and passed.

Schedule put and passed.

Title put and passed.

Recommittal

On motion by Hon John Halden (Parliamentary Secretary), resolved -

That the Bill be recommitted for the further consideration of clauses 3 and 5.

Committee

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

Clause 3: Interpretation -

Hon JOHN HALDEN: I move -

Page 3, after line 13 - To delete -

(d) constructing or carrying out any associated work in connection with any work referred to in paragraph (a), (b) or (c);

and substitute the following -

(d) constructing or carrying out any associated work in connection with -

(i) any work referred to in paragraph (a) or (b); or

(ii) an existing dwelling, including a strata-titled dwelling;

Amendment put and passed.

Hon JOHN HALDEN: I move -

Page 4, after line 6 - To delete -

(c) a contract for the performance of home building work where all amounts payable under the contract are only payable if certified to be payable by an independent certifier engaged by the owner.

Hon PETER FOSS: I am quite disturbed by this amendment because it would take away something which was previously put in by this Chamber and the reasons for doing it were made quite clearly at that time. It seems to me that it misses the point I made on the first occasion; that is, that where a person is independently looking after the interests of a consumer, and probably at the same time also dictating the way in which the matter is to take place, it is quite unreasonable to place a burden on the builder to conform to the terms of the Act in the wording of the contract and all the other performances he has to do. It is quite unreasonable to provide for a special tribunal when the situation at law is that an independent certifier is virtually a tribunal, and although he is there to look after the interests of the owner he has to act in many ways as an independent tribunal. On top of all that, it is unreasonable to provide that it is to be subject to this Act. Furthermore, the amendment has the effect of making it very difficult for an independent certifier to have any effect in a contract such as this.

That is an undesirable state of affairs. The experience has been in other jurisdictions, such as under the insurance brokers legislation, notwithstanding the introduction of the Insurance Contracts Act, people are increasingly using professionals such as brokers to look after their interests. Under those circumstances they do not receive all the benefits of the Insurance Contracts Act; nevertheless, people are finding that it is a good idea to have somebody experienced in the area to represent them. The problem which must be addressed by the Act is that people in Western Australia do not tend to use independent advice to assist them. Maybe Western Australians have a philosophy not to rely on professionals. It may be that we believe the little battler should be encouraged rather than discouraged. Frankly, it is foolish to introduce legislation which will discourage people from obtaining proper professional help and have the effect that people will rely increasingly on the law and less on professional assistance. That is the wrong way to go. We would not encourage people to do things themselves in the medical field; therefore, why on earth are we doing it with this legislation?

Hon T.G. Butler: It is easier to fill out a complaint form than to perform a appendicectomy. Yours is not a good analogy.

Hon PETER FOSS: We are not talking about a complaint form; we are talking about building a house. We are not considering the situation when things have gone wrong, but whether people employ architects from the start. If they do, it is a matter of considering what kind of role the architect should take in determining what type of contractual arrangement to be used. I am not suggesting that people should represent consumers after things have gone wrong; people should be encouraged to have professional assistance from the beginning. Maybe that is not done because of the expense, but people run into trouble due to not having expert advice. Firstly, it is a strange attitude not to acknowledge the role of the architect, and secondly, this legislation makes it difficult for builders to function when an architect is involved in the project. This will lead to problems and is unfair.

Hon JOHN HALDEN: Briefly, Hon Peter Foss and I have had discussions on this matter before. We have discussed the reasons for recommitting this clause and the concept of independent, certified agents. After all, we are talking about an architect. What will happen as a result of the amendment incorporated in the Bill so far by Hon Peter Foss? It will create two classes of consumer; that is, those with an architect administered contract who are not protected under the provisions of this Bill and those who do not have homes constructed by

an architect who are protected by the Bill. The results of that will be quite significant. People will not be inclined to go to an architect if they will not have the protection of the Bill. That must be clearly understood. A group of people will not have the redress of the disputes committee. This is simply an advantage which has been borne out on many occasions in resolving these matters. An architect administered contract will be complicated, cumbersome and full of pitfalls, which have been features of the current situation for many years. We should not be creating two classes of consumer. This debate has been conducted before. Hon Peter Foss and I represent the opposing sides of the argument, and I presume the Chamber will make a decision on this argument.

Amendment put and passed.

Hon JOHN HALDEN: I move -

Page 4, lines 7 and 8 - To delete "(including an agency of the Crown)".

This amendment is in accordance with a undertaking I gave to the Committee.

Hon PETER FOSS: I am pleased to support the amendment, but I would have preferred it to be considerably broader in its terms. This is the very minimum this Chamber can do to prevent the Crown from benefiting from legislation which is obviously intended for a much smaller consumer than the Crown.

Amendment put and passed.

Clause, as further amended, put and passed.

Clause 5: Owner to be given copy of contract -

Hon JOHN HALDEN: Again, this is a matter about which I gave some guarantee to the Committee to increase the number of days available before a notice would take effect from seven to 14 days. I move -

Page 6, line 10 - To delete "7" and substitute "14".

Amendment put and passed.

Clause, as amended, put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

HON JOHN HALDEN (South Metropolitan - Parliamentary Secretary) [11.24 pm]: I move -

That the Bill be now read a third time.

HON PETER FOSS (East Metropolitan) [11.25 pm]: The result coming from the Committee proceedings is little better than what we went in with. The whole approach of this Bill to tackling a known problem is a poor approach. Once again we have set up in Western Australia a whole new body of law, and a whole new tribunal to deal with problems. It cannot be better for the community in the long run to have so many bits and pieces of law being continually thrust upon it. The result will be that hardly a lawyer in Western Australia will not have a position on some tribunal somewhere. There will be tribunals for every sort of contract one could imagine. Every contract that people enter into will have a new tribunal with new appellate provisions and new rules of procedure applying to them. That is undesirable. The cost of maintaining those tribunals, and the confusion about what jurisdiction one should go to, will ultimately grind the system right down. Our society will find it very difficult to continue to function while we keep making up these funny laws, funny procedures, and more regulations, at a time when we know perfectly well our economy is being ground down by regulations. This is a very poor attempt to solve the problems that have been outlined in the Bill. Notwithstanding that I will be supporting the motion for the third reading of this Bill, it is a very poor attempt to deal with the problem. It does appear to me that it could have been dealt with considerably better than the way in which it has been.

THE PRESIDENT (Hon Clive Griffiths): Before I put the question I remind members, because it is the second time today that we have had a member addressing a third reading of a Bill, that in this Chamber when a member speaks on the third reading of a Bill he must

confine himself to giving reasons why the Bill should or should not be read a third time. The allowed debate is very narrow on the third reading. Hon Peter Foss just sneaked in, but I mention it in case members are starting to get into the habit of thinking they can have another second reading debate during the third reading of a Bill. Debate on the third reading is clearly confined to giving reasons why a Bill should or should not be read a third time.

If the Minister sitting in the back of the Chamber would cease carrying on a conversation while I am endeavouring to enlighten the House on a very delicate and important point I would be much happier. To those members who are behind the dais, I am not taking too kindly to the flippant way in which they appear to be considering the authority of the Chair. I am not in the habit of becoming pedantic about things and I allow members a great deal of freedom, but there is a time when it must be agreed that the decorum of this place is being completely and utterly disregarded by some members. I will not take any further action and I assure those members - and they know to whom I am referring - that if they do not lift their game and begin to conform to the decorum of this place, unfortunately I will have to take some action. I consider it my task to endeavour to ensure that all members understand what the rules are in regard to debate in this place. If I had not taken the time to explain to those members who have taken the opportunity tonight to speak on the third reading debate that there is a very significant difference in this Chamber between debate on the second reading and the third reading stages of a Bill, there is no way that members would be aware of it. While I am trying to do that, to have people behind this dais carrying on like undisciplined people is very disconcerting, to say the least.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.

BUILDERS' REGISTRATION AMENDMENT BILL

Second Reading

Debate resumed from 17 September.

HON PETER FOSS (East Metropolitan) [11.30 pm]: Many of the amendments contained in the Builders' Registration Amendment Bill are as a consequence of the previous Bill debated by this House. The intent of this Bill is to establish the Building Disputes Committee which is required by the Home Building Contracts Bill and also to take over some of the functions which previously were the functions of the board established under the Home Building Contracts Act. The jurisdiction of the Builders' Registration Act is limited to certain parts of the State and this Bill will allow for parts of the Act to apply throughout the entire State. The Opposition has no quarrel with that.

This Bill provides for the disputes committee to be chaired by a legal practitioner and I note that he is not required to have any experience as a legal practitioner. This is a trend I have seen appearing in tribunals which have been appointed under various pieces of legislation, but I assume it is not the intention to appoint a person who has not had any experience as a legal practitioner. I hope that is the case, because anyone who knows anything about the law would know that it is not sufficient for the person who will be appointed as chairman of the disputes committee to be only registered as a legal practitioner. He will definitely require experience as a practising legal practitioner.

Reference is made in the Bill to using peak bodies and this is another aspect about which I am concerned. As soon as we include in legislation reference to peak bodies to resolve disputes it is considered by many people to be a sufficient form of consultation. However, we do not have any alternative to doing that.

I am concerned that certain provisions of the Bill dealing with the establishment of the disputes committee do not appear to give any real judicial independence to the people appointed. It is a general problem with tribunals and it is one we will not solve with this Bill. Each day Bills setting up tribunals to deal with various disputes are introduced into the Parliament and we need to establish a policy which outlines the essential characteristics of tribunals. This matter has not been dealt with properly by this House. We must consider how we would like tribunals to be constituted and what measures should be put in place to ensure their independence. At the same time, we must be practical about the way in which appointments are made. Perhaps we should be looking also at a more general system of

administering tribunals. This matter has been considered by the Law Society of Western Australia and it has expressed its views on it. The number of tribunals in this State is increasing dramatically and consideration of establishing a policy for the appointment of tribunals should be referred to the Standing Committee on Legislation before more tribunals are appointed. One or two Bills received from the Legislative Assembly today include provisions for the establishment of tribunals. The rules applying to the establishment of those tribunals are different from the rules applying to the establishment of the disputes committee under this Bill. Tribunals are appointed on an ad hoc basis and we need to consider the independence they are given, the staff they require and what they are required to do, and whether there should be appeals and, if so, on what grounds.

The question of what happens to the appointment of deputies when the office of the chairperson becomes vacant was raised when the position of Chairman of the Town Planning Appeal Tribunal was vacant. It was determined that the deputy of that tribunal could not depute for someone who did not exist; however, he would have been in a position to depute for somebody who was away ill. When the chairman resigned there was considerable delay in appointing a new chairman and concern was expressed that the deputy should not do anything that was dependent upon a decision of the chairman's in case the deputy did not have the jurisdiction to do so. I do not think that has been dealt with appropriately in this Bill.

Another matter which should be considered is the right to require people to answer questions. This matter was considered in depth during the debate on the Human Reproductive Technology Bill. It is a fundamental right not to incriminate oneself, yet daily we make changes to legislation which is not always consistent with changes made to other legislation. Surely we should have some sort of policy on this matter, and a suitable policy should be considered by the Legislation Committee as soon as possible. Today I received a letter from the Lord Mayor of the City of Perth in which he raised this very issue. Members may recall that he was formerly a member of the Federal Parliament, which has been through this problem, and perhaps the Attorney General may recall what took place. Over a period of time the Federal Parliament laid down fairly clear rules as to what it would and would not accept in the way of incursions on liberties of the subject and it has reached the stage where draftspersons no longer try to infringe certain rights. The right which was mentioned by the Lord Mayor was the right to be in one's home without being disturbed by a person enforcing the law unless that person has obtained a warrant to do so. In this case there is not such an infringement because there is protection in the Bill for people required to answer questions, but that protection extends only to verbal answers given and not to the production of documents.

The legislation contains a reversal of the onus of proof and it is probably a provision which falls within the ordinary common law exceptions. It is a reversal of the way in which a person is required to prove the reasonableness of an excuse. There have been circumstances in common law where a distinction has been drawn between a defence and an exception. It may well be appropriate to treat it as a defence rather than an exception. There are also some provisions which require action to be taken.

Hon John Halden: We can discuss this during the Committee stage; I am prepared to accept all but one amendment.

Hon PETER FOSS: I will mention clause 40 of the Bill. People wishing to have reasons for the decision must seek those reasons within 14 days. That seems to be the cut off point. Here we are talking about making sure people know the law and are protected, yet we are setting up a system where, if people want to protect their rights, they must act within 14 days.

I have a problem with the question of appeals. We have set up a procedure which has a long history of causing problems under the Workers' Compensation and Assistance Act, and that is the need to confine appeals to questions of law, and we allow a procedure called a case stated. For years the Workers' Compensation Board required cases stated, and those had to be on questions of law only. A number of appeals involved highly technical questions, and if one worked really hard one could turn a question of fact into a question of law on appeal. However, that encouraged the most convoluted of arguments in order for people to appear before the appeal court. The appeal court tended not to worry about these convoluted arguments; once it saw the merits of the argument it tended to become receptive to arguing questions of law.

Why should we not allow an appeal to take place? We should allow appeals on both questions of law and questions of fact. We learnt from our experience with the Workers' Compensation Board that, although there was the further complication of a case statement, the wrong questions were always asked. In many appeals people genuinely had a dispute and wanted to find something out, but the matter ended up not being decided by the Supreme Court because it said it did not have sufficient facts to make the right decision. Although it might seem clever to restrict appeals to matters of law, we will not end up succeeding; lawyers will just turn appeals on questions of fact into appeals on questions of law, and we will waste the time of the court in very convoluted arguments. Over the years it has been shown that appeal courts are very ready to find a question of law, even when the dispute is essentially one of the facts. As a result of those concerns, I have put a number of amendments to the Bill on the Notice Paper. However, leaving those reservations aside, it is quite clear that the general tone of the amendments contemplated by this Bill are necessary. Accordingly, the Opposition will support the Bill.

HON J.N. CALDWELL (Agricultural) [11.44 pm]: The National Party supports the Builders' Registration Amendment Bill, and welcomes the comments of Hon Peter Foss, who spoke on behalf of the Opposition. A similar Bill was introduced last year but was discharged on 28 March to be replaced by this Bill. The National Party supported the original Bill and, although this Bill has some minor differences, supports it as well.

This Bill sets up a tribunal, one of the functions of which is to investigate complaints from any person, including the board, and the registrar will be able to act on behalf of the board. The tribunal may require the attendance of witnesses and the production of documents. It may also order the payment of a fine, which can be pursued through the courts; otherwise the enforcement of decisions and orders will be prescribed by regulations.

There are some winners and some losers in this Bill, but fortunately the losers will only be the shonky builders. We all want to see these people subject to guidelines; they should not be allowed to put up buildings of inferior quality. That practice has been demonstrated many times on television. Many builders come into disputes over inadequate buildings and using short-cut methods which have become prevalent over the last few years.

The National Party's only query is whether the Small Claims Tribunal could not deal with these complaints. Rather than set up another tribunal, we believe that the Small Claims Tribunal could handle these areas of concern to the public.

Question put and passed.

Bill read a second time.

FITZGERALD STREET BUS BRIDGE ACT

Report Tabling

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [11.47 pm]: A paper was tabled in this House today, being a report required of the Minister for Transport by operation of clause 3 of the Fitzgerald Street Bus Bridge Act. I understand the same paper was also tabled in another place. Mr President, I ask for your ruling on the effect of this House having passed a motion to note the paper, and specifically whether, in your view, such a motion having been passed, it would be a resolution for the purposes of clause 3 of the Act.

The PRESIDENT: I shall examine that question and give a ruling tomorrow.

RESERVES AND LAND REVESTMENT BILL

Committee

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

Further consideration of clause 10 postponed, on motion by Hon Tom Stephens (Parliamentary Secretary).

Clause 11: Reserve No. 18414 in the Shire of Harvey -

Hon BARRY HOUSE: There is a need for more information on this provision. What will the area be used for? It may be useful in future for the Main Roads Department, or even for

its historical or cultural value, because it has been suggested that the site might contain an old convict well. Has the site been checked out thoroughly?

Hon TOM STEPHENS: I am unable to give any assurance to the member about the assessment of heritage value but it was certainly part of the recommendations of the System 6 report. The current listing is in line with the recommendations of that report.

Clause put and passed.

Clause 12: Reserve No. 10129 in the Shires of Kent and Gnowangerup -

Hon BARRY HOUSE: This clause involves a significant reduction in area of the land from 2 509.0510 to 1 891.5618 hectares. The Department of Land Administration is required to bring the situation to the Parliament because it is outside the tolerance limit. What is the reason for such a large change in the area between the different survey times?

Hon TOM STEPHENS: I am advised that the miscalculation can be traced back 75 years, and in that context nothing can be done but to seek parliamentary approval.

Clause put and passed.

Clause 13: Reserve No. 10504 in the Shire of Manjimup -

Hon BARRY HOUSE: I wish to make some general observations. The Shire of Manjimup will take over the reserve in order to plant blue gums and to beautify the area, and I support the intention to upgrade the area. This raises the issue of a local authority being involved in the use of public land for profit. I am sure the members of the Manjimup Shire Council, being an entrepreneurial lot, will plant blue gums and then market them. I make that observation about this clause because we may reach the situation where a local authority may be involved in a business pursuit for some time.

Clause put and passed.

Clause 14: Reserve No. 27575 (Neerabup National Park) -

Hon BARRY HOUSE: The national park is located in the City of Wanneroo. Concerns have been expressed to me that no specific public commitment has been made on the use of the reserve. A clear indication should be made of the industrial resources involved - for example, granite and limestone, and horticultural areas. It is not such a progressive step to build houses on areas that may be useful in future to provide limestone, for instance.

Clause put and passed.

Clause 15 put and passed.

Progress

Progress reported and leave given to sit again, on motion by Hon Tom Stephens (Parliamentary Secretary).

House adjourned at 11.59 pm

QUESTIONS ON NOTICE

EDWARDS, MR KEVIN - WESTERN AUSTRALIAN GOVERNMENT HOLDINGS LTD
Employment Contract

1018. Hon GEORGE CASH to the Leader of the House representing the Minister assisting the Treasurer:

(1) Was Kevin Edwards employed under contract as a director of Western Australian Government Holdings in August 1988?

(2) What was the term of the contract?

(3) Who terminated the contract in October 1988?

(4) Did the contract provide for a lump sum settlement if the contract was terminated?

(5) If yes to (4), what was the amount paid to Kevin Edwards in full settlement of the contract?

Hon J.M. BERINSON replied:

The Minister assisting the Treasurer has provided the following reply -

(1)-(5)

Mr Kevin Edwards was appointed a director of WA Government Holdings Ltd on 18 August 1988. He resigned this appointment on 6 October 1988. His appointment and resignation as a director of WA Government Holdings Ltd were made pursuant to the provision of the Companies Code and WA Government Holdings Ltd's articles of association. A contract did not apply to his services as a director of WA Government Holdings Ltd. He was not paid for his services as a director of WA Government Holdings Ltd.

Mr Edwards was also employed by WA Government Holdings Ltd from 1 September 1988 to 10 March 1989.

SPORT AND RECREATION MINISTRY - FULL TIME EQUIVALENTS

1081. Hon MAX EVANS to the Minister for Sport and Recreation:

(1) Can the Minister advise the average number of full time equivalents, including consultants, at the Ministry of Sport and Recreation in the following periods -

(a) 1987-88;

(b) 1988-89;

(c) 1989-90;

(d) 1990-91; and

(e) 1991-92.

(2) If there are any major variations, could the Minister advise the reason for the variations?

Hon GRAHAM EDWARDS replied:

(1)-(2)

(a)	129.0	
(b)	134.4	Increased to include the Minister's office during the year.
(c)	124.5	Decrease due to the transfer of the Minister's office to another agency.
(d)	94.2	Decrease due to Recreation Camps and Reserves Board - 32 FTEs - being appropriated separately.
(e)	88.5	Decrease due to Budget reduction.

ABORIGINES - SCHOOLS
Aboriginal Communities or Outstations - School of the Air Education

1116. Hon N.F. MOORE to the Minister for Education:

(1) Which Aboriginal communities or outstations do not have a school on site?

(2) How many Aboriginal children, living in the communities or outstations, are educated through the School of the Air?

(3) Are there any Aboriginal children who do not have access to any formalised education services?

(4) If so, how many and where do they reside?

Hon KAY HALLAHAN replied:

(1) There are several hundred separate Aboriginal communities. Many of these communities do not have an on site school. However most have access to a Government or an independent school. Those communities that do not are able to receive special assistance for their children from the District Education Office.

(2) Kimberley School of the Air -

R B Junction - Kununurra area	6 students
Mt Anderson Station - Looma area	13 students
Fairfield Station - Fitzroy Crossing	2 students
9 Mile - Kununurra area	2 students
Ngulupi Community - Halls Creek area	7 students
Pantijan - Derby area	7 students
Jimbalakudunj Community - Derby/ Fitzroy Crossing area	15 students

Pilbara School of the Air -

Billanooka - Jigalong area	8 students

(3)-(4) At certain times Aboriginal children may be residing in a community which does not have access to a school. The Ministry of Education believes that at present there are few children in this category. However, the district superintendent monitors their access to education through the appropriate Aboriginal support services and the ATSIC committees.

SPORT AND RECREATION - LIQUOR COMPANY SPONSORSHIP
Government Policy

1189. Hon MAX EVANS to the Minister for Sport and Recreation:

What is the Government's policy on the sponsorship of sporting events by liquor companies?

Hon GRAHAM EDWARDS replied:

The Government's view is that sporting bodies should be able to continue to attract liquor company sponsorship for major sporting events, although it is preferred that such sponsorship should not be offered for events involving participants under the age of 18.

EDUCATION MINISTRY - SPORTS FACILITIES
Use and Access Policy

1190. Hon MAX EVANS to the Minister for Sport and Recreation:

What is the Government's policy with respect to use and access of Ministry for Education sports facilities?

Hon GRAHAM EDWARDS replied:

It is the Government's policy to encourage community use of Ministry of Education sports facilities. In fact, a number of high schools have been designed and built with this specific objective in mind.

SPORT AND RECREATION - GOVERNMENT FUNDING
Dollar for Dollar Basis

1191. Hon MAX EVANS to the Minister for Sport and Recreation:

Did the Government commit any funds to sport and recreation projects on a dollar for dollar or similar basis with the Commonwealth during the year ended 30 June 1991?

Hon GRAHAM EDWARDS replied:

Yes.

SPORT AND RECREATION - CAPITAL WORKS FUNDING POLICY

1192. Hon MAX EVANS to the Minister for Sport and Recreation:

(1) Does the Government have a policy on capital works assistance to sport?

(2) If so, what is it?

Hon GRAHAM EDWARDS replied:

(1) Yes.

(2) It is the Government's policy to work with community groups, sporting organisations and local authorities to plan for sports facilities to meet identified needs, and where appropriate assist in funding those facilities.

SPORT AND RECREATION - SPORTS FACILITIES
Government Guarantees for Loans

1193. Hon MAX EVANS to the Minister for Sport and Recreation:

What guarantees for loans exist currently by Government for sports facilities?

Hon GRAHAM EDWARDS replied:

Treasury advises that Government guarantees for loans currently existing for sports facilities are contained in the Treasurer's Annual Statements for 1989-90. No guarantees have been issued for sports facilities during the financial year ending 30 June 1991.

SPORT AND RECREATION - SPORTS FACILITIES
Capital Works Funding

1194. Hon MAX EVANS to the Minister for Sport and Recreation:

What sports facilities have been funded from capital works funding during the year ended -

(a) 30 June 1989;

(b) 30 June 1990; and

(c) 30 June 1991?

Hon GRAHAM EDWARDS replied:

(a)	1989-90	$m
	Completed	
	- Wellington Dam rowing course	0.270
	In Progress	
	- Graylands Sports Complex - Construction	0.061
	- Graylands Sports Complex - Additional Swimming facilities	0.011
	- State cycling facility	3.000
(b)	1989-90	
	Completed	
	- Graylands Sports Complex - Construction	0.015

In Progress	
- Graylands Sports Complex - Additional Swimming facilities	4.420
- State cycling facility	0.211

(c) 1990-91

In Progress	
- Graylands Sports Complex - Additional Swimming facilities	3.452
- State cycling facility	Nil

WOMEN IN SPORT ADVISORY COUNCIL OF WESTERN AUSTRALIA - EMPLOYMENT STATISTICS
Funding Policy

1195. Hon MAX EVANS to the Minister for Sport and Recreation:

(1) Could the Minister advise how many people are currently employed by the Women in Sport Advisory Council of Western Australia?

(2) What is the current funding policy for the advisory council?

Hon GRAHAM EDWARDS replied:

(1) Nil.

(2) No funds are provided for the advisory council.

WOMEN'S SPORT FOUNDATION OF WESTERN AUSTRALIA INC - EMPLOYMENT STATISTICS
Funding Policy

1196. Hon MAX EVANS to the Minister for Sport and Recreation:

(1) Could the Minister advise how many people are currently employed by the Women's Sport Foundation of Western Australia Inc?

(2) What is the current funding policy for the foundation?

Hon GRAHAM EDWARDS replied:

(1) Two full time and two part time.

(2) Through the Sports Lottery Fund the State Government provides a grant to enable the foundation to employ the above staff and carry out their programs.

WESTERN AUSTRALIAN INSTITUTE OF SPORT - EMPLOYMENT STATISTICS
Funding Policy

1197. Hon MAX EVANS to the Minister for Sport and Recreation:

(1) Could the Minister advise how many people are currently employed by the Western Australian Institute of Sport?

(2) What is the current funding policy for the Western Australian Institute of Sport?

Hon GRAHAM EDWARDS replied:

(1) The Western Australian Institute of Sport currently employs 19 people on a full time basis. The breakdown of staff is -

Administration - two - director, secretary;
Program Management - two - coordinator, secretary; and
Sports Science - three - physiologists two, secretary/receptionist.

WAIS is also responsible for the day-to-day supervision of a men's hockey coach who is employed by the Australian Hockey Association. WAIS employs a further nine part time coaches and two part time sports science staff.

(2) In 1991-92 the Western Australian Government will provide WAIS with a grant of $1.3 million. WAIS's total estimated budget for the year is $1.75 million. The balance of the budget's income comes from -

corporate sponsorship;
Australian Sports Commission; and
program revenue (fees).

WAIS funding policy is to maximise the funding going directly to athletes. In 1991-92, 78.8 per cent of the total budget will be spent on athletes' programs. This is a considerably higher percentage than all comparable institutes in Australia, including AIS.

WESTERN AUSTRALIAN SPORTS FEDERATION - EMPLOYMENT STATISTICS
Funding Policy

1198. Hon MAX EVANS to the Minister for Sport and Recreation:

(1) How many people are employed by the Western Australian Sports Federation?

(2) What is the current funding for the federation?

Hon GRAHAM EDWARDS replied:

(1) Four.

(2) $160 500.

SPORT AND RECREATION - CONSOLIDATED REVENUE FUND EXPENDITURE

1199. Hon MAX EVANS to the Minister for Sport and Recreation:

What was the total amount spent from the Consolidated Revenue Fund Budget on sport during the year ended 30 June 1991 by the Government from all sources?

Hon GRAHAM EDWARDS replied:

The total amount spent from the Consolidated Revenue Fund on sport during the year ended 30 June 1991 was $8.433 million.

ROAD TRAFFIC (EVENTS ON ROADS) REGULATIONS - REVIEW

1203. Hon MURRAY MONTGOMERY to the Minister for Police:

(1) Is a review of the Road Traffic (Events on Roads) Regulations being undertaken?

(2) If so, have local authorities been asked for input?

Hon GRAHAM EDWARDS replied:

(1) No.

(2) Not applicable.

SCHOOLS - DARDANUP PRIMARY SCHOOL
Maintenance Expenditure

1212. Hon BARRY HOUSE to the Minister for Education:

(1) What funds have been expended on maintenance at the Dardanup Primary School in the last five years?

(2) What action is being considered to overcome current maintenance problems at the school relating to -

(a) drainage on the school oval;

(b) possible health risks relating to septic tanks draining towards this oval;

(c) the need to enlarge the small bitumenised area and the inadequate verandah areas which cannot cope with the increased school population;

(d) the boys' toilets; and

(e) the replacement of asbestos awnings and walls?

Hon KAY HALLAHAN replied:

(1) Maintenance records for Dardanup have only been kept for the last four years. Details are listed below -

	$
1987-88	4 814.48
1988-89	3 176.90
1989-90	10 119.82
1990-91	7 515.92

(2) (a) An inspection of the oval at 11.00 am on 1 November 1991 did not reveal areas of flooding. It is intended to inspect the oval early next year.

(b) A sample of surface water taken from adjacent to the septic tanks did not show contamination.

(c) An enlargement of the bitumen area will be considered in the next capital works program.

(d) The electrically operated flushing system which required continual maintenance has been replaced with a manual system. In addition, the operating buttons for the cisterns have been lowered to enable children in the junior grades to flush the toilets.

(e) As the Western Australian committee on hazardous substances (1990) reported that the risks associated with installed, undisturbed asbestos-cement products are negligible, and it is not necessary to provide surface coatings on health grounds, the walls and awnings will not be replaced.

RECREATION CAMPS AND RESERVES BOARD - MINISTRY TRANSFER

1226. Hon MAX EVANS to the Minister for Sport and Recreation:

(1) Can the Minister advise why the Recreation Camps and Reserves Board has been transferred to the Minister?

(2) On what date was the transfer effected?

(3) Who is responsible for the annual report of the board for 1990-91?

(4) When will the report be tabled?

(5) How many senior Ministry of Sport and Recreation staff are employed by the board?

(6) Why is the board and its activities not incorporated in the ministry?

Hon GRAHAM EDWARDS replied:

(1) Because the board is more appropriately placed within the Sport and Recreation portfolio.

(2) 27 June 1991.

(3) The Minister for Sport and Recreation.

(4) The report will be tabled in due course when the Auditor General's opinion has been received.

(5)-(6) The board was established in 1979 under the Parks and Reserves Act 1895, with the power to acquire, hold, lease and dispose of real and personal property. This was necessary to provide the requisite to manage and control the operations of the camps. The board comprises the Executive Director of the Minister for Sport and Recreation, as president, and three senior officers from the ministry as members. They fulfil this role on an unpaid part time basis, and it integrates closely with their other responsibilities in the ministry.

ABORIGINES - PUMAJINA COMMUNITY, NEWMAN
Resident Statistics - Newman Resident Statistics

1239. Hon N.F. MOORE to the Minister for Education representing the Minister for Aboriginal Affairs:

(1) How many Aboriginal people are part of the Pumajina community at Newman?

(2) How many Aboriginal families live in Newman?

Hon KAY HALLAHAN replied:

The Minister for Aboriginal Affairs has provided the following reply -

(1) There are approximately 80 permanent Aboriginal residents at the Pumajina community at Newman, although at times the population may fluctuate between 200 and 300.

(2) It is understood that there are 10 Aboriginal families living in Newman apart from those residing at Pumajina.

INKPEN NOXIOUS INDUSTRIES - AVON LOCATIONS 27679, 27680
Noxious Industry Site Proposal Concern

1262. Hon P.G. PENDAL to the Minister for Police representing the Minister for Agriculture:

With reference to the selection of Avon Locations 27679 and 27680 for use as a noxious industry site, does the Minister's department have any concerns and reservations over the Inkpen Noxious Industries' proposal exacerbating salinity problems in the area?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following reply -

No. The department does not have any concerns over the Inkpen Noxious Industries proposal, provided runoff water is controlled and vegetation is established in areas to use excess water. The department has reached this conclusion on the basis of investigations on Location 27679 and a nearby location 30364.

AVON LOCATIONS 27679, 27680 - NOXIOUS INDUSTRY SITE PROPOSAL
Swan and Avon Rivers - Pollution Potential

1263. Hon P.G. PENDAL to the Minister for Police representing the Minister for Water Resources:

(1) With reference to the selection of Avon Locations 27679 and 27680 for use as a noxious industry site, does the proposed site lie on the boundary of the catchments of both the Swan and Avon River systems?

(2) Does it have the potential to pollute both of these systems?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following reply -

(1) Avon Locations 27679 and 27689 lie in the catchment of Wooroloo Brook, which is part of the Avon River system.

(2) The brook flows into the Avon River through the Walyunga National Park. As such, the proposed noxious industry sites do have the potential to pollute this system if sufficient normal safeguards were not in place.

WATER SUPPLY - CHEMICAL ADDITIVES

1266. Hon P.G. PENDAL to the Minister for Police representing the Minister for Water Resources:

(1) Are chemical substances currently being added, regularly, to our water supplies?

(2) If so, what are the names of each of these chemicals?

(3) How often are each of these chemicals added?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following reply -

(1) Yes.

(2) Two chemicals are regularly added to our water supplies: Chlorine, which is added as a disinfectant, and fluoride, which is added in accordance with the Fluoridation of Public Water Supplies Act 1966. Other chemicals are added to particular sources and in particular cases as part of various water treatment processes which are designed to clean the water to meet National Health and Medical Research Council guidelines.

Water treatment chemicals once added are removed as part of the water treatment process or are made up of substances found in potable water. All chemicals added are approved by the Health Department of Western Australia and the National Health and Medical Research Council, and are as follows -

Aluminium Sulphate
Sodium Hydroxide
Calcium Carbonate
Sodium Carbonate
Potassium Permanganate
Sodium Algenate
Polyelectrolytes
Sodium Silicate (one location only)
Ammonia (as part of chlorination).

Some of the chemicals listed are used only in some country areas to meet special local problems.

(3) Chemicals where dosed are generally dosed on a continuous basis.

QUESTIONS WITHOUT NOTICE

BREATH TESTING MACHINES - PUBLIC LAUNCH

781. Hon GEORGE CASH to the Minister for Police:

(1) Is it intended to introduce a new breath testing machine which can detect the smell of alcohol on a driver's breath?

(2) If so, can the Minister indicate if it is intended to launch that new machine publicly this Friday?

(3) Will the Minister indicate the number of machines likely to be acquired by the Police Force for its operations throughout the State?

Hon GRAHAM EDWARDS replied:

(1)-(3)

The machine to which the Leader of the Opposition refers is one I spoke about during the Estimates Committees' debates. It will be launched, I think, on Friday. The machine will be used to assist with random breath testing. The machine will give an officer an indication of whether a person to whom he is talking has been drinking. Members may recall that a call has been made in some quarters for the police to test everybody they pull over during random breath testing procedures. Some criticism has been made of police officers using their judgment about whom they test. This machine will be of great assistance to police as all they will need to do is hold it near a person's breath and it will indicate whether that person has been drinking. I do not like to guess about the number of machines available, so if the member places that

part of his question on notice I will get that information for him. I will endeavour to bring a machine to the House to demonstrate it.

MOTOR VEHICLES - FAMILY CAR LICENCE FEES
Increase

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

Can the Minister advise the House when the Government decided to increase family car licence fees by six and a half per cent and the reason for doing so?

Hon GRAHAM EDWARDS replied:

Someone pointed out the member's Press release to me earlier today. My recollection is that that was a budgetary decision announced some time ago which was timed to come into effect from 1 January 1992. The detail was announced quite some time ago.

CHURCHES COMMISSION ON EDUCATION - CHAPLAINCY FUND
Assistance Submission

783. Hon W.N. STRETCH to the Minister for Education:

(1) Has the Minister received a submission from the Churches Commission on Education about provision of money for its chaplaincy fund?

(2) If so, can she indicate whether that request will be supported?

Hon KAY HALLAHAN replied:

(1)-(2)

I answered this question not long ago. I met recently with representatives of the group, Bishop Kyme, and another person and discussed the strength of the chaplaincy scheme. For members who are not aware of it, the Government provides $20 000 a year for that scheme. Local churches come together, I guess through the normal processes of the ministers' fraternal, to consider providing support and chaplaincy services to schools in their areas. The $20 000 grant provides a seeding amount. Local churches provide assistance for the maintenance of positions on whatever basis they decide is required at a particular school or schools. Although the program does not sound overly resourced, over the years chaplaincies have built up once local communities have seen their value. The churches have supported them after the initial year of funding and the Churches Commission on Education decides where it will focus next. I do not have the figure for the total number of chaplaincies resulting from the scheme, but it is impressive. A scheme was put to me for additional funding. I have forwarded the suggestion to the Ministry of Education for favourable consideration when framing the 1992-93 Budget. This is certainly a service worthy of support.

PERMANENT BUILDING SOCIETY - WITHDRAWABLE SHAREHOLDERS
Legal Opinion on Incorrect Classification

784. Hon MAX EVANS to the Attorney General:

(1) Has Mr Metaxas obtained a legal opinion about Permanent Building Society depositors incorrectly classified by the society as withdrawable shareholders?

(2) If so, what was the opinion?

Hon J.M. BERINSON replied:

(1)-(2)

So far as I am aware, the registrar has not sought a legal opinion as the matter is completely in the hands of the administrator at this time. I found, after the matter was raised last week, that the administrator, Mr Woodings, had sought a legal opinion as soon as he learnt that the Government's Bill had been defeated. My latest advice is that he has still not received final advice from the lawyers with whom he has consulted.

PERMANENT BUILDING SOCIETY - WITHDRAWABLE SHAREHOLDERS
Legal Opinion on Incorrect Classification

785. Hon MAX EVANS to the Attorney General:

As the Attorney General is responsible for financial institutions and Mr Metaxas is the registrar, does the Attorney not believe that the registrar should have a legal opinion because the Attorney General is protecting the interests of persons with deposits in that building society?

The PRESIDENT: Order! The member is seeking an opinion.

Hon MAX EVANS: Will the Attorney General ensure that a legal opinion is obtained by Mr Metaxas in defence of depositors with Permanent Building Society?

Hon J.M. BERINSON replied:

I do not see how that would help. In particular, I do not see the point of a second opinion being sought before the first has been obtained. I have no doubt that the administrator will make available the opinion which he has sought to the registrar, and the registrar can then decide whether to attempt to delve further. My understanding of the position, however, is that it would not matter what the registrar thought about the legal standing of the various withdrawable shareholders in the Permanent Building Society, because all claims would necessarily be against the administrator, not the registrar. It is therefore the administrator who must be in a position to make some determination on good grounds.

PERMANENT BUILDING SOCIETY - WITHDRAWABLE SHAREHOLDERS
Adjudication of Claims Burden Comment

786. Hon MAX EVANS to the Attorney General:

Considering proof has been made available that persons classified as withdrawable shareholders are really depositors, does the Attorney General stand by his comment made in this House and on radio that it would create an enormous and probably unsupportable burden if the registrar were to attempt to adjudicate on 12 600 claims by withdrawable shareholders? Does he stand by that comment, as many of those people may be wrongly done by as a result of being classed as withdrawable shareholders?

Hon J.M. BERINSON replied:

Of course I stand by that statement. The honourable member's question indicates the reason why. Hon Max Evans makes a heroic leap of faith by saying that proof has been established about some withdrawable shareholders with whom he has had contact. Hon Max Evans may be satisfied about that matter, but he must satisfy the administrator.

Hon Max Evans: The liquidator.

Hon J.M. BERINSON: No liquidator has been appointed.

Hon Max Evans: The administrator does not distribute funds; only the liquidator will.

Hon J.M. BERINSON: As I have said before, I have never hesitated to take Mr Evans' advice on the "p's", the "q's", the dotted "i's" and the crossed "t's" of anything to do with accountancy, auditing, liquidation, receivership - let him name it; he can have it. What I am telling him is that he cannot decide what has been proved just because he is satisfied that a certain matter has been proved. More than that, he cannot leap from a single case, even if proof were available in that single case, to the assumption that the liquidator will, simply on the basis of his satisfaction with that single case, be able to determine the rights of the other 12 599 withdrawable shareholders. That is the point at which the problem arises. There are a number of withdrawable shareholders, totalling over 12 000, and very many of them are in entirely different factual

circumstances so far as any claim against the funds of the Permanent Building Society is concerned. It is for that very reason that the Government looked to the possibility of cutting across what will be a tremendous burden on anyone attempting to adjudicate all these claims and arrive at a position which admittedly would have gone beyond the terms of the legislation and the rules of the society, but would, in the Government's view, have produced a result which was more fair and more reasonable.

TAFE - FEE FOR SERVICE TRAINING COURSES
Government Policy

787. Hon E.J. CHARLTON to the Minister for Education:

On numerous occasions I have pointed out the high rate of absenteeism in our education system. A report has just been made available saying that about 8 000 students are involved in absenteeism. What action will the Government take to try to ensure that these students actually attend our education system?

Hon KAY HALLAHAN replied:

The document released last week by the Select Committee is a discussion paper, and the committee is now seeking views on that report. If Hon Eric Charlton feels so inclined, he may like to put his point of view to the committee now that he has seen that paper and understands how the committee sees the position. The claim that 7 000 to 8 000 students are chronic non-attenders is alarming. It has not been substantiated, but nevertheless I agree with the honourable member that any degree of truancy or chronic non-attendance - whatever term one may care to use - is quite unacceptable. The situation with young people will be much more closely monitored.

If I may explain what happens at present, many children have a day off school as a result of wanting to attend a family function, or because they are sick. When a school becomes aware of a chronic non-attendance, that matter is brought to the attention of the district office and action is taken. The ministry has recently commissioned an electronic attendance data system, and that will enable a much quicker identification of young people who are not attending and allow for quicker action to be taken to track those people. Apart from tracking such students more quickly and acting upon that information, the changes we propose to make the school curriculum more relevant will have a very significant effect on young people's attendance. Some truancy is due to young people not perceiving subject areas as being relevant to them.

Interestingly enough, I attended a meeting this morning where Laurie Carmichael addressed a forum of teachers about changes to their workplaces as teachers, and how they had to be aware of the needs of students going into the workplace. They should be aware of the relevance of the education system, and it was pointed out that training was the key throughout this decade. That is the challenge, and the ministry is making a number of changes in that regard. I think we will see benefit as a result. In the meantime we will have to depend on tracking and policing rather than what I would think would be a more productive use of time by making the school experience one which students can see as being very relevant to them.

SCHOOLS - ABSENTEEISM
Government Action

788. Hon E.J. CHARLTON to the Minister for Education:

It is all very well to make everyone feel good -

Hon Kay Hallahan: There is a very great difference between that and what I said.

Hon E.J. CHARLTON: There might be, but if a student does not go to school he is not going to feel good about it. The Minister mentioned the reporting procedures. Bearing in mind we have yet to see this new initiative, what action is currently being taken to ensure that those children actually have a valid reason for not being at school?

Hon KAY HALLAHAN replied:

That is the role of the truancy officers. Other staff have a role as well. A case may be referred to staff of the psychological services of the ministry, or to a social worker. That decision is made by professional staff. There is clearly a need to involve parents very closely in what occurs. The report also demonstrated something about the quality of family life and the encouragement parents give to children and children's responsibilities at school. It is a very complex issue, as we all know.

TAFE - FEE FOR SERVICE TRAINING COURSES

789. Hon DERRICK TOMLINSON to the Minister for Education:

Is it current Government policy that TAFE should offer fee for service programs for specific client groups?

Hon KAY HALLAHAN replied:

Yes.

TAFE - FEE FOR SERVICE COURSES
Income Provision

790. Hon DERRICK TOMLINSON to the Minister for Education:

Can the Minister advise if, when the Budget for the current year was framed, provision was made for income from such courses to be part of the TAFE resources?

Hon KAY HALLAHAN replied:

Yes.

TAFE - FEE FOR SERVICE TRAINING COURSES
Legitimacy Advice

791. Hon DERRICK TOMLINSON to the Minister for Education:

Can the Minister advise whether her department sought advice about the legitimacy of such programs under the Education Act, and section 4 of the State Trading Concerns Act?

Hon KAY HALLAHAN replied:

These courses have been in place for quite some time. I presume that was investigated at the time of their inception. They are very well established, and very much in demand by industry. They have widespread application.

TEACHER GRADUATES - INTAKE 1992

792. Hon E.J. CHARLTON to the Minister for Education:

Could the Minister advise the House of the likely intake of teacher graduates next year?

Hon KAY HALLAHAN replied:

In the interests of accuracy, I suggest that the member place the question on notice.

TAFE - COMMUNITY ADULT EDUCATION COURSES
Hourly Fee for Senoir Citizens and Pensioners

793. Hon DERRICK TOMLINSON to Minister for Education:

Does the Ministry of Education have a policy on the hourly rate for fees charged to senior citizens and pensioners for TAFE hobby-type courses?

Hon KAY HALLAHAN replied:

The member has referred to the community adult education courses, an area of TAFE that is self-funded. A fee per hour is charged. I am not sure of the exemption arrangements that apply. I think it is a flat hourly fee; however, I will check that for the member. At present that rate is $3.20 per hour.

EDUCATION MINISTRY - ACTING SUPERINTENDENT OF EDUCATION, KIMBERLEY

Boat Towing, Kununurra-Broome - Use of Government Vehicle

794. Hon P.H. LOCKYER to the Minister for Education:

(1) Is the Minister happy that the acting superintendent of education in the Kimberley has used a Government vehicle to tow a boat from Kununurra to Broome and return?

(2) If the Minister is happy with that situation, will that privilege be extended to every other Ministry of Education officer who has a Government vehicle, or will she issue an instruction to the acting superintendent to desist from such actions?

Hon KAY HALLAHAN replied:

(1)-(2)

I am asked many questions, as members must acknowledge from today's proceedings. I thought that the answer given to an earlier question was a satisfactory explanation. I will have another look at the matter, and if it needs further investigation -

Hon P.H. Lockyer: Is the Minister satisfied or not?

Hon KAY HALLAHAN: - or direction I will ensure that occurs.

TAFE - FEE FOR SERVICE TRAINING COURSES

Customised Training College Establishment

795. Hon DERRICK TOMLINSON to the Minister for Education:

In the light of the Government's policy to offer fee for services training programs for specific client groups, as the Minister confirmed in a reply to a previous question, is it the Government's intention to establish a college of customised training to provide such programs?

Hon KAY HALLAHAN replied:

Yes.

CUSTOMISED TRAINING COLLEGE - GAZETTAL

796. Hon DERRICK TOMLINSON to the Minister for Education:

Has notice of the Government's intention to establish a college of customised training been published in the *Government Gazette* under section 64A of the Colleges Act?

Hon KAY HALLAHAN replied:

I have signed papers that will allow for the gazettal. I do not have the details with me, and I would not want to mislead the member by offering the wrong section. If there is some other matter that the member wants investigated, he could put the question on notice.

Hon Derrick Tomlinson: Has the Minister signed the papers for gazettal?

Hon KAY HALLAHAN: I am sure that I have.

EDUCATION MINISTRY - GOVERNMENT VEHICLES

Boat Towing Question - Answer Request

797. Hon P.H. LOCKYER to the Minister for Education:

(1) Will the Minister give an undertaking that she will be in a position tomorrow to answer my earlier question?

(2) Will the Minister explain to the Parliament whether she supports the use of Government vehicles to tow private equipment - such as boats - as was done by the acting superintendent mentioned, or by any other officer of the Ministry of Education in the Kimberley?

Hon KAY HALLAHAN replied:

(1)-(2)

My previous answer stands; as it did, two or three questions ago.

Hon P.H. Lockyer: If the Minister does not answer, I will make this matter the subject of an urgency motion tomorrow.

Hon KAY HALLAHAN: The member can please himself. As the member insists on being melodramatic, I will look at the matter again. I have no desire not to look at the question and I am sure that I will be able to satisfy the member's concerns. I do not think that he will need to move an urgency motion.

CUSTOMISED TRAINING COLLEGE - GOVERNMENT AGENCY CONTRACTS

798. Hon DERRICK TOMLINSON to the Minister for Education:

Following the Minister's answer to the question on the college of customised training, will that college contract to other Government agencies for training programs?

Hon KAY HALLAHAN replied:

I have indicated to the House that the customised training agency provides training to many companies and organisations. That will continue to be the case under the new format of a customised training college.

If members were familiar with the customised training agency, as it was, they would understand that the functions will continue under what will be known as the customised training college. Perhaps to demystify the process, I should have discussions with the member. Perhaps that will assist him.

CUSTOMISED TRAINING COLLEGE - GAZETTAL

799. Hon DERRICK TOMLINSON to the Minister for Education:

Am I correct in assuming, as a result of the previous answer, that the customised training agency has been operating prior to the gazettal of the customised training college - such gazettal being necessary under the State Trading Concerns Act?

Hon KAY HALLAHAN replied:

I will have the matter looked at thoroughly, and give the member the answer tomorrow.

QUESTIONS - POSTPONED

Answers

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

I refer the attention of the Leader of the House to the 73 postponed questions that appear on today's Supplementary Notice Paper. Will he endeavour to have those questions answered before the House rises on Thursday?

Hon J.M. BERINSON replied:

I thought the member was about to direct my attention to the approximately 1 100 questions which have been answered. I say quite seriously that the attention given to the answering of questions has been very intense during this session.

Hon George Cash: Do you think that is good enough to justify the non-answering of 73 questions?

Hon J.M. BERINSON: It is all a matter of possibilities. I am happy, however, to ask my office to refer unanswered questions to the respective Ministers and convey the Leader of the Opposition's request.

PERMANENT BUILDING SOCIETY - WITHDRAWABLE SHAREHOLDERS
Identification System Concern

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

(1) Is he aware that the identification system used by the Permanent Building Society has caused the records of the society to not accurately reflect the true position of some depositors who are listed as withdrawable shareholders?

(2) What action does the Leader of the House propose to properly identify the actual legal status of many wrongly classified withdrawable shareholders who have never applied for shares in the society?

Hon J.M. BERINSON replied:

(1) No; I was not aware.

(2) I cannot see any capacity in my office to deal with that problem. However, I would expect the administrator and/or liquidator to attend to that matter. Moreover, the point must be made again that the Opposition's having rejected -

Hon Peter Foss: Quite rightly.

Hon J.M. BERINSON: - the original practical solution to the problem which 12 600 withdrawable shareholders now have, it cannot turn back on the Government and expect it to sort out the matter on an individual basis.

Hon P.G. Pendal: You have had four months to do that.

Hon J.M. BERINSON: We do not need Hon Phillip Pendal's show of mock indignation. We understand his embarrassment quite well.

Several members interjected.

The PRESIDENT: Order! This interjecting must cease. Honourable members must stop shouting when the Attorney General is endeavouring to answer the question.

Point of Order

Hon PETER FOSS: The Attorney General has already answered the question -

Hon J.M. Berinson: No I have not. The honourable member is interrupting me.

The PRESIDENT: Let Hon Peter Foss finish first then I will establish the position.

Hon PETER FOSS: The Attorney General answered the question and then went on to say that he must say again what he had already said in a previous answer. Having answered the question, the Attorney General should not take the opportunity to make a ministerial statement.

The PRESIDENT: Order! The tactic over the last year or so of making speeches of answers to questions is frustrating. Therefore one can understand when Opposition members start to interject. I say to all members on all sides of the House, particularly on the side of the House where I would normally sit, that what one does today comes back to haunt one tomorrow. That goes for both sides of the House. People must remember that what they do in question time while they are sitting in their respective places may well return to haunt them should they ever swap sides. I can tell members that, because my task is to ensure that every member has the opportunity of putting questions to the Ministers. Every member should know the rules; that is, Ministers are entitled to receive the questions, but they also have the right to determine whether and/or how they answer them. It is in the hands of the House how it deals with people who do not do what members want them to do. I do not know whether the Attorney General finished answering the question or whether he wants me to intervene and say that question time is over.

Questions without Notice Resumed

Hon J.M. BERINSON: It seems to me that most often the complaints -

Hon P.G. Pendal: Which question are you answering?

Hon J.M. BERINSON: Hon Phillip Pendal will find out in a moment. Most often the complaint I hear is that my answers are too brief, and I am stunned, shocked and amazed that a complaint to the contrary should now be lodged.