Legislative Council

Wednesday, 15 May 1991

THE DEPUTY PRESIDENT (Hon J.M. Brown) took the Chair at 2.30 pm, and read prayers.

STATE SUPPLY COMMISSION BILL 1990

Conference of Managers - Council Appointments

HON KAY HALLAHAN (East Metropolitan - Minister for Education) [2.35 pm]: I move without notice -

> That the Council managers to be appointed to the conference on the State Supply Commission Bill be Hon Fred McKenzie, Hon R.G. Pike and Hon J.N. Caldwell and that the Council managers meet with the Assembly managers on Thursday, 16 May at 1.00 pm in Parliament House.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [2.36 pm]: The Opposition is in accord with the motion moved by the Minister for Education. Members of the Opposition have already made their comments concerning this Bill and Hon R.G. Pike will be attending on behalf of the Liberal Party.

Question put and passed.

MOTION - HEPBURN HEIGHTS

Housing Development Cessation - 6WF Transmitter Station Relocation

HON REG DAVIES (North Metropolitan) [2.37 pm]: I move -

> That -
>
> (1) This House calls on the Government to cease immediately the land clearing and any negotiations in respect of the use of Hepburn Heights as a housing development in acknowledgment of the wishes of the many thousands of environmentally concerned citizens of Western Australia who want to see Hepburn Heights reserve maintained, in the name of their families and of future generations.
>
> (2) This House further requests that the Government commences urgent negotiations with the Federal Government to relocate the 6WF transmitter installation located at Wanneroo Road, East Hamersley, and releases this land for housing and recreational purposes.
>
> (3) This House acknowledges this action as beneficial to the many hundreds of residents in the immediate area surrounding the 6WF transmitter station whose lifestyles have been inconvenienced over the last 20 years due to interference to electrical appliances, radios, television and telephones brought about by the presence of these transmitters.

I am sure that all members agree that Hepburn Heights is a magnificent area of bushland. It consists of 53 hectares of land situated in the heart of urban development. It is a sanctuary for an extensive variety of flora and fauna, including some threatened species. At the same time, the area provides an oasis of beauty and quiet for both local residents and visitors. With this in mind I will outline the sequence of events that have made up the Hepburn Heights saga.

The Hepburn Heights Woodland Preservation Group largely comprises people living in the City of Wanneroo. These people stand to gain absolutely nothing financially from the preservation of this bushland. The group was initially formed in October 1987 when LandCorp erected a large sign on the southern boundary of the site proclaiming that the area was to be developed as a housing estate. That land had previously been designated as the site for a tertiary education college. However, with the establishment of the Joondalup campus of the Edith Cowan University the bushland was apparently then up for grabs. This area was never included in the System 6 scheme because of its prior designation. Several community groups in the area wanted to use portions of this area for their own purposes. As a result, the

City of Wanneroo requested amendments to the metropolitan region scheme from the then State Planning Commission.

LandCorp, on behalf of the Western Australian Government, through the State Planning Commission, requested that the council rezone the whole area for residential urban development. In other words, the bushland would be divided into residential blocks. In May 1988 the Wanneroo City Council approved the proposal. However, in June of that year it rescinded its motion and requested that a more thorough environmental survey be carried out by the appropriate authorities. The Government argues in its usual uninformed manner that this bushland setting is not worthy of preservation. Again, it does not try to mask its motivation, which is, of course, a devastating lack of revenue. A recent example of how desperate this Government is for funds is what has happened at the Ministry of Education. It has cut back expenditure on almost everything - except, for example, the odd flickering light globe at the Girrawheen Senior High School - to return $5 million to the Government's coffers. Schools in my region are screaming out for maintenance, but because this Government is revenue desperate the Ministry of Education is helping it by returning that sum of money. Immediate gratification has been the password of Governments all over the world for many years and I am not suggesting for one minute that it is the prerogative of this Government. It has taken a long time for any Government to gain a real appreciation of the limited ability of nature to survive the ravage of destruction brought upon it in the name of development. Now that Governments and communities do know they are very much aware of the necessity for nature to survive, particularly since their recognition of the greenhouse effect on the environment and since the destruction of a number of previously wonderful areas throughout the world. The time has come when we must be prepared to give something back to the community and to the environment.

What makes a Government scorn the wishes of a significant number of residents? I reiterate that it is for one reason only: Profit. Has there been a great turnaround of events in all of this? Less than two years ago Labor Governments all over Australia were embracing, however erroneously, the green issue as their very own. It appears now that the whole thing was nothing but a sham to gain the green parties' preferences. I understand that during the last Federal election the Government donated huge sums of money to the green parties and assisted them with manpower at the polling booths on election day just to gain their preferences. It was the only way it could see that it would be re-elected. Obviously its effort was only a token gesture. Within the Labor Party today there is internal fighting over mining in national parks. I noticed with interest an article in yesterday's *The West Australian* headed "Green cause boosted". It is obvious that with an election looming in another State the Labor movement has gone green again. The article stated that research into environmental problems was to be given a $10 million shot in the arm with a further $10 million grant expected to be finalised soon. It is amazing that at election time Labor Governments suddenly embrace the green movement in the hope that the green parties will fall for their sham to help them out with preferences so they can be at the helm.

I come back to the real issue at Hepburn Heights. The Kings Park botanic garden staff were impressed with the area's complexity of species and with the pristine condition of the bushland. The area was found to compare very favourably with other regional reserves such as Kings Park, Bold Park and Wireless Hill. In fact, the biological survey of fauna and flora components at Hepburn Heights revealed a variety of rare and endangered species. The findings of the assessment team were that "in a regional context the reserve is of high conservation value because of its unique combination of its relatively large size, biological significance, soil, and topographical features".

Members should be made aware that the Australian Heritage Commission will make a determination some time next month about whether to list Hepburn Heights in the National Estate. To this end a comprehensive survey of the area has been undertaken by the Department of Conservation and Land Management which has identified the area's significance. The report states that Hepburn Heights contains four major vegetation types, one of which has not previously been recorded in the metropolitan region of Perth. That is very significant. The report commissioned by CALM states -

> Two hundred and forty four species of flowering plants were recorded at Hepburn Heights during the survey . . . Of these, 48 were naturalized aliens. This is a low total of aliens (Kings Park: 143 species of weed; Starr Swamp: 55 and Bold Park:

> 130 species) for a remnant in urban Perth, and reflects the still relatively undisturbed nature of much of this area's bushland.
>
> The 196 species of native plants recorded is a large total for such a small area (i.e. Kings Park 400 ha, 275 species; Starr Swamp 100 ha, 166 species; Bold Park 321 ha, 226 species) and reflects the habitat diversity within the site on Hepburn Heights itself.

Further on it states -

> Perhaps the most interesting record was of a species of pigface . . . which appeared abundantly in the *Banksia* woodland behind Hepburn Heights after the 1989 fire. This slender white or pale pink flowered species does not fit any species recorded in the Perth Regional Flora . . . This species has not previously been recorded from Neerabup, Yanchep, Trigg Dunes, Starr Swamp, Bold Park or Kings Park. It has been introduced into cultivation to enable its preservation and for future comparison to other species.
>
> The notable features of Hepburn Heights are the diversity of heath vegetation types on the heights, and the lack of the normally abundant limestone endemics . . . within these heaths. A rich flora of flowering plants (196 natives) with relatively few weeds compared to other urban remnants.
>
> The presence of an apparently previously unrecorded species of *Carpobrotus* for the Perth area is of considerable botanical interest.

Hepburn Heights is of great significance because of its flora and it should be protected at all costs. New housing developments such as Hepburn Heights are cursed with "recentness" in that they can lack soul or purpose. There is no special consideration afforded the intrinsic value of nature. People appear to be alienated from nature, having to take a back seat to bricks, mortar and bitumen. This could well be the case at Hepburn heights, an area where moderate income earners face a daily struggle to pay off their mortgages and meet other financial commitments. This is part of the reason for the confrontation local residents have had with the Government. The people who support the retention of Hepburn Heights do not just want to protect the birds and animals. They are not out every day inspecting the different varieties of wildflower which grow in the area. The fight they are waging against the Government is about their quality of life and relief from the never ending struggle to provide the basic necessities of life. To lose their last bastion of primitive, pristine bushland to again satisfy economic necessity is but a further reminder to them that their quality of life is being eroded and undermined by a heartless Government which constantly demonstrates an overwhelming inability to relate to the needs of ordinary people.

Hon P.G. Pendal: Hear, hear!

Hon John Halden: Give us a speech about what you have done about this, Reg.

Hon P.G. Pendal: That is what he is doing now - sticking up for the people.

Hon REG DAVIES: I have listened to the people in my electorate around Hepburn Heights over several years and am bringing their fight to this Parliament, the place where it should be aired. I did not run away from Hepburn Heights into another area because I could not win the fourth spot on the ticket, or the seventh. Hon John Halden left this for me to do, and this I did.

Hon P.G. Pendal: We are very angry you chased him over to us!

The DEPUTY PRESIDENT (Hon Doug Wenn): Order! Hon Reg Davies is the only person I wish to hear.

Hon REG DAVIES: Unfortunately, once again this Government is not listening to its masters. I believe its masters are the taxpayers, residents and voters of the area, the many thousands of citizens who want to see Hepburn Heights retained in its natural condition. The fight has just begun in the battle to save Hepburn Heights from the wanton destruction of bulldozers. This area has been subjected to three aborted private members Bills in the Parliament of Western Australia. There has been a disallowance of the Government's validation Bill. There have been several court actions which saw one protagonist in this not so divine comedy, Wanneroo Councillor Norma Rundle - a women of modest means - put

her house on the line as security for the court costs. The court eventually ruled in favour of Councillor Rundle and her group. The Government is now threatening to push them even further financially by mounting a High Court challenge. This initial platoon of demonstrators has now formed an army in support of retaining an area which is to them and me a treasured piece of natural bushland.

Hon Sam Piantadosi: Is Mrs Rundle a Wanneroo councillor?

Hon REG DAVIES: Hon Sam Piantadosi knows very well she is a councillor for the City of Wanneroo.

Hon Sam Piantadosi: Has she been there many years?

Hon REG DAVIES: She was elected in May of last year and is probably one of the most effective councillors on the Wanneroo Council.

Hon Sam Piantadosi: Involved in supporting the Mindarie tip.

Hon REG DAVIES: She is not.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon REG DAVIES: The people who support Hepburn Heights have been reported regularly in the local Press and in one item, a letter to the editor of *The Wanneroo Times* last week titled "Rape of Heights", the final paragraph states -

> Good luck to the Libs if they can get this destruction stopped, but I fear it may be too late, and the ballot box is even further away.

An area with little natural flora or fauna to recommend it is the 6WF transmitter site in east Hamersley along Wanneroo Road. The State is screaming out for housing land at the moment and here is an alternative where we do not have to clear extensive undergrowth, bulldoze endangered species, disturb the tranquil beauty or upset thousands of local residents. Strangely enough, the original housing plan drawn up for Hepburn Heights fits fully into the 43 hectare site in east Hamersley. The proposed subdivision for Hepburn Heights takes up much less than the 53 hectares of land there but fits beautifully into the 43 hectares of the 6WF transmitter station. If the transmitter station were relocated and the area opened up for housing, that would do a lot of people in the area a favour. First, it would appease the local residents in the surrounding area. It would also accommodate the Government's housing requirements.

In 1938, when the transmitter station was first built, it was considered to be way out in the sticks. There was little or no problem with local residents. Those were the days prior to television and other modern electrical appliances. People did not own sophisticated technology such as stereos and tape recorders, and the transmitter site was not considered an eyesore. However, development of the area and residents moving in posed problems that had not been anticipated. People in the surrounding areas endure interference on their radios and televisions. Cars passing along Wanneroo Road pick up nothing but 6WF. The station has caused absolute havoc to television reception and often results in people in that area - and I am talking about people in the lower socioeconomic areas of Balga and Girrawheen as well as the more up market area of Hamersley - often have to buy expensive antennas and suppressors for their televisions which in the end achieve very little. I know of instances of people getting 6WF radio on their electric hotplates when they switch on their stoves. Can members imagine the irritation experienced by a little old lady in the area who wears a hearing aid and constantly gets 6WF on it?

Hon Derrick Tomlinson: It is the only station you are able to listen to.

Hon REG DAVIES: It is the only station the lady can listen to; there is no freedom of choice. Residents in the area with young children have voiced their concern to me many times about the poor security around this installation. They are concerned about how easy it would be for young children playing in the vicinity to scale the perimeter fence, or even dig underneath it. Their main concern is that one day serious injury or even death may befall young children playing in the area. We have heard many estimates of the cost of relocating the station by purchasing new land. The Government made a commitment to residents over 20 years ago that it would relocate the transmitter station within five years from that date.

Moving the station would appease those people, and the land could be opened up for much needed housing.

Hon John Halden: What is the cost?

Hon REG DAVIES: I said many estimates have been given, but it is difficult to tie the honourable member's Federal colleagues down to a cost. I read a Press report when Labor colleagues of the honourable member realised around election time that this was an issue. I have been fighting this issue since my days on the Stirling City Council. Suddenly the honourable member's Federal colleagues discovered it was an issue and decided to send out one of their surveys so that they could get names and addresses to keep sending propaganda to the people. In the end, of course, nothing happened. There have been public meetings -

The DEPUTY PRESIDENT (Hon Doug Wenn): Order! Background conversation is becoming too loud. I only want to hear only one person, and that is Hon Reg Davies. I say that to all members in the Chamber.

Hon REG DAVIES: I am sorry, I have a very quiet voice.

Hon Kay Hallahan: It is quite loud enough.

Hon REG DAVIES: The newspaper article describing one of those meetings said -

> It was agreed that Mr Catania and Cowan MHR Carolyn Jakobsen, who lives in Hamersley, would compile a submission to the federal communications minister, Kim Beazley.
>
> This will include the results of the questionnaire in which the residents will be asked if they want the transmitters moved and if so, what the 44 ha site should be used for.

She went on to say that she had put a question on notice to the Minister seeking the cost of moving the transmitter, which is unofficially put at $100 million to $110 million. That appeared in the *Eastern Suburbs Reporter* on 3 July 1990. When we searched the records to find this question referred to by Mrs Jakobsen in order to get the cost of the relocation, there was no record of her ever asking that question. I have followed up the matter with letters to the appropriate Minister's staff and talked to a Mr Gregg Macado from the national broadcasting branch of the Department of Transport and Communications in Canberra. That is the department which is responsible for the provision, operation and maintenance of transmission facilities for the ABC and SBS. It could not give a cost for relocating the transmitter station at this stage. It could well be up to $6 million to $8 million.

Once again cost is something which would come up with this Government. All it ever thinks about is revenue and money; it does not think about people, except when it tries to pull the wool over their eyes come election time. The Government thinks it will beat up this issue because it may get some votes; it will certainly get some names and addresses and a reason to correspond with people.

Another thing about the 6WF transmitter site is this: This Hepburn Heights housing estate fits snugly into it.

Hon John Halden: What did people say about your proposal?

Hon REG DAVIES: All the people in that area want to see that transmitter removed. Ask Mr Catania, not me.

Hon John Halden: I have; be assured of that.

Hon REG DAVIES: I bet the member has! A further bonus is that the area is close to all facilities and amenities. It is on a major transport route. It has major shopping centres within walking distance, and medical centres and so on are available. It is right next to a bus stop, and there is a sizeable acreage directly opposite situated on the corner of Wanneroo and Camberwell Roads.

Hon Sam Piantadosi: Are those facilities not available in Kingsley?

Hon REG DAVIES: Kingsley?

Hon Sam Piantadosi: Around Hepburn Heights.

Hon REG DAVIES: Hepburn Heights is in Padbury. The member should look at the place. He should get into his car, drive out there and have a look instead of interjecting on me while I am speaking on behalf of the majority of residents in that area.

Hon P.G. Pendal: They are a bunch of Government whingers.

Hon REG DAVIES: This area directly adjacent to the 6WF transmitter station on the corner of Wanneroo and Camberwell Roads in Balga is next door to a major shopping centre; it is right next door to a bus stop. It is within walking distance of a brand new $1 million autumn centre, it is near a 17 hectare well developed parkland, and it has been allocated to Homeswest. This scheme has been on the drawing board for the past 10 to 15 years. It has been allocated for the sole purpose of age units. It remains a sandy desert. I pass it several times a day.

Hon John Halden: It sounds like Hepburn Heights.

Hon REG DAVIES: What is more, it has the complete support of those living in the area, including me. I look down on it from my back verandah. As well as that, the Government has just had a 10 hectare area behind the Ern Halliday complex in Hillarys rezoned for housing. That would also seem ideal for housing aged people.

Last year I was asked to present a large petition to the Parliament seeking the relocation of the transmitter station, but I was unable to present that petition to this Parliament because it called on the Federal Government to act. I got my Federal colleague, Mr Paul Filing, to present that petition to the Federal Parliament on behalf of those many hundreds of petitioners who wanted the facility relocated. Much has been said over the years about the relocation of the transmitter site. I have already alluded to the activities of the Labor Federal member for the area and the local Labor member for the area. It is now time to call on this State Government to commence negotiations with its Federal counterparts and come up with some deal whereby this East Hamersley land can be swapped with State land in a more remote area. There is an answer to it all: Saving the environment, saving the sanity of people -

Hon John Halden: I can offer you some more clichés if you like.

Hon REG DAVIES: That is good land for housing, and it really leads one to wonder why the member for Whitford is so hell-bent on going against the wishes of the people in her electorate which I share. I am sure her actions will see her unseated at the next election. In fact there is no doubt about it whatsoever. I could be cynical and say that she is trying to shore up a few votes at the expense of the environment by putting low cost housing in the heart of her environment.

Hon John Halden: You have said that outside this place already. Don't come that line again!

Hon REG DAVIES: I am being cynical, and I will continue to say that because I believe that could be her only motive.

Hon J.M. Berinson: Do you believe in the provision of housing without the provision of land? Time after time, in whichever area is proposed for subdivision, the members on that side oppose it.

Hon REG DAVIES: Has the Minister been listening to me?

Hon J.M. Berinson: I have had neither the opportunity nor the pleasure.

Hon REG DAVIES: I have spent the last 15 minutes offering the Government a positive alternative. I have said that the Hepburn Heights proposal fits snugly into that area, that it would appease the residents at Hepburn Heights, and the residents at Balga in Mr Berinson's electorate -

Hon George Cash: Exactly! In Mr Berinson's electorate - we should keep reminding him of that.

Hon J.M. Berinson: I am sure that the residents of our electorate area are also looking for land at a reasonable price. That will not be possible unless there is sufficient choice.

Hon REG DAVIES: Exactly!

Hon P.G. Pendal: They tell me that Mr Berinson once went out there.

Hon REG DAVIES: Mr Berinson should watch my lips.

Hon J.M. Berinson: This will be original.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! I will be original, and return the member to the subject rather than have him respond to the interjections.

Hon REG DAVIES: I could start at the beginning but I do not want to do that. It would probably upset the members who also represent the area but who are not familiar with Hepburn Heights or with the vast acreage where the 6WF antenna farm is situated. The positive side to the relocation of the transmitter station would be the creation of employment, albeit short term. Jobs in the housing area would remain, that goes without saying; however, the relocation of the transmitter station would allow the Government to upgrade some of the old 1938 technology and would create further employment in these depressed times. That would involve the employment of people to relocate the equipment from the present site. These are all positive initiatives. I emphasise the word "positive". I urge the House to support the motion.

Hon P.G. Pendal: Hear, hear!

HON SAM PIANTADOSI (North Metropolitan) [3.12 pm]: I listened to Hon Reg Davies with great interest today, as I did some months ago when he first raised this issue.

Hon Reg Davies: Fruit, vegetables, and flora.

Hon SAM PIANTADOSI: We will have no vegetables or flora unless members opposite get their act together.

Hon George Cash: We are trying.

Hon SAM PIANTADOSI: I am glad to hear that members opposite are trying.

Hon P.G. Pendal: You have no respect for the natural environment.

Hon SAM PIANTADOSI: We have heard about the destruction of the natural environment from Hon Phil Pendal many times.

Hon J.M. Berinson: Can we have Hon Phil Pendal's smile incorporated in *Hansard*?

Hon SAM PIANTADOSI: If it were possible, we would.

Hon P.G. Pendal: I smile at your discomfort.

Hon SAM PIANTADOSI: That smile will be short lived.

Hon George Cash: It is a winning smile.

Hon SAM PIANTADOSI: Hon Reg Davies, Hon Phil Pendal and Hon George Cash maintain that they are the only ones who know the region and who represent it.

Hon Reg Davies: And Mr Pike!

Hon SAM PIANTADOSI: He is never there; he is always here. Perhaps he is not worried about environmental issues.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon SAM PIANTADOSI: We have heard that Labor environment initiatives and any destruction thereof have a profit motive. The interest of Hon Reg Davies and Hon Phil Pendal is politically motivated.

Hon Reg Davies: Yes, looking after the electorate.

Hon SAM PIANTADOSI: The member is trying to score a few cheap votes.

Hon P.G. Pendal: It is funny that the people outside this place agree with what Hon Reg Davies is doing.

Hon SAM PIANTADOSI: That is amazing. I recall the other day that Hon Phil Pendal asked where the protesters were in relation to another issue. Where was he, and Hon Reg Davies, when this issue surfaced three years ago? The only one who took up the issue and kept it running - for her own purposes - was the member for Kingsley. Where were Hon Phil Pendal and Hon Reg Davies then? Those members are Johnny-come-latelys on environment matters. They have no credibility at all.

Hon P.G. Pendal: The Liberal Party committed itself three years ago.

Hon SAM PIANTADOSI: The only person who took up the matter was Cheryl Edwardes, the member for Kingsley, who collected 14 000 signatures on a petition. At one stage

Hon Reg Davies said the signatures numbered 40 000, but the figure was closer to 10 000. Other members are now attempting to steal the limelight from the member for Kingsley. This highlights the infighting in the suburbs among Liberal Party members; that is, Filing and Davies versus Edwardes and others, and Cash and others in the northern suburbs.

Hon P.G. Pendal: Who wrote this speech? Is it the same bloke who wrote Hon Tom Butler's speech last week?

Hon SAM PIANTADOSI: The planning for the freeway and other redevelopment in the area took place many years ago. Who was the Government at the time those decisions were made to redevelop the area? Who was in power at that time? It was a conservative Government! Where were the protesters then? The members opposite laid the foundations for that development, and the proposal for the freeway through the northern suburbs was included. Would the bushland adjacent to Hepburn Heights not have been in conflict with the freeway development? It went through Hepburn Heights. Where were the protesters then? Where were Hon George Cash and Hon Reg Davies? They were both members of the Stirling City Council, which was one of the local authorities in the area that the freeway went through. No concern was shown then by those members. Where was Hon Reg Davies then?

Hon Reg Davies: I was in the Army.

Hon SAM PIANTADOSI: I cannot recall seeing any headlines in the local newspapers expressing concern about the environment.

Hon George Cash: You obviously cannot read.

Hon SAM PIANTADOSI: No reference was made to the damage to the wetlands or to the environment north of the river. If I recall correctly, the words used by the Opposition were that the information and expertise available regarding the possible extension of the freeway and other dangers to the environment at the time was not available.

Hon P.G. Pendal: Tell us about the Swan River.

Hon SAM PIANTADOSI: We accepted those announcements in good faith. I recollect that Hon George Cash made such a statement regarding the ground water pollution issue.

Hon P.G. Pendal: You sound like a man with a guilty conscience.

Several members interjected.

Hon SAM PIANTADOSI: I hear the born again greenie, Hon Peter Foss, having something to say. Hon Phil Pendal and Hon Peter Foss cannot get their act together on the environment and bring the matter to the Government.

We have heard all about the System 6 report from a number of members of the Opposition over the last few days. The System 6 report was initiated by the Court Government. Sir Charles Court called for a report on the wetlands of the coastal plain. Members opposite should consult the older members on that side, or look at the findings of the System 6 report. They should also consider the development that took place in the System 6 areas north of the river after the recommendations were made in the report commissioned by the Court Government.

Hon P.G. Pendal: Why is the Government allowing the Hepburn Heights development to proceed?

Hon SAM PIANTADOSI: Let me finish; Hon Phil Pendal can have his say later. The Government is putting the System 6 report into effect, but the Opposition wrote its own rules with respect to development areas that were recommended for conservation.

Hon P.G. Pendal: There are no rules in the Labor Party except brown satchels.

Hon SAM PIANTADOSI: There were no protesters when the extensions to the Pinnaroo Cemetery and Beenyup sewerage depot were proposed in the late 1970s. A Liberal Government was in power when the development at Hepburn Heights was covered up. Mr Davies and Mr Pendal's own colleagues were in power.

Hon Reg Davies: It was zoned for that purpose.

Hon SAM PIANTADOSI: That resulted in the massive destruction of what was the original Hepburn Heights area, not just the small plot of land which remains. Members opposite

should get their act together. There were 53 hectares for development and 43 hectares will remain intact. Many people can enjoy the benefits of natural bushland around Hepburn Heights, but many other people in the inner and northern suburbs such as Balga, Girrawheen and other areas do not have that opportunity. Hon Reg Davies is calling for the redevelopment of the transmitting station and maybe there are some arguments for that, but at the same time many people in the inner suburbs will not have the luxury that the people around Hepburn Heights will have as a result of the retention of some 40 hectares of natural bushland. When referring to the System 6 report members opposite forget one thing: It concerned wetlands. Hepburn Heights has been cut off from System 6 and the wetlands.

Hon P.G. Pendal: Your Government is filling in a wetlands on the south side and putting a road through. What hypocrisy!

Hon SAM PIANTADOSI: Mr Davies in a speech last year referred to a sea of roof tops that existed. System 6 will have no direct effect on Hepburn Heights, but it will have an indirect effect. The environmental effect will be felt in all the northern suburbs, and I have yet to hear from members opposite about their concern for the ground water; their concern relates to the development of the northern suburbs. One of the questions that the Opposition has not addressed over the years, and still today has not addressed, is the problem of supplying the northern suburbs with water and services, and ensuring that what remains of Hepburn Heights will survive. Unless the ground water system is protected the wetlands will be of no value. All the flora and fauna associated with natural bushland will be destroyed because we are pulling out of the ground more water than is being replaced. What the members of the Opposition must ask themselves is: How long can that be tolerated before it endangers the bushland and the natural reserves north of the river?

Hon Derrick Tomlinson: Why are we pulling so much water out of the ground?

Hon SAM PIANTADOSI: Because there is a need.

Hon Derrick Tomlinson: Why?

Hon SAM PIANTADOSI: People want to drink and to wash, and I am sure that Hon Reg Davies who he lives in that area could answer that question if the member asked him.

Hon Derrick Tomlinson: Are you arguing for a containment of the population of the metropolitan area?

Hon SAM PIANTADOSI: It all goes back to planning, Mr Tomlinson.

Hon John Halden: It seems a bit communistic to me!

Hon SAM PIANTADOSI: On the question of planning and why suddenly we have a problem, it is because services which should have been provided years ago to protect the environment were not provided.

Hon Reg Davies: You still have to have the water to put into those areas.

Hon SAM PIANTADOSI: Suggestions and recommendations were made, not only by me but also by many other people, 12 years ago during the time of a conservative Government. If that conservative Government had taken up those options we probably would be a lot better off today.

Hon Peter Foss: Have they been taken up by your Government in the last eight years?

Hon SAM PIANTADOSI: We heard about the interests of some of the people who were leading the charge, and Councillor Rundle is one.

Hon Reg Davies: She is a fine lady.

Hon SAM PIANTADOSI: She is concerned only about Hepburn Heights.

Hon Reg Davies: And Tamala Park.

Hon SAM PIANTADOSI: Who supported the decision on the Mindarie tip?

Hon Reg Davies: She was not even there then.

Hon SAM PIANTADOSI: Where was she at the time? She lived in the northern suburbs when the decision was made to establish the Mindarie rubbish tip. Where was her protest then?

Hon Reg Davies: You are talking absolute rubbish. That is a scurrilous thing to say about the lady.

Hon John Halden: No more scurrilous than your comments.

Hon SAM PIANTADOSI: The City of Wanneroo is about to make certain proposals about developing golf courses; that will destroy more natural bushland for the sake of profit.

Hon P.G. Pendal: Not profit; not that thing you tried to do with WA Inc!

Hon SAM PIANTADOSI: How much water does it take to green private golf courses? How much water will they be drawing out of the ground? What damage will be done because of phosphates and other fertilisers to keep those courses green? That will help to destroy that environment. Where was Councillor Rundle? Did she protest through this exercise?

Hon Reg Davies: Why are you attacking her?

Hon SAM PIANTADOSI: Because Mr Davies is saying that she is so concerned that she is highlighting the issue.

Hon P.G. Pendal: Probably keeping out the cockroaches that you put into the sewerage system.

Hon John Halden: Where were you Phil, visiting the family?

Hon Reg Davies: That is scurrilous.

Hon SAM PIANTADOSI: It is not scurrilous; I am prepared to take up the issue thoroughly.

Hon Reg Davies: You have not been to Hepburn Heights.

Hon SAM PIANTADOSI: I trod the paths of Hepburn Heights before Mr Davies was in local government. I was trekking through Hepburn Heights when the extensions to the Beenyup sewerage treatment plant were constructed; that was long before Mr Davies was involved in local government.

Hon P.G. Pendal: Is that where the cockroaches came from?

Hon SAM PIANTADOSI: And a couple got away too! If the member wants me to name them I will.

Hon T.G. Butler: They are sitting together over there.

Hon Fred McKenzie: Give it to them.

Hon George Cash: It is not fair to talk about Mr Berinson like that.

Hon SAM PIANTADOSI: We heard a proposal from a responsible member of the Wanneroo City Council, Councillor King, who is a member of the Liberal Party so I do not wonder at the mentality of the proposal. He said, "We won't have any housing at Hepburn Heights."

Hon Reg Davies: He is not a member of the Liberal Party and he is not a councillor.

Hon SAM PIANTADOSI: The bright suggestion that came forward, and which was supported by Mr Pendal and Mr Davies, was that housing should be built on the Gnangara pine plantation. I have not heard those members suggesting it should not go there.

Hon Reg Davies: What has that got to do with this motion?

Hon SAM PIANTADOSI: If they support housing on the Gnangara water mound it means that members opposite want to develop what precious little aquifer is left north of the river .

Hon T.G. Butler: Can you show him pictures now?

Hon SAM PIANTADOSI: I will show him pictures because he does not know where it is. Why does Mr Davies not accept a petition on that?

Hon Reg Davies: You don't listen anyway so what is the use of bringing petitions here. You don't listen; you do nothing.

Hon SAM PIANTADOSI: Mr Davies has just admitted to the House that he is very selective with the issues he takes up.

Hon Mark Nevill: He runs with the hares and hunts with the hounds.

Hon SAM PIANTADOSI: That is political expediency. That is one area which, if destabilised, will cause more damage to all the natural reserves north of the river. Members opposite are prepared to destroy the whole ecosystem north of the river. They have supported all of the development in areas near wetlands and there have been no protestations from Mr Davies or from anybody else opposite.

[Debate adjourned, pursuant to Standing Order No 195.]

ACTS AMENDMENT (EVIDENCE) BILL

Introduction and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.31 pm]: I move -

That the Bill be now read a second time.

In January 1977, the Western Australian Law Reform Commission issued a report on the subject of competence and compellability of spouses in criminal proceedings. The general rule at common law and under the Evidence Act was that the spouse of an accused was not compellable to give evidence in criminal proceedings. There were a number of statutory exceptions to this rule, particularly in the Criminal Code relating to sexual offences, and there was a common law exception to the rule, of uncertain scope, which apparently made a wife compellable where a husband was charged with an offence against her person, health, or liberty. This area of the law has been examined in England, Canada, some Australian States, and by the Australian Law Reform Commission. The proposals for change vary greatly from some extension of compellability for spouses, to a discretion in judicial officers to exempt from giving evidence all persons who have a "close personal relationship" to the accused. No single approach has been followed. The variety of approach reflects the difficulty of balancing the two competing public interests involved. On the one hand there is clearly a public interest in the maintenance of family relationships and the privacy of the marriage relationship, while on the other there is a public interest in the detection, prosecution and punishment of crime.

The Western Australian Law Reform Commission recommended that an approach be taken which made spouses compellable to give evidence for the prosecution with regard to offences involving personal violence or harm, including attempts to commit such offences, or offences in which an element is a threat or fear of personal violence, and, of course, including serious sexual offences. Those offences are noted in part 1 of the second schedule to be inserted by clause 10. Members will see that they include, for example, wilful murder, murder, manslaughter and unlawful carnal knowledge.

The commission also recommended that consideration be given to providing that the spouse of an accused be compellable to give evidence for the prosecution in respect of a variety of listed offences which may on occasions involve personal harm, or which may indirectly result in personal harm. Again, those offences are listed in part 1 of the second schedule. It recommended that the spouse of an accused should be compellable to give evidence on behalf of the accused, except where the spouses are jointly charged, and also recommended technical amendments to the Criminal Code, Justices Act and Evidence Act to remove anomalies and uncertainties.

In 1988, the Domestic Violence Task Force supported the Law Reform Commission's recommendations for compellability on behalf of the prosecution in relation to offences involving personal harm, but did not consider the other recommendations. This Bill implements the recommendations of the Law Reform Commission. As to the list of offences in respect of which the commission recommended that consideration be given to providing for compellability, it is proposed at present only to provide for compellability in relation to certain offences under the Road Traffic Act, which are regarded as being sufficiently frequent, serious, and difficult of detection without the assistance of spouses, for the public interest to require compellability. In addition, it is proposed to make spouses compellable on behalf of the prosecution with regard to offences under the Misuse of Drugs Act which must or may be dealt with on indictment. These are generally sale or supply or possession or cultivation for that purpose.

It is also proposed by this Bill to make spouses compellable with respect to offences under section 31A of the Child Welfare Act, which deals with encouraging children to commit offences and contributing to a child becoming in need of care and protection. Offences under this section can vary greatly, some being relatively trivial but others involving substantial personal harm to a child or to others. Since the recommendations of the Law Reform Commission, reforms to the law of compellability have been implemented in some other jurisdictions which give a wide discretion to judicial officers. We have had the advantage of observing the way in which those reforms work in practice. So far as one can tell from a general survey of the results, such reforms have led to great uncertainty and inconsistency of outcome.

One of the very positive features of this Bill is that it not only recognises and gives appropriate weight to the public interest in the prosecution of certain types of offences, but it also reforms the law in a way which is certain and easy to understand, so that law enforcement agencies, courts, accused persons and their legal representatives will be able to ascertain what the rules of compellability will be in relation to any particular prosecution. I commend the Bill to the House.

Debate adjourned, on motion by Hon Derrick Tomlinson.

INTERPRETATION AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon Peter Foss, and read a first time.

Second Reading

HON PETER FOSS (East Metropolitan) [3.36 pm]: I move -

> That the Bill be now read a second time.

This Bill deals with three matters -

(1) The repeal of a provision which is no longer applicable due to the passing of the various Australia Acts;

(2) its replacement with a provision dealing with retrospective legislation; and

(3) a provision providing for a situation where Bills which state that they will come into operation upon proclamation are not proclaimed within a reasonable period of Royal assent.

Effect of Australia Acts: This State passed the Australia Acts (Request) Act on 6 November 1985, the day upon which it received Royal assent. Section 3 of that Act requested the enactment by the Parliament of the Commonwealth of Australia of an Act substantially in the terms set out in the first schedule. Paragraph 8 of that schedule provided -

> An Act of the Parliament of a State that has been assented to by the Governor of the State shall not, after the commencement of this Act, be subject to disallowance by Her Majesty, nor shall its operation be suspended pending the signification of Her Majesty's pleasure thereon.

Paragraph 9(2) of that schedule provided -

> No law or instrument shall be of any force or effect in so far as it purports to require the reservation of any Bill for an Act of a State for the signification of Her Majesty's pleasure thereon.

That proposed Commonwealth Act had a schedule of a proposed Act of the United Kingdom Parliament which, by paragraphs 8 and 9, provided in similar terms to paragraphs 8 and 9(2) of the schedule to the State Act. In due course both the Commonwealth and the United Kingdom Parliaments passed legislation in this form. There is therefore no further need for section 20(3) of the Interpretation Act 1984, which provides as follows -

> Every Act reserved for the signification of Her Majesty's pleasure on or after 1 July 1984 shall, unless the contrary intention appears in that Act, come into operation on the day on which Her Majesty's assent is proclaimed in the Gazette.

Clause 3 of the Bill accordingly provides for the repeal of this subsection.

Retrospective Legislation: Section 20 generally deals with the commencement of an Act prior to and after 1 July 1984. As members will appreciate, from time to time this Parliament enacts legislation which is intended to have effect prior to the date of commencement of the Act. Obviously, legislation cannot exist prior to the constitutional process having been completed in the manner and form provided. This is recognised in the Australia Acts. However, that does not prevent the Parliament from instructing the Courts in interpreting the law to treat the law as if it had been enacted prior to the date on which it was actually enacted.

It has, at least since the time of Coke's commentary upon Littleton, been recognised that a Statute is not to be given retrospective effect unless the Parliament expressly or by necessary implication requires it to be given that effect. Parliament, and in particular members on this side of the House, has been very reluctant to enact retrospective legislation. In general, members of the Opposition will accede to retrospective legislation only where the problem to be overcome is one of an error on the part of Parliament itself. A classic example of this is the Perth Medical Centre Act 1966, now the Queen Elizabeth II Medical Centre Act, where part 2 of the schedule to the Act dealt with the wrong parcel of land. This was corrected by the Perth Medical Centre Act 1973 where section 4 was expressly declared to "operate and take effect and shall be deemed to have operated and to have had effect on and from 12 September 1968."

A tendency has grown in the Federal Parliament to legislate by ministerial announcement, especially in the area of tax. An announcement is made as to a change in the law and then Parliament is requested to enact that legislation at a later date and backdate it to the date of ministerial announcement. This has led to considerable concern in the community for a number of reasons - sometimes the legislation that is finally drafted differs markedly from the ministerial announcement. Sometimes it is unlawful for people to comply with the ministerial announcement because it contravenes the provisions of the law which at the time have not been changed. It is certainly clear that retrospective legislation is open to abuse. This is particularly the case where it may result in criminal penalties or affect the rights of parties inter se.

In proposing this amendment by way of substitution of subsection (3) it is not to be understood that we are in any way proposing that a greater reliance should be placed on retrospective legislation. Quite the contrary. We are seeking by clause 3 to tighten requirements in order to make it necessary for the legislation to contain an express provision before retrospectivity will be applicable. We do not believe that this Parliament should accidentally legislate retrospectively.

Proclamation of Acts: Sections 22 and 23 deal with the position of Acts which are to be proclaimed. This matter has been discussed a great deal in the Parliament of late, and I will not repeat in any great detail the arguments put forward by the Opposition with regard to proclamation. However, I feel I must state that we consider there should be some control over the practice of proclaiming Acts. I appreciate the arguments by the Attorney General that he considers there are two instances in which proclamation of an Act is necessary -

(i) where regulations need to be drawn prior to the bringing into operation of the Act; and

(ii) where some administrative structure needs to be set up in order to carry out the Act.

I can understand that, with the limited resources of Parliamentary Counsel, it is not desirable in every instance to draw the regulations that are necessary to implement an Act, because the Bill may not be passed, or may be passed in a different form, and the drafting time spent on that legislation will be lost. However, it is also true that the drafting of such regulations may very well point up the problems with the legislation and, all too often, these problems emerge only after the Bill has been passed. This may lead to an unworkable situation or to the proclamation of the Act being indefinitely deferred. The solution to this may be to reduce the stream of legislation passing through the House, much of which seems to be of doubtful value. It may also be necessary to slow the speed at which legislation passes through the House so that the general outcome of the Bill may be known prior to its passage being completed. In that way, regulations may be drafted before the Committee stage in the second House, thus enabling a more definite date of commencement to be inserted.

Our principal objection, however, to the practice of proclamation is that the constitutional process of enactment provides for three participants in the passing of an Act of Parliament: The two Houses of Parliament and the Governor in Executive Council. I believe now that the involvement of the Governor in Executive Council is no longer considered to be a discretionary one. Thus, essentially, legislation is the province of the Houses of Parliament. Insertion of the provision for proclamation virtually allows the final say as to when, or if, legislation will be enacted to rest with the bureaucracy. We are not happy with this. We believe that if legislation is not required it should not be passed, and if it is required there should be some sound idea as to when it will be required. There is also the possibility for abuse, as there has been in the State of Victoria, where a law relating to the licensing of premises for the purposes of prostitution was substantially amended in the upper House before being passed. However, when the Government proclaimed the legislation it did not proclaim the Act in its entirety, and left out some of the amendments introduced by the upper House. The result of this was substantially to alter the effect of the legislation. I understand that is one of the reasons for the disastrous result that has followed the licensing of premises for the purpose of prostitution in Victoria, and I trust it would not be followed by a Government in this State.

It is appropriate that some procedure be laid down as to what happens to legislation which is not proclaimed within a reasonable period after Royal assent. Clause 4(1) of the Bill provides for two possible cases: One where no part of the Act has been proclaimed, and the other where part of the Act has been proclaimed. Members will note that I refer to it at this stage as an "Act". I believe that once it has received the Royal assent it is an Act of Parliament, even though it has not come into effect. Prior to receiving the Royal assent it is not an Act of Parliament, but is merely a Bill capable of receiving the Royal assent. The Bill allows a period of 12 months from the date of Royal assent for the Act to be proclaimed. If at the expiry of that period of time it is not proclaimed, then it is automatically repealed. I say "repealed" because I believe that it is in fact an Act. I understand that at present at least one such Act has remained unproclaimed for a period of seven years. This is plainly ridiculous. I do not particularly like the concept of Executive action or inaction being able to repeal legislation.

The alternative to this would be for the Act automatically to come into effect after 12 months. In many ways I prefer this. It requires the Government, if it is unhappy with the prospect of the Act coming into operation, to bring the matter before Parliament again rather than just allow it to sink out of sight. In many ways this would be more in keeping with the principle that Parliament decides what legislation should be passed and, come what may, that legislation is passed. It is merely up to the Government to take care of the administrative details in time, to ensure that everything is ready for the legislation to come into effect. I would have thought 12 months was an adequate time for this to take place. However, I have adopted the process of suggesting that the Act be repealed because of the somewhat cowardly proposition that at least it would preserve the status quo. If the Government is unhappy with the legislation being repealed, it can always introduce a further Bill to extend the period during which the Act can be proclaimed.

Members may also wish to consider the possibility of an amendment to this clause: Rather than producing a fresh Bill to extend the Act, it may be acceptable for a resolution of both Houses to extend it for a period not exceeding 12 months and for further resolutions to be introduced from time to time, if necessary. I have not proposed this amendment simply because I am averse to legislation which is excessive in detail in trying to cater for every possible complication that may arise. It is often a good idea to put down the basic concept and if, in practice, a difficulty arises at some later stage, to deal with it then.

Act partially proclaimed: I believe there is no alternative approach so far as an Act which has been partially proclaimed is concerned. It would not be appropriate to repeal the entire Act, nor would it be appropriate to repeal the parts which have not been proclaimed.

Hon J.M. Berinson: Why not - presumably the Act has been able to operate without them?

Hon PETER FOSS: It may be able to operate, but perhaps not in the manner the Parliament would like it to operate. For instance, in Victoria the upper House was highly upset that the provisions it put in for the protection of the public were not proclaimed.

It would not be appropriate to repeal the parts which have not been proclaimed as this could

very well lead to a total reversal of the intent of the legislation. There seems to be only one alternative; that is, for the remainder of the legislation to be brought into effect. The question only then remains as to the period after which this should operate. The alternatives I considered in rising order of extension of time were as follows -

(i) 12 months after the date of Royal assent;

(ii) 12 months after the proclamation of the first part of the Act which is proclaimed;

(iii) 12 months after the proclamation of the last part of the Act to be proclaimed; and,

(iv) some longer variations of each of (i) to (iii).

In the end I settled on the first, as I believe it is again important that legislation once passed by Parliament be dealt with expeditiously by Government, and the adoption of any other alternatives allows for time extending manoeuvres to take place. It is human nature often to put off dealing with a problem, and it would be ill advised to incorporate this into legislation. Once again, it is possible for the period to be extended by specific legislation or, if members so wish, to include it in this Bill by resolution of both Houses. Again, my view is that we should not so amend the Bill.

Clause 4(2) provides a transition for those Acts which have already gone more than 12 months from Royal assent. These will be repealed and come into operation on the same day this Bill comes into operation. I understand that one Act - the Mental Health Act 1968 - remains unproclaimed. Others remain partially amended. I commend the Bill to the House.

Debate adjourned, on motion by Hon Fred McKenzie.

Sitting suspended from 3.48 to 4.04 pm

MOTION - ROTTNEST ISLAND AUTHORITY

Disallowance of Regulation

Order of the Day read for the resumption of debate from 14 May.

Debate adjourned, on motion by Hon Mark Nevill (Parliamentary Secretary).

MOTION - SHARK BAY MARINE PARK

Disallowance of Order

Order of the Day read for the resumption of debate from 14 May.

Debate adjourned, on motion by Hon Mark Nevill (Parliamentary Secretary).

ADDRESS-IN-REPLY - THIRTEENTH DAY

Motion

Debate resumed from 14 May.

HON D.J. WORDSWORTH (Agricultural) [4.05 pm]: I support the motion before the Chair, and take this opportunity to congratulate the Governor on the manner in which he carries out his tasks as the Queen's representative. I am not sure that it is entirely fair that the Governor should have to come into this Chamber and mouth a speech which is not of his making as if it were his own; but he does.

Hon Mark Nevill: Did you complain about that when you were in Government?

Hon D.J. WORDSWORTH: No. I had the task of trying to select the 30 words which would represent my department in the long speech, and I remember the almost ridiculous English that one had to use to try to say the most in the least amount of time.

Sir Francis, supported by Lady Burt, most ably fills the position of Governor. I believe we have been very fortunate in this State with the run of excellent Governors we have had, and each Governor has made his contribution in a different way. Sir Francis Burt is a former Chief Justice and a member of one of Western Australia's oldest and most distinguished families, and the contribution he has made has been different from that of his predecessors, yet it has been a significant one.

As a rural representative in this House and as a member of the Agricultural Region, my first concern must be the rural scene. Members would be aware that both wheat and wool are in recession, and those products are the major products of my electorate. Those products are in recession for two completely different reasons. In the case of wool, to a certain extent it could be claimed that the growers contributed to the problem. However, wheat is in recession for reasons which are completely beyond the control of growers. Wheat growers are experiencing a trade war between the United States and the European Economic Community. Each country in the EEC has a significant industrial and manufacturing economy and is able to subsidise its excess rural production. However, it would seem that a trade war is completely different from a conventional war: The opponents do not seem to get to grips with each other at all or to inflict much harm on each other; all they do is dump their product on the world market at very reduced prices, and it is the third parties which suffer. In this case, Australia is one of the major third parties.

I believe most growers would accept that with modern machinery and state of the art genetic plant breeding, they have managed to increase their yields, and perhaps they would accept some reduction in the price of their product, although I guess most growers would hope for utopia and that the increasing world population would supply a need for the excess crops that are being grown today. It is interesting that the United States Ambassador to Australia argued that modern science has led to overproduction, yet examination indicates that the reserves being held in the world represent less days of consumption than is usual. It is without doubt that if we do see a drought in the northern hemisphere, prices will have a reasonable chance of rising again. The price of wheat has fallen from about $A200 a tonne to about $A120 a tonne, or even less. At the same time, we have seen an increase in inflation, wages and imports from overseas, and that has put producers in a cost price squeeze. One of the items which affects the inflation rate is fuel, and while fuel may not be imported, its price is based on overseas prices. This cost price squeeze has been taking place for about the last 20 years, if one really examines it, but somehow or other the industry has been able to cut its costs to become more productive. However, producers are now at the end of the line. That is why we have seen producers come to Parliament House and protest in various ways. The previous market was, of course, stabilised by the Wheat Board Act. Recently the Federal Government introduced new legislation which opted for market value and removed the cushioning benefits of the previous legislation. It is rather ironic that it is a State Government which must endeavour to put a floor market price of $150 per tonne into next year's crop. I suppose one can say it will be even more ironic if a Liberal-National Party Government has to pick up the bill for it in two or three years' time.

Wool is a different matter. Australia is one of the world's major producers of wool and dominates the marketplace. With that domination comes responsibility, and they who control must be ever vigilant. Until the last few years the Labor Party boasted that it introduced the concept of a floor price. I suppose that is understandable, and perhaps it is understandable that when wool previously was suffering from a collapse in price growers grasped the idea of a minimum price. However, I must remind the House that referendums of producers have been held on the matter of support prices previously and they have never been supported - or have never won, I should say, because the number voting in favour at the last referendum approached the halfway mark. It was then that the Government established a committee to work out the way in which a floor price could be introduced, and it was introduced without the growers ever having a say again.

We must realise that if Australia, a major wool producer, introduces a floor price, the remainder of the world's wool will be sold first. In other words, if a ceiling is put in the market, the rest of the world can sell its wool at slightly beneath that price and the country which establishes the reserve price not only ends up with the unsold product but also must finance the surplus. That cost can be quite high in times of lower consumption of the product. If the stockpile becomes excessive, the problem becomes too great and one just cannot keep control of the market. This has always been the problem of countries, industries, companies or others which try to maintain a monopoly. Indeed, that is what the Australian wool grower endeavoured to do, with the aid of the Government, but it requires great foresight, fortitude and financial resources, and in hindsight we can see what went wrong. I suppose the turning point came when the Federal Minister for Primary Industries and Energy, Hon John Kerin, agreed that the Australian Wool Council could set the floor price.

Previously Governments had the right to set or control the price, obviously in consultation with the wool growers and the Wool Council. However, once the wool grower was able to set his own price we saw grower politics coming into effect - not much different from politics as we know it in the State and Federal Parliaments - where growers were inclined to nominate members who they knew supported a high floor price. They were encouraged to push up the price so that the production of wool could become profitable.

At the same time, we saw wheat prices falling and so more and more farmers went into wool growing. There is an accepted ratio that if wool becomes more valuable than 24 times the value of wheat, people swing to wool growing. Conversely, if wheat falls below one twenty-fourth of the value of wool the growers go in that direction. Without doubt, with the falling prices of wheat and the floor price of 870¢ clean per kilogram we saw a swing of producers to wool and up went our stock numbers.

I consulted the *Year Book Australia 1990* in relation to stock numbers. I have said that Australia was a major producer of wool, but it is very interesting to see from the statistics presented here that we are not the major producer we think we are.

Hon Mark Nevill: Are you talking about this State, or Australia?

Hon D.J. WORDSWORTH: I am talking about Australia. On page 429 of the *Year Book Australia 1990* it says -

> The Australian Sheep Flock contains nearly 12 per cent of the world's sheep and produces over 30 per cent of the total annual production of wool.

So here we are, trying to control the price of wool when we produce only about 30 per cent of it. Although our wool is at the top end of the market and we produce the great majority of the excellent wool, we started off from a comparatively small amount of 30 per cent. Sheep numbers increased from 149 million in 1982-83, to 168 million in 1984-85, to 186 million in 1987-88; today the number is even higher. The table from which I have quoted indicates that the average fleece weight is 4.5 kilograms. In one year the production of shorn wool was 8 442 700 tonnes. Therefore, one would assume that if we multiplied the number of sheep by the average fleece weight we could arrive at a figure somewhere near the shorn wool amount. However, that is not so. The calculation indicates that 22 per cent more sheep are shorn than is claimed in the figures. That highlights the fact that many sheep are shorn twice in one year and are then slaughtered. It is hard to come to grips with production as these figures indicate how easy it is for producers to achieve extra production quickly when prices are high. When Australia had good wool prices it increased production substantially. Of course, at this stage we are endeavouring to reduce our flock numbers through flock reduction schemes.

Wool is a very important part of Australia's income today as it has been in the past. I again quote from *Year Book Australia 1990*, from page 432 -

> The gradual strengthening of the wool prices since the mid 1970s has seen wool's contribution to the total national export revenue increase steadily. This trend has accelerated in the years since 1983-84 when export income from wool has climbed from just over $2 billion to reach $6 billion during 1987-88. This means that wool is again Australia's largest earner of export revenue, as it has been for most of the 200 years of European settlement to Australia.

That illustrates the significance of wool to Australia's balance of payments. Without the $6 billion in export earnings, Australia would suffer, as members would appreciate. We are presently losing something like $1.5 billion a month by way of balance of payments, and this has applied for some four years. With the collapse of wool prices Australia has confronted even greater difficulties, and the efforts of Mr Keating and the Federal Government to reduce the deficit have produced few results. One would expect to have seen even worse balance of payments figures than those recently published, but members will appreciate that a great deal of Australia's surplus wool was exported to an overseas stockpile to await sale; this wool was considered to be Australian export.

I will not repeat the history of the reasons for the stockpile and what should be done to alleviate the problem. I said earlier that if anyone wishes to establish a monopoly with a set price he must be very vigilant and watch the market so that he is able to act quickly. One must know when to hold the market and when to pull out. It is rather interesting that the

information supplied to the wool symposium held by the O'Connor division of the Liberal Party indicates that if an end had been put to the floor price in Christmas 1989 - about 18 months ago - it would have cost Australian wool growers 7¢ for every kilo sold over the next 15 years to pay for the stockpile. It is history now that, although it became quite evident at that stage that a halt should have been called to the situation, that was not done and the producers kept on believing that things would be all right - and, with due regard, so did Mr Kerin. The figures presented to the symposium show that it is estimated that it will cost Australian wool growers 50¢ for every kilo sold over the next 15 years to pay for the stockpile. That puts producers so far behind it does not matter.

We are now seeing 15 per cent of producers' income being directed at financing the stockpile, and it is possible that the amount could be even higher. The figures I quoted to the House were presented by Mr McKenzie, a well known farm adviser from Mt Barker. While farm advisers endeavoured to tell the industry of the impending situation, it is fair to say that most producers did not accept that advice. Indeed, it was suggested that the advisers should not have been interfering in the market at all. In hindsight we should have taken more notice of them. Mr McKenzie also added another interesting observation when noting that the Australian Wool Council is elected not by wool growers but by producer organisations. The producer organisations were supported by only some 30 per cent of the producers, and in many way the wool producers were hijacked by the situation. The wool producers voted against the floor price, yet the Labor Government decided that one should be established. Had a vote taken place on who should be on the Australian Wool Council, and if the Government of the day had not allowed that body to set the reserve price or to decide when it no longer wanted to participate in the scheme, the situation may have been different. The Government again resumed the situation where it set the reserve price very quickly once Mr Kerin saw the consequences of the industry setting the price at the 870¢ level. By then, the damage was done; he was very tardy in becoming involved in the decision making. Mr Kerin has not been very critical of the Wool Council. There were other contributing factors, such as those referred to in the *Australian Farm Journal* of March 1991 as follows -

> . . . that China would clamp down on its fledgling democracy movement in June 1989, that the Berlin Wall would come down by the end of that year and that the Russian economy could collapse as a result, that Saddam Hussein was going to invade Kuwait last August, that the UN would take a strong stance against that invasion, and finally, that the Gulf War was going to start on January 17.

I might add that the collapse of wool prices on 24 January occurred a few days after the start of the Gulf war. Mr Beggs rang Mr Kerin from an IWS meeting in Hong Kong and told the Minister that the Australian Wool Corporation was broke; that it was so close to its borrowing limit that within days it would have to stop buying - perhaps in the middle of a sale. Mr Beggs said there was no option but to halt sales there and then. It is interesting that at that time Australia was just about to start the outlook conference for agriculture and Mr Kerin prevailed upon Mr Beggs to somehow keep going or it would cause a complete disruption to his conference, and that it was better they should pretend all was well until the conference was over. Even at the end, Mr Kerin was trying to keep the wool floor price scheme going. We have since gone from that situation to one of no floor price. The industry has been through a stage where it has had to stop wool sales and start them again and it must now gain the confidence of consumers and manufacturers. One thing about the old floor price was that not only did it help the producers, but also it helped the mills which consume wool. They knew that the price of wool would not fall after it had been purchased or while it went through the scouring process and on to the manufacturer. It provided the manufacturing industry with almost as much stability as it gave the wool producers.

As someone living in Esperance, I cannot let the occasion pass without making comment on the sinking of the *Sanko Harvest* which is said to be Australia's greatest marine disaster. However, I would have thought the sinking of the *Voyager* with great loss of life would have filled that position. A record $10 million payout was made for a lost cargo of fertiliser being imported into Australia. Not only was the loss of cargo significant, but also the company bringing in the fertiliser - Agrex Sales Pty Limited - was undercutting local producers of nitrogen fertiliser by about $20 a tonne. That is a significant amount. It is good to see that, in spite of the loss of the cargo, the company was able to bring in another cargo a few weeks later to satisfy the producers. It certainly allowed prices to be kept down. When one

company produces all the fertilisers, as in Western Australia, it can set its own price. However, I have strayed from the subject a little.

I will quote from the local newspaper whose reporter was on the spot. The headline in the paper on Tuesday, 19 February was "Ship Sinks", and I quote -

> The Korean crewed, Japanese owned bulk carrier Sanko Harvest, which struck a reef off Cape Le Grand last Thursday broke its back and sank early yesterday according to WA's Marine and Harbours Department. "The bridge and cranes on the forward section remain visible, access to these areas remains hazardous. All cargo holds now appear to be open to the sea." Local marine officials and experts have suggested the ship should not have been where it was when it struck the rocks at 3.20 am last Thursday. It has also been alleged it was not off course, but may have been deliberately trying to make a passage through the Recherche Archipelago at night.

Hon Mark Nevill: Has that passage been closed off yet?

Hon D.J. WORDSWORTH: No; I will explain that later. It is rather interesting that the maps of the area are not very good. The history of maps around Australia is one which commenced with the early explorers who made their contribution whether they were Dutch, British or French, and gradually those maps have been built on. Maps prepared for the south coast are very poor. A yachtsman or a sailor entering Australian waters must not only buy the maps of the area, but also the *Australia Pilot - South Coast of Australia - From Cape Leeuwin to Green Point* - in this case volume one. I will quote from the sixth edition of 1973 which I think is the last edition. There is a limit to what one will find on a map; it is an outline of the coast and seldom gives depths. It gives no idea of wind or tides and it does not describe the lighthouses in the area. It seldom even marks in the routes one travels. I am almost ashamed to say that the *Australia Pilot* is published by the hydraulic department of the Ministry of Defence in Somerset, England. No Australian edition is available despite our having an Australian navy which, it seems, relies on England to tell it where Australia's coast is.

Hon Mark Nevill interjected.

Hon D.J. WORDSWORTH: I was going to get to that. Hon Mark Nevill is a previous representative from Esperance and would be well aware that they have been slightly updated by a visit from another English ship which, if I am not mistaken, ended up on the rocks in the Recherche anyway.

Hon Mark Nevill: That was a navy boat, was it not?

Hon D.J. WORDSWORTH: I realise that the *Australia Pilot* cannot be updated every year, but the most recent supplement I have is dated 1979 and was priced at 30 shillings. The 1973 publication of *Australia Pilot* refers to English Navy maps, but the 1979 supplement states that the Australian Navy has produced a chart of the area. One will find that the chart is the same as the English Navy's chart, but it does indicate that Australia is making some effort to at least publish its own maps. On page 40 of the *Australia Pilot* it states -

> The Archipelago of the Recherche, which consists of a vast number of islands and reefs, extends from Figure of Eight Island . . . the W island of West Group, 7 miles SW of Butty Head, to the N rock of Eastern Group, 123 miles E, and to a distance of 30 to 40 miles offshore in places. Unless proceeding to Esperance Bay, as described below, the archipelago should be avoided at all times, on account of the haze frequently found among the islands, and in the neighbourhood of the small detached reefs in the SW part, up to 20 miles from any islands.
>
> **Local magnetic anomaly** has been observed among the islands of the archipelago. In the vicinity of Termination Island . . . Captain Flinders reported that the variation observed on board W of the island was 5^{0} in excess of that observed when E of it.
>
> **Sea level.** On the approach of W winds and during their continuance, the sea level is considerably raised, the opposite occurring with fresh E winds; at neap tides . . .

It goes on to describe every island and bay one would pass when entering the Esperance harbour. It makes reference to channels and states -

> **Causeway Channel,** which is deep and free from danger, lies between West Group, Sunk Rocks and Douglass Patch . . .

Another chart of the same area describes it as follows -

> A large number of islands and rocks lie in the archipelago within a radius of 30 miles between SW and SE from Long Island.

Further on it states -

> **Caution.** No navigation should be attempted between Termination Island and The Causeway, or N of a line joining that island and Salisbury Island, 77 miles E, except as directed on page 48, as there are numerous submerged dangers which only break in heavy weather; other uncharted dangers may exist S of that line.

Page 42 explains that pilotage is required to enter the harbour. On page 43 it states under the heading "Chart 2984" that -

> The islands and dangers W and SW of Cape Le Grand are described on page 42.

I have already referred to that page. To continue -

> **Hastings Island** . . . there are two islets off its W side; foul ground extends 1 cables from the SW side of the island.
>
> An islet, with foul ground extending 2 cables N from it, lies 2 3/4 miles S of Hastings Island.

I am reading this information to the House because it relates to the area in which the ship ran aground and the captain of any ship should have taken this description into account. The *Australia Pilot* continues, on page 48, to warn captains of the danger of entering the Esperance harbour as follows -

> **Directions from East through Archipelago of the Recherche to Esperance**
>
> Passage through the archipelago should not be attempted late in the afternoon or at night; if unable to reach Esperance in daylight, anchor for the night in Goose Island Bay, page 47, or in Duke of Orleans Bay, page 44.
>
> If South East Isles are made early in the day, proceed by the outer route, indicated on the chart . . .

Hon Mark Nevill: What time did the ship founder?

Hon D.J. WORDSWORTH: It was at 3.20 am and I am told that it was on auto pilot. Incidentally, page 49 of the *Australia Pilot* states -

> The following directions, which were those followed by H.M.S. *Marguerite*, 1,250 tons, in 1928 . . .

That was the other ship to which I referred earlier. I have endeavoured to illustrate to members the danger of navigation in these waters and yet, the ship was in the command of a 31 year old Korean captain when it ran aground. A 31 year old Australian has very little chance of being the skipper of a ship. Many Australian officers have their captain's certificate, but they do not win command of a ship until they are older.

I have been trying to find out what charts the *Sanko Harvest* held, but the questions I have put on notice are among those which have been waiting for answers for six weeks. The people at Esperance are very annoyed that a foreign captain could bring his ship into the local waters, act irresponsibly and end up on the rocks; that 700 tonnes of oil seeped into the ocean; and that the Department of Marine and Harbours took no action for some days because it expected the oil to flow out to sea. It was not until the oil extended 50 miles down the coast that unfortunately there was a change in the weather and it came ashore. The citizens of Esperance made a major contribution by collecting the oil off the beaches and washing down the rocks. The locals are very proud of their beaches. This accident occurred off the Cape Le Grand National Park and many people have visited Lucky Bay and Hell Fire Bay and other pristine beaches in the area which are noted for their wildlife including the New Zealand sea lion colonies and the Cape Barren geese. The people of Esperance are critical about what happened and they were very unhappy when the Minister for the Environment referred to them as a lot of armchair admirals and suggested that they should shut up. The people of Esperance have the right to make observations. I hope their observations will result in the department being better able to handle accidents like the one which occurred at Esperance.

Hon Mark Nevill: I think the CALM officers at Esperance did a very good job.

Hon D.J. WORDSWORTH: They certainly did. The conservation groups also offered assistance. An article titled, "Action Defended" was published in *The Esperance Express* on 21 February and it stated -

> Marine and Harbours Department marine director and State oil spill combat committee Captain Richard Purkiss has defended his authorities' handling of the Sanko Harvest grounding.
>
> Capt Purkiss said the National plan to prevent oil pollution was in place not to prevent oil spills, but to clean up oil after a spill.
>
> "The point people have missed is Sanko Harvest should not have been there anyway.
>
> "It is up to the Sanko Harvest to clean up the mess, and in the event of them not doing this the National plan is implemented as it was."
>
> He said people had failed to understand the ship belonged to Sanko Harvest and the department could not intervene in the initial stages anyway, because crew were still on board.
>
> "On February 14 Sanko Harvest appointed Australian salvage company United Salvage because they thought the ship was salvageable and the oil could be transferred from the bunker.
>
> But the company decided this could not be done in reality because the bunker would have to be heated to be able to move the oil, and as it was already fractured it was considered impossible.

This highlights another problem that we should be looking at so that we can prepare for other such disasters. As was pointed out by the Director of Marine and Harbours, while the crew is still on the ship one cannot hop on board and say, "I am going to take the oil off." While the ship is under the control of the captain he can do as he sees fit. When he leaves the ship perhaps something can be done. However, even then the insurance people have the last say and will usually appoint a company to salvage the ship, and then the salvage company has the say. In fact, this ship was on the rocks for three or four days. It was dead calm. Boats were going out from Esperance and tying up to it. However, nobody did anything about the oil leaking from the hole in the bottom of the ship and the difficulties predicted occurred. It is about time we considered the whole marine scene. We should be able to make a law that when an environmental disaster is impending the Department of Marine and Harbours can go onto a ship and remove its oil from the bunker and take other necessary actions. That cannot be done under present laws of the sea.

Hon W.N. Stretch: That is international law.

Hon D.J. WORDSWORTH: I think it is international law. That law started in the days of sailing ships. If a sailing ship ended up on the rocks in that position nobody would have worried and it would not have created an environmental hazard.

Hon Doug Wenn: The people on it may have worried.

Hon D.J. WORDSWORTH: Yes, but it would not have caused much environmental damage. Now that ships are carrying large amounts of oil, even ordinary cargo ships, we must be able to take precautions. A person in Esperance made a suggestion that is worth investigating; that is, that ships entering our coastal areas should have uniform outlets - in other words, they would all have a pipe into the oil tank with a uniform outlet and a certain type of thread. They would also have to have heating in case it was required, even if just a coil heater. This would enable a ship to come alongside and collect the oil. The difficulty at Esperance was that there was a bunker ship in Fremantle three or four days' sailing away, but that was the nearest one available. For the first few days they thought they would get the ship off and by the time they found out they could not it was too late to bring the ship from Fremantle. We should have a system where a blow-up rubber balloon type container of the type used to cart oil on land can be carted to the coast and taken out to sea to be filled with oil.

Hon Doug Wenn: Around the ship?

Hon D.J. WORDSWORTH: No, they went out with a surround kept in the Esperance Port Authority which was put around the ship but which was not substantial enough to contain the oil. The ship went aground at 3.20 and certainly by five o'clock there was much activity at the port authority at Esperance, which was fully aware of what was happening and put the tug to sea. Unfortunately, equipment is not available to handle such problems and people were unable to get on board the ship and do what was necessary. There is a case for ships to carry a radio beacon as suggested for yachts. Members will recall that an iron ore ship went down recently practically in the middle of the Indian Ocean. It was argued that for about $2 000 it could have carried a radio beacon which would have helped aeroplanes searching for it to find it by picking up the beacon's signal with their radar. In that case the search continued for several days and resulted in an airman being killed.

Every ship that enters Australian waters should have such a beacon on board. Those ships should have to report to a central authority every four or five hours as to where they are just as aeroplanes do. No aeroplane can fly over Australia and use some international convention saying it does not have to report its position to anyone. We are in full control from the time an aeroplane enters Australian airspace. There is no reason we cannot do the same thing with shipping as there are less than 1 000 coastal ships and about 6 000 overseas ships calling into Australia each year many of which are involved in multiple calls. It would not be hard to track where Australian ships are or to know they are not in dangerous water. I would like to think that we will gain some benefit from this disaster at Esperance. It has taken much time and money to clean up the oil spill. The *Esperance Express* of Friday, 26 April - bearing in mind that this happened on 12 February, two and a half months previously, yet they were still cleaning up - states -

> Clean-up operations in Cape Le Grand National Park and adjoining islands have been wound down and now enter the monitoring period - nine weeks after the Sanko Harvest ran aground.

There were four helicopters working out of Esperance for a lot of that nine weeks. Goodness knows what the cost was and whether it will be recovered. The article continued later -

> Total airlifting operations in Cape Le Grand National Park saw 500 drums removed from Boulder Bay and thousands of airtransportable bags filled with 15kg bags handfilled with contaminated sand removed from beaches.

Regrettably, when one goes down onto the beaches today and picks up a rock one still finds plenty of oil under it. Members may have seen an article, perhaps engendered by this disaster, which appeared in *The West Australian* of Monday, 6 May, and which referred to mapping Western Australia by Mara Pritchard and which stated -

> ... only half the country's coastline has so far been adequately mapped. It is expected to take at least another 60 years to complete the task, which would involve producing another 700 charts ...
>
> It is mandatory under the federal Navigation Act for all ships in Australian waters to carry updated maps of the area where they are operating ...
>
> The recent tragedy of the phosphate carrier Sanko Harvest, which sank off the Recherche Archipelago in February, is a prime example.
>
> The archipelago has not been properly charted but all recent maps of the entrances to Esperance show the area is uncharted and dangerous to navigation.
>
> It is not known if the Sanko Harvest was carrying these maps and, if she was, why the ship was outside authorised commercial shipping lanes ...
>
> But adequately mapping the Recherche Archipelago is not a hydrographic priority because much of the main coast has still to be charted.

[Questions without notice taken.]

Hon D.J. WORDSWORTH: The article in *The West Australian* on 6 May continued -

> But adequately mapping the Recherche Archipelago is not a hydrographic priority because much of the main coast has still to be charted.

I gather that Esperance cannot be on the main coast. The article goes on -

> Charting of WA's coastal waters falls under the jurisdiction of HMAS Moresby, the first purpose-built survey ship in the RAN and which is based at HMAS Stirling.
>
> Commanding officer Lindsay Gee and his crew spend about 180 days a year at sea because they can only work when weather conditions allow.
>
> Commander Gee said it would take another 20 years to survey and chart the Recherche Archipelago adequately because of the weather restrictions.

The article then describes the latest Australian technology -

> . . . a laser airborne depth sounder system, is being trialled at present and is expected to be fully operational next year.
>
> When fitted to an F27 aircraft, the system will be able to measure water depths to about 50m. The system will have the capacity to cover 200sqkm on a six-hour sortie and each sortie will be able to collect two million depth data points on a 10m grid.
>
> The system is designed to operate in remote areas and with the backing of surface ships is expect to revolutionise chart production.

I hope that new technology will be implemented because it will be of great significance to mapping in Western Australia. The article also mentions HMAS *Moresby*. When I was Minister for Lands and Surveys I was privileged to spend a weekend on board HMAS *Moresby* to see how the sea was charted. It is done by establishing two radio beacons on shore and traversing the sea at half a kilometre grids. That work is carried out regardless of the sea and weather conditions. It is rough work and hard on the crew. While on board I presented to the crew a reproduction of the painting of Captain, later Admiral, Fremantle. The original of this painting is located at the top storey of Parliament House. I felt it was a significant presentation to make because Fremantle was the first person to survey the Swan River when it was established as the site for the city of Perth.

One would have thought that we would have witnessed the last of the ships to decide to pass through the Recherche Archipelago. I was staggered to read in last Monday's *Esperance Advertiser* the headline "Ship takes short-cut" and the article which follows -

> An Esperance bound oil tanker, carrying an estimated 30,000 tonne cargo, sailed through the Recherche Archipelago within 8km of the Sanko Harvest wreck before arriving May 2.
>
> Unlike the Sanko Harvest the ship, the 27,000t Conus was Australian flagged and crewed with the skipper possessing much local knowledge.
>
> Esperance harbour master Ian Harrod said the ship's master was so experienced in coming to Esperance he had an exemption from pilotage into Esperance port.
>
> On making its approach to the port, the Conus had followed the recommended eastern route into the harbour which the Sanko Harvest had intended to take.
>
> Unlike the Sanko Harvest it travelled in accordance with Royal Australian Navy charts which call for local knowledge and no night travel in the area.
>
> "The master made sure the ship only traversed tight areas in the course during daylight hours."
>
> Mr Harrod said it was likely the Conus would be one of the last ships to use the passage through the Recherche Archipelago as arrangements to have a mariners' notice issued removing the route the area from the recommended list was almost ready for release.
>
> Although there was no penalty imposed on ship's masters who ignored maritime notices it would be stupid to do so.
>
> Routes through the area would also be removed from new area charts which were being prepared.
>
> The original charts used internationally were British Admiralty charts which were now to be replaced with Australian ones.

[Leave granted for the member's time to be extended.]

Hon D.J. WORDSWORTH: I can only say that it was a very brave step for that ship's skipper to have taken, even though he knew the local waters well. I can only say it was completely irresponsible for him to have sailed through that strait with 30 000 tonnes of oil on board even if he did know the way through the area. I hope this Government will do something about that state of affairs considering what happened with the *Sanko Harvest*. I also hope that the Government will take notice of the points I have been endeavouring to make and that we can gain some benefit from that catastrophe.

I raise only one other issue; that is, the transport of agricultural implements. This matter has caused concern for me for some time now. In fact, I had questions concerning this matter on the Notice Paper when the House rose at the end of last year. Members would know that the Minister gazetted new regulations for the towing of agricultural implements on 28 September 1990 which were to be in force from 1 November. Hon Murray Montgomery moved that the regulations be disallowed. The Minister managed to persuade him not to go ahead with that motion and said that he would arrange for the regulations not to be implemented. He also convinced Hon Murray Montgomery that the better way to go about that matter would be to instruct the police not to implement the regulations which were of concern rather than have all the regulations disallowed. It was pointed out that although the police would not enforce those questionable parts of the regulations, we were not told what would happen in the event of an accident and an insurance claim. Therefore, I asked the Minister on 19 March which of those regulations concerning the towing of agricultural implements was being enforced. The answer, which took six weeks to arrive, stated -

> All provisions of the Road Traffic (Towed Agricultural Implements) Regulations, 1990, are being enforced.

I also asked -

> Are there regulations gazetted that are not yet being enforced?

The reply to that question was, no. At the same time, Hon George Cash who was also concerned about the same matter asked a similar question as follows -

> (1) Are the Towed Agricultural Implements Regulations 1090, as published in the *Government Gazette* on 28 September 1990, in operation?
>
> (2) Will the Minister advise when these came into effect?

The answer was yes, they had been implemented on 1 November. Hon George Cash then asked -

> Is it intended to amend the Towed Agricultural Implements Regulations?

The Minister replied, yes. Hon George Cash then asked -

> If so, in which area, and when?

The Minister replied -

> In the area of achieving a workable balance between road safety and the practical requirements of farmers, which are currently being addressed.

In neither of those answers was any mention made of how the Minister would overcome the question that the regulations had been tabled, they were law, or that he had inserted another regulation in the *Government Gazette* to try to return to the original situation. On 21 December, after the other regulations had been in force since 1 November, another regulation was put forward by the Minister. The heading, "Road Traffic (Towed Agricultural Implements) Amendment Regulations 1990" was followed by a citation clause and a commencement clause. The insertion in the *Government Gazette* stated -

> **Regulation 31 added**
>
> 3. After Regulation 30 of the *Road Traffic (Towed Agricultural Implements) Regulations 1990* the following regulation is added -
>
> **Transitional**
>
> "31.(1) Notwithstanding anything in these regulations, a person who moves a towed implement that conforms with the Towed Agricultural Implements Directions in a manner that complies with those directions is deemed to comply with these regulations.

That is a good one.

Hon Graham Edwards: It is good and it was very well accepted.

Hon D.J. WORDSWORTH: If anyone had ever heard of the thing! I asked questions and the Minister did not have the decency to include that in his answer.

Hon Graham Edwards: I did.

Hon D.J. WORDSWORTH: He did not. He did not have the decency to include it in the answer to either Hon George Cash or me.

Hon Graham Edwards: A while ago you complained about the six weeks that it took for you to get the answers. Therefore you must have received the answer.

Hon P.G. Pendal: The usual smart answer.

Hon D.J. WORDSWORTH: That is what it is. The Minister should be disgusted with himself.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! Members should read Standing Orders Nos 96 and 97 in relation to interjections. The member has been given an extension of time and he is entitled to be heard in silence and with the decorum that this Chamber usually displays.

Hon D.J. WORDSWORTH: I have never had an issue about which farmers have rung me more constantly than these towed implements regulations. They could not understand them. They knew regulations existed but that they were not satisfactory. The Western Australian Farmers Federation has made representations.

Hon Graham Edwards: It was involved in negotiating these things. I would be surprised if it made representations.

Hon D.J. WORDSWORTH: It may be out of touch with its members' views.

Hon Graham Edwards: It was working on them on a constant basis.

Hon D.J. WORDSWORTH: It made representations that the regulations needed changing.

Hon Graham Edwards: I will draw your remarks to the attention of the federation.

The DEPUTY PRESIDENT: Order!

Hon D.J. WORDSWORTH: I will post them to it.

Hon Graham Edwards: I will be interested to hear what it has to say. I assure the member I will send a copy of this debate to the federation.

Hon D.J. WORDSWORTH: The Minister will be lucky to get it there before I get it there. I will publish my remarks in every newspaper around the countryside. As I have pointed out, the public have been very concerned about these regulations. The regulation that was added on 21 December by the Minister is very hard to understand. It was not being implemented. I am willing to table a permit from the Western Australian Police Department issued to me, as the Lucky Bay Pastoral Company, which permitted me to move a chaser bin in the Esperance shire. It states -

> Specific Conditions (if any)
>
> As attached sheet.

Included was a copy of a *Government Gazette* of 28 September 1990. There was no mention that the regulations were not being implemented, or that another regulation came into force on 21 December stating they were not being implemented. No wonder the farmers were confused. Every time we tried to find out anything about this matter in this House, we were stopped from doing so.

Hon Graham Edwards: The members of your party who rang my office had the matter explained to them and had no difficulty with it. We were trying to address a difficult situation and received tonnes of cooperation from most sections of the rural sector, but none from you.

Hon D.J. WORDSWORTH: I endeavoured to find out that information in this Parliament, which was the right place to do it. We were criticised for not throwing out the regulation.

Hon Murray Montgomery was very kind to the Government because the rest of us wanted to throw out that regulation so that we would not reach this situation. He was kind-hearted and agreed to the Government's further regulation which was meant to overcome the problem. The Police Force did not take any notice of the added regulation. It was confused and was trying to enforce the original regulation. We would have got a lot further in informing the public if the Minister had not been so petty. Recently, before the four week recess, I drew the Minister's attention to the fact that he had not answered the simple question about which regulations had been enforced. He said that he had the answer but he would not tell me what it was.

Hon Graham Edwards: Rubbish!

Hon D.J. WORDSWORTH: Those were his exact words; they are in *Hansard.* He said, "When we come back in a month, I will tell you."

Hon P.G. Pendal: Mr Smart Alec!

Hon D.J. WORDSWORTH: Yes, Mr Smart Alec. He is a disgrace to the implementation of laws in this State.

Debate adjourned, on motion by Hon Garry Kelly.

AGRICULTURAL PRODUCTS AMENDMENT BILL 1990

Second Reading

Debate resumed from 5 December 1990.

HON W.N. STRETCH (South West) [5.46 pm]: The Liberal Party supports this legislation. The Bill aims to update product control of the very important fruit and vegetable industries in Western Australia. The growers and various people involved in the production of those products for local consumption and for export have had considerable input into the legislation. It is, therefore, very simple for us to support it. The big breakthrough was to change the codes of the products coming to the markets in such a way that a separate code could be worked out for each product. Those codes have been agreed to as a general standard by the growers and the merchants. Having separate codes for products is the most flexible and simple of the methods that can be legislated for because they provide to the industry flexibility to change codes as it goes along or to change the coding for a standard of a product. Furthermore, I believe that this legislation meets the recommendations of the Select Committee which inquired into the fruit and vegetable industry. That report was tabled in this House on 11 December 1984. The Minister for Police who was a backbencher at that time served on that committee with other notable members of this House including Hon Philip Lockyer who chaired it, Hon Sam Piantadosi and Hon Graham MacKinnon who left this august House some years ago. It is important to acknowledge the work of the committee, and I am certain its members will be very pleased to read this legislation. I ask the Minister to indicate how many more recommendations from this report are likely to be introduced in legislation in the near future, or whether this legislation deals with all the problems raised by the committee at that time. I accept that since 1984 the Government has had a good opportunity to consider the recommendations of the report and to draft legislation accordingly. The fruit and vegetable industry is very important to the people of Western Australia. It is becoming more and more important as an export earning industry, and we are looking forward to improving the handling of fruit and vegetable products, particularly on the waterfront, and generally transporting these products in a more efficient manner. Complaints have been made in the past about the quality of the product when it leaves this country and when it arrives at its destination. That is the next sector of the industry which should be investigated because, as times get tougher and it is harder to sell exports, it is more incumbent on us to ensure that the product presented to overseas markets is of the best possible quality. The advances in grower skills are such that the product is being produced and presented in good order, and we must now follow through to make sure it is transported and arrives at its destination in the best possible condition. I mentioned earlier that Hon Phil Lockyer presented the report of the Select Committee on the Fruit and Vegetable Industry. I have read the report of that committee and I commend the committee for its hard work. Its members certainly wore themselves out putting this report together.

Hon Graham Edwards: They did not even go overseas, and it would have been beneficial if they had.

Hon P.H. Lockyer: We could always reconstitute the committee!

Hon W.N. STRETCH: Unfortunately, Ministers cannot serve on a Select Committee but, no doubt, a deputy could be found! It is more important to export the product rather than the members of the committee! In deference to the work of the committee, I will leave further comment on this legislation to the man who was the chairman of the committee, Hon Phil Lockyer. The Opposition very strongly supports the proposals in the Bill to ensure a better product, and to ensure an even standard is presented in the industry to win the confidence of customers at both the market and consumer level.

Debate adjourned to a later stage of the sitting, on motion by Hon P.H. Lockyer.

[Continued on page 1888.]

ROYAL COMMISSIONS AMENDMENT BILL

Second Reading

Debate resumed from 2 May.

HON DERRICK TOMLINSON (East Metropolitan) [5.54 pm]: The first item to be observed in this Bill is the commencement date of 8 January 1991; this is contrary to the preferred position of the Government not to specify a commencement date for a Bill. It also runs contrary to the preferred position of the Opposition not to agree to retrospective legislation. However, given the nature of this Bill, both the Government and the Opposition accept the need for retrospectivity. It would be a pity indeed if the valuable work of the Royal Commission were frustrated on a technicality at some later date and for that reason, and it is the only reason, the Opposition accepts the need for the retrospective commencement of this Bill.

In essence the Bill does two things: Firstly, it confirms through an amendment to the Act that the three commissioners in this instance may sit separately and will have quite valid separate powers; and, secondly, it enables the commission to issue search warrants which give the persons so authorised considerable power in the search for and the seizure of materials relevant to the Royal Commission. The first of these points was made quite clear in the terms of reference of the Royal Commission which were gazetted in Perth on Tuesday, 8 March. Paragraph (5) of the terms of reference reads as follows -

> Declare, without derogating from the powers which you otherwise have, that you may, whether simultaneously or at different times, act separately to take evidence or otherwise conduct the inquiry;

It was accepted by the commissioners and by this Parliament that that was quite clear empowerment of the commissioners. However, the commissioners themselves, in considering their terms of reference and the operation of the commission, in conjunction with the provisions of the Royal Commissions Act, questioned whether the Act empowered them to do what the terms of reference instructed them to do. The commissioners initiated this amendment to the Royal Commissions Act to validate their authority to sit and hear evidence separately. Given the complexity of the matters that are before the Royal Commissioners, and given the tangled web being unravelled in the evidence before the commission, one can understand why it may be necessary for the commissioners to sit and hear evidence separately. Not only is a tangled web of intrigue being unravelled, but also the commissioners have been instructed to report within a year. Already we have seen that the extent of the inquiries into the purchase of the Fremantle Gas and Coke Co Ltd were such that the scheduled time for investigation and hearings was extended. That is the first part of the inquiry and possibly one of the simplest. The other matters before the commission will require not only considerable investigation of dealings of Government Ministers and persons in the private sector, but also detailed and careful investigation of records, audited accounts, bank statements, gold sales, stamps, and all manner of intrigue.

Sitting suspended from 6.00 to 7.30 pm

Hon DERRICK TOMLINSON: Given the complexity of the questions before the Royal Commission, we can anticipate that there will be a need for an extension of time not only to deal with each of the individual inquiries and for the hearings of each of the individual matters but also to complete the full investigation and for the preparation of the report of the Royal Commission. Even though the terms of reference of the Royal Commission specify

that the commissioners shall report within 12 months, there is a strong assumption that will be an impossible task; hence, the provision that the commissioners may sit separately is an important one. However, that poses something of a difficulty for the commissioners given their task of unravelling the tangled web of relationships between Ministers and individuals in the private sector, and the various deals which were conducted by those individuals. If each of the commissioners were to sit separately and to hear evidence separately, the tying in of the separate findings would be a challenging task. I am confident that the commissioners will have no problem dealing with that task. We have considerable confidence in them. What the commissioners and the investigators assisting them have achieved so far is beyond the wildest expectations even of those members in the Opposition who were responsible for the establishment of the Royal Commission in the first place. The Opposition supports the amendment contained in clause 5 to amend section 7 of the principal Act to allow the commissioners to sit from time to time separately as they so decide.

The second principal set of amendments in the Bill relates to the powers of the commissioners to issue search warrants. The powers that will be granted to the commissioners or to the persons on whom authority is conferred by a warrant are wide ranging: They may break open and search any package or receptacle, seize any relevant material, secure any relevant material against interference, request any person found on the premises to produce any relevant material, take photographs or copies of, and so on. During the dinner suspension that power was described to me as being equivalent to the power to search and destroy. I do not think "destroy" is relevant but certainly the powers of search and discovery will be strong indeed. Earlier in the week some reference was made to a recollection of the activities of Mr Kierath Khemlani, that strange Pakistani, and to the parallels which were drawn in the mind of the Attorney General between the activities of Mr Khemlani and the activities of Mr Connell. I cannot help but recollect that in the same period of history the powers of breaking open, seizing, and securing relevant material against interference were used by the late Lionel Murphy in his search and discovery mission in the offices of the Australian Security and Intelligence Organisation.

I assume that the powers which are to be granted to the Royal Commissioners by this amendment are powers which the commissioners or the investigators assisting them have deemed to be necessary. We have gained the impression so far that considerable cooperation has been given to the commissioners in the delivery of documents, and that there has been almost an eagerness on the part of members of the Government and members of the private sector who were dealing with the Government to assist the commission. The fact that we are being asked to empower the commissioners to issue warrants, which will in turn empower authorised persons to do the things specified in proposed section 18(4), suggests that the cooperation we have anticipated and which we have been told has been forthcoming in the seven or eight weeks of the sittings of the Royal Commission has not been adequate.

Reference has been made to the so-called Connell diaries. I do not know what the Connell diaries are, but it is speculated that five cartons of documents disappeared when the documents relating to Mr Connell's activities with Rothwells were seized in another investigation. Perhaps these powers of search and discovery will turn up those so-called diaries. We have seen already in the incident where Michael Hale gave some evidence to the Royal Commission - which he subsequently had to retract or correct - about his dealings with Brian Burke and Leon Musca, the need for the investigators assisting the commissioners to discover documents to test some of the matters which were alleged by Mr Musca and Mr Hale. In that instance, Mr Musca gave permission for the investigators to attend his office and to look at the documents involved. Had he not given that permission, the discovery of documents would not have been possible; hence, the matters which have now been referred to the Attorney General might have been left unresolved. We look forward to the final resolution of the matter involving Michael Hale and Leon Musca. That incident, as incidental as it was in the proceedings of the commission, indicates that the investigators need considerable powers if they are to complete to the satisfaction of the public of Western Australia the inquiries with which the commissioners have been charged.

The Opposition has no objection to any of the matters raised in the Bill. They have obviously come forward on the initiative of the Royal Commissioners. We applaud the work the Royal Commissioners have done to this stage and we would do nothing to impede the discovery of the truth in these matters. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

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

STATE SUPPLY COMMISSION BILL 1989

Assembly's Further Message

Further message from the Assembly received and read notifying that it had agreed to the place proposed by the Legislative Council for the Conference of Managers, and had appointed Mr C.J. Barnett, Mr R.F. Court, Hon J.A. McGinty and Hon I.F. Taylor as managers for the Assembly; but requesting the Legislative Council to alter the time fixed for the Conference of Managers from Thursday, 16 May 1991 at 1.00 pm to Tuesday, 28 May 1991 at 4.00 pm.

On motion by Hon J.M. Berinson (Attorney General), resolved -

That the request of the Legislative Assembly be agreed to.

AGRICULTURAL PRODUCTS AMENDMENT BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

HON P.H. LOCKYER (Mining and Pastoral) [7.43 pm]: The Bill before the House seeks to amend the Agricultural Products Act 1929. Earlier tonight Hon W.N. Stretch referred to a Select Committee which I had the pleasure of chairing some years ago, in the company of Hon Graham Edwards, Hon Sam Piantadosi, and a former member of the Legislative Council, Hon Graham MacKinnon. After the work undertaken by that Select Committee I have been pleased to see legislation come to this Parliament, sometimes a little slowly, to put into effect recommendations made by that Select Committee.

Hon Graham Edwards: Don't stonewall.

Hon P.H. LOCKYER: I will not be stonewalling, I can assure the Minister of that. Hon Graham Edwards, who is handling the Bill on behalf of the Government, was a very important member of that Select Committee. It is interesting to note that the content of this Bill was very much the centrepiece of the recommendations of the Select Committee. One of its major recommendations was that the Government bring forward the shifting of the Metropolitan Markets from West Perth to Canning Vale, where they now are. I am happy that the Government acted upon that recommendation. I know it has not been a perfect shift for everyone concerned; in fact, those members who have been to Market City in Canning Vale would know that some people in the market have experienced teething problems at the new site. However, as members of that Select Committee we knew from our travels in the Eastern States, where we visited every major marketing area, that unless a major change in the marketing took place it would be detrimental to the whole fruit and vegetable industry.

One matter which became very clear to the Select Committee during its travels was the accent placed on quality control by people in the Eastern States, especially in Victoria, New South Wales and Queensland. That is what this Bill is all about. It will bring fruit and vegetables under the same quality control that applies in the regulations for apples, pears, citrus and stone fruit. That is absolutely essential, as we found in our travels. While the majority of growers are very honest people, a handful of growers, when packing their fruit, put the best on top and underneath they pass on fruit that is not of remarkable quality.

Hon Graham Edwards: But not in Carnarvon?

Hon P.H. LOCKYER: Yes. I know the Minister is trying to protect my electorate but I am sad to say that it does occur in Carnarvon.

Hon Graham Edwards: Or it did.

Hon P.H. LOCKYER: It did. It is a problem. The type of training that the Metropolitan Markets and agents tried to achieve over the years simply did not work and now we are faced with having to bring in this type of legislation. It is a little sad, but in the long term it will be of the greatest benefit to the industry, because improving the quality of the produce will improve the stability of the industry. Our Select Committee found that the maximum return to the growers came only when they provided quality. We were somewhat critical of weekend markets because we found that the grade of fruit and vegetables sold at such markets was not of a standard that would assist the industry. Members of that Select Committee came under some criticism for that, because people who sold produce at weekend markets said the quality of their produce was what the consumers wanted. However, it is essential that we have legislation like this for our central marketing point at Market City. We must regulate the quality control in the industry; I do not have any problems with that at all. All of the grower organisations and growers in both Kununurra and Carnarvon have agreed unanimously to this concept, as has the whole industry, I understand. Discussions have been held between the Department of Agriculture and all of these people and they understand that this type of legislation is required.

I only hope that not too many charges will be laid and that growers swiftly come to accept that they simply must supply quality produce to the market, firstly, to protect their industry; and, secondly, to promote the sale of fruit and vegetables in our community and to allow the general public to purchase the quality they want. People do not want simply to buy the top layer of bananas or any other fruit or vegetable; they want the maximum quality all the way to the bottom of the box. I am very happy to support the legislation.

HON MURRAY MONTGOMERY (South West) [7.49 pm]: I signify the National Party's support for this Bill. It was most interesting to listen to Hon Philip Lockyer. If I can go back some 20 or 30 years - which is a long time - I was only a young bloke then, and I remember coming home from school to work in an orchard.

Hon J.M. Berinson: It must have been primary school.

Hon MURRAY MONTGOMERY: Yes, it was primary school. That was where I learnt everything I know. In the same way that the Attorney General had to go to university to learn all that he knows, I did that in primary school.

Hon Graham Edwards: How did you get into the orchard? Over the fence or through the gate?

Hon MURRAY MONTGOMERY: I am sure I will receive some wise interjections from members opposite. I did not go over the fence to the orchard. I used to open the gate.

Hon Graham Edwards: You would have been the only kid who didn't go over the fence.

Hon MURRAY MONTGOMERY: I did not need to pinch the fruit.

The situation has not changed over the years, because people still have the idea that they can get away with supplying produce of a less than top or fancy grade to the marketplace. I include fruit and vegetables in that remark. When that occurs, the quality of the fruit detracts from the market and the best possible price is not gained. The market will pay a good price for premium quality produce but people should not take advantage of the situation. People who do should be penalised. The Bill attempts to solve the problem, and it provides for on the spot infringement fines without the need to take offending growers to court.

The fruit and vegetable associations support the Bill and look forward to its implementation. The associations want to ensure that people are supplied both locally and on the export market with the best quality fruit.

The National Party supports the Bill.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [7.51 pm]: I thank members opposite for their support of this legislation. Hon P.H. Lockyer almost made my speech for me, as he referred to the work of the Joint Standing Committee under his chairmanship.

Hon Murray Montgomery: How much fruit did you sample?

Hon GRAHAM EDWARDS: Some very nice produce was sampled, some of which was not freely available on the market. It is available now, and that is probably due to the very good reports we gave to the industry.

Hon P.H. Lockyer: None of the fruit that we sampled was better than that found in the south west.

Hon GRAHAM EDWARDS: Yes. It is true that the growing areas in Western Australia are as good as those anywhere else in Australia, although I am also sure that some impediments to the industry have resulted from the lack of quality control. It is important that people who buy fruit and vegetables in the market place have some faith in the advertised grades and that the fruit they are buying is as good at the bottom of the box as it is at the top. I am not convinced that that has been the case. This legislation will go a long way towards ensuring that a better quality of produce is available for purchase. Were that the case, people would more likely eat greater quantities of fruit and vegetables, which would have a beneficial effect on the industry.

When we were conducting our inquiry, many people were beginning to wake up to the fact that quality at the end of the line is an important factor for the industry. Handling and storage methods began to improve, and people began to consider ways and means of retaining the quality of the produce at the time it was picked. One important aspect which comes to mind is the use of cool rooms on properties. Most growers have come to the conclusion that the sooner the field heat is taken from the produce the more it is likely that the quality of it will be retained.

Hon Phil Lockyer mentioned weekend markets. I cannot speak about many markets but I take the opportunity, as time permits, to buy our family fruit and vegetables at the Wanneroo market. A tremendous range of produce is offered at that market; it is well packed and well displayed, and is generally of a very good quality and available at a reasonable price.

Hon P.H. Lockyer: I have noted also the improvement at the weekend markets. It seems they are receiving a better quality product.

Hon GRAHAM EDWARDS: I am not sure that was the case when we looked around at many of the markets. A marked improvement has occurred - if the Wanneroo market is any indication.

I thank members opposite for their support of the Bill. A lot of good came from the work of the committee, which goes to show what can be achieved if we set politics aside and work together as members of Parliament.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Graham Edwards (Minister for Police), and passed.

COMPANIES (CO-OPERATIVE) AMENDMENT BILL

Second Reading

Debate resumed from 8 May.

HON MAX EVANS (North Metropolitan) [7.58 pm]: The Companies (Co-operative) Amendment Bill has the full support of the Opposition. This legislation involves a minor amendment to the Act. However, some comment should be made because this is an historic occasion in that the old Act will become redundant with the passing of this measure. Of the 80 cooperatives within Western Australia - and I was surprised that so many remain in operation - five still operate under the Co-operative and Provident Societies Act 1903.

The registrar of the cooperative societies expresses his appreciation to the Government for bringing on this measure so quickly. It was only recently that the registrar brought this

amendment to the notice of the Government in order to gain a degree of uniformity. With the passing of this Bill, the five remaining cooperatives will operate under the later Act. They appreciate that. As a fellow public accountant it was interesting talking to the registrar as he commented on other suggested changes to the legislation which were brought to the Government in 1984. It was thought that the proposal relating to public accountants had complete Cabinet approval, but they are still waiting for it to be adopted. Why has that not been done? They were not knocking this legislation. They are now dealing with the Minister for Consumer Affairs, and they regret that it has taken so long for nothing to happen. The second reading speech on this Bill states -

> This Bill provides for an amendment to section 174 of the Companies (Co-operative) Act to increase the percentage of shares which may be repurchased from members from five per cent to 10 per cent of paid up capital.

Section 174 of the Companies (Western Australia) Code, which has undergone major changes with the introduction of the Australian Securities Commission, and will become an historical document, states -

> A co-operative company, whether registered as a company under the repealed Acts or under this Act, may at any time after the commencement of this Act, if authorised by its memorandum or articles, purchase out of its reserve funds any shares of a member of the company, but the shares so purchased and not sold or disposed of shall not at any time exceed one-twentieth part of the paid-up capital of the company. Provided that such shares shall not be deemed to be cancelled nor to be a reduction of capital, but may be sold or disposed of by the company in accordance with the provisions of its articles.

That is why we are changing the five per cent margin to 20 per cent. This will be consistent with the later Act. The second reading speech continues -

> This amendment brings the buy back capacity of cooperative companies into line with the buy back provisions of the Companies (Western Australia) Code and the corporations law. Cooperative societies presently registered under the Co-operative Provident Societies Act wish to convert to cooperative companies. Once the buy back provisions have been increased, the societies will convert to cooperative companies and come within the Companies (Co-operative) Act.
>
> The conversion is in the interests of the public as the Companies (Co-operative) Act provides a more complete regulatory regime for cooperatives. The Co-operative and Provident Societies Act has limited regulatory and providential requirements and societies are largely left to their devices.

It is expected that the five companies encompassed within the Act will change over following the passing of this legislation. However, special comment was made by representatives of those companies suggesting that the Minister should send a message to the other House to have this Bill passed by 30 June. This would greatly assist the cooperatives, and if that is done the new situation will apply before 1 July. This is a simple Bill and should have little trouble passing through both Houses in three weeks. I have recommended to Don Munro that he make contact with the Leader of the House in the other place. The Opposition supports the legislation.

HON E.J. CHARLTON (Agricultural) [8.03 pm]: The National Party supports the Bill. However, we have a couple of concerns: First, although I did not hear the earlier comments of Hon Max Evans and I do not know whether he raised the point, I believe that legislation dealing with this matter was before the Parliament some years ago. I have not checked on the detail of this, but it was agreed that a review would be conducted of the Companies (Co-operative) Act to ensure that it was updated. Hon Max Evans indicates that he did not mention that point. Currently cooperatives are able to limit the number of shares going to outside buyers, and when the companies are incorporated through this Bill they will come under greater regulation than was the case in the past. Is the Minister aware of the comment that a review of the Act was supposed to take place some years ago? I understand from my inquiries that the review never took place. If the review did take place, is this legislation a consequence of that review? The cooperatives would prefer to be able to buy back 100 per cent of their shares, but they realise that the former Act is obsolete and they accept that this is a trade-off. The National Party supports the Bill.

HON J.M. BERINSON (North Metropolitan - Attorney General) [8.08 pm]: I thank the Opposition for its support of the Bill. Perhaps the best way of approaching the queries which have been raised is to refer to a short comment made towards the end of the second reading speech. It reads -

> The amendment is supported by the Co-Operative Federation of Western Australia.

That is true, of course, but perhaps it does not indicate to members how far that support went. In fact it is not a matter of a Government initiative being supported by the federation, as much as the Government acting at the initiative of the federation in order to accommodate what we saw as reasonable submissions. The proposal should operate to the benefit of the cooperative bodies, their membership and the public. I am afraid that Hon Eric Charlton catches me on the hop with his reference to the review he indicates took place some years ago; I am not aware of it. I can certainly indicate from my point of view, as the initiating Minister for this legislation, that I obviously was not guided by it. I was guided by the views of the federation, and, of course, by the advice which I always seek in such circumstances as to whether the approach being made is one that should be met.

Hon E.J. Charlton: The five companies may have agreed to it, but did they fully support it? Did they have discussions with you on that?

Hon J.M. BERINSON: No, not separately. I do not have the full file with me. My memory is that the submission was made by the federation.

Hon Max Evans: The five members are waiting for this to be transferred over under the new Act and they will then repeal the old Act; at least they would have repealed one and that is why it is being rushed through.

Hon J.M. BERINSON: I am quite surprised to hear that comment from Hon Max Evans. We initiated the repeal of something like 25 Bills less than two months ago. Actually we first attempted their repeal 18 months ago and one reason for the delay was some obstruction by the Opposition. However, there is so much harmony on this question so far that I will resist the temptation to take this comment further.

The DEPUTY PRESIDENT (Hon J.M. Brown): I can resist it too.

Hon J.M. BERINSON: Especially as the interjection was irrelevant to the Bill. Having said that I take up the point made by Hon Max Evans about the need for or the desirability of this Bill's being enacted by 30 June. I have already noted that for the advice of the Leader of the House in the Legislative Assembly, and I have no doubt, especially given the indication of cross-party support and the absence of any need for lengthy debate, that the need by the members of the federation will be met.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Attorney General), and transmitted to the Assembly.

PRISONERS (RELEASE FOR DEPORTATION) AMENDMENT BILL

Second Reading

Debate resumed from 7 May.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [8.15 pm]: The Bill before the House seeks to amend the principal Act in a number of ways, but before dealing with the content of the Bill it is important that the House understand the circumstances that brought the principal Act into being. For those members of the House who believe that they are in for a three hour history lesson, I indicate that when this Bill was discussed in the House in 1989, it filled less than one page of *Hansard*, and I would suggest that the amending Bill tonight, because it is not controversial, will probably fill an equal amount of space.

In 1989 it was pointed out to the Parliament that there was some difficulty in releasing prisoners from custody who were the subject of deportation orders. It was said at the time that the Parole Board was loathe to issue a direction that someone could be admitted to parole because it believed that if they did that the person may breach the parole conditions and not be available to be returned to the prison in due course. There was a complicating issue because if a person were subject to a deportation order the Parole Board did not believe that it was in a position to admit that person to parole, so there was a need for the Governor to remit the balance of a prisoner's sentence. In remitting the balance of a prisoner's sentence other complications developed, and it was suggested that, once the balance of the sentence had been remitted, the person was no longer a prisoner, and may not respond to a deportation order. In broad terms they were some of the complications that were pointed out in 1989.

To clarify this situation, the Prisoners (Release for Deportation) Act was passed in this Parliament in 1989 to ensure that a prisoner who was subject to a deportation order could be released from custody for the purpose of being deported from the country. It was interesting to note that the original Act passed in 1989 has not yet been proclaimed, because soon after the passage of the Bill through this Parliament the Commonwealth Migration Act was changed in a number of areas, one in particular being the definition of a deportation order. The State Act which had been recently passed did not conform to the Commonwealth Act in the definition of a deportation order, and that presented some complicating factors in the release of prisoners the subject of deportation orders.

This Bill seeks to rectify this situation and to bring the definition in line with the Commonwealth Migration Act. Additionally, the Bill will require the Parole Board, when considering the release of prisoners the subject of the deportation order, to produce to the Minister responsible a report which will cover some specific areas. The Bill outlines very clearly the content of this report; it will have regard to the following: Firstly, the nature of the circumstances of the offence for which the prisoner is serving a term of imprisonment, or is being detained during the Governor's pleasure; secondly, the degree of risk the prisoner would appear to represent to the community or to any individual in the community; and, thirdly, such other matters as the Parole Board thinks fit. The Parole Board will be required to consider those matters and hand a copy of such a report to the Minister. If the Minister is satisfied about the matters and satisfied that the Parole Board has acted in accordance with the legislation, the Governor may, by order in writing, release the prisoner from custody for the purpose of his or her deportation.

This is not a complicated Bill. It makes some technical changes to the Act because of changes to the Commonwealth Migration Act. It strengthens the requirements of the Parole Board to consider the circumstances surrounding the admission to parole of a person before he or she is deported. It, like the original 1989 legislation, has the support of the Liberal Party.

HON E.J. CHARLTON (Agricultural) [8.22 pm]: The National Party supports this Bill as it supported the previous legislation. The Bill is before the House because of confusion in previous State legislation and the Commonwealth Migration Act. The report recommends a prisoner's release into the custody of specified persons. Who are those specified persons? Are they people from the Immigration Department?

Hon J.M. Berinson: Yes, the deportation authority.

Hon E.J. CHARLTON: With those comments, the National Party supports the Bill.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Attorney General), and transmitted to the Assembly.

DIRECTOR OF PUBLIC PROSECUTIONS BILL

Committee

Resumed from 14 May. The Deputy Chairman of Committees (Hon D.J. Wordsworth) in the Chair; Hon J.M. Berinson (Attorney General) in charge of the Bill.

Progress was reported after clause 1 had been agreed to.

Clause 2: Commencement -

Hon PETER FOSS: Will the Attorney General outline the various matters that need to be dealt with prior to proclamation which justify the Act requiring proclamation? When will these matters be completed and the appointment made?

Hon J.M. BERINSON: I expect the office of the Director of Public Prosecutions to be operating by the end of this year with the Director of Public Prosecutions being appointed three months before that - perhaps a little more. I am working on the basis of the passage of the Bill through this Chamber and the expectation that the Bill will receive an appropriate priority in the other place and pass through that place no later than about the third week of June. Thereafter, a number of matters will have to be dealt with and there is a certain element of the chicken and the egg. The establishment of the office will have to depend very largely on the person appointed as the DPP. The selection and consultation process will necessarily take some time. While that process is in operation, it will be necessary to also have the advice of the Salaries and Allowances Tribunal on the salary which will apply to the office. Therefore, there is a little parallel work going on. Beyond that, it will be necessary to consider the DPP's own preference for the early appointment of a deputy director. Other matters of an organisational nature may require regulation but, frankly, I have not attended to those.

There will also be a need to physically establish the office and to organise the procedures that will ensure that the very heavy workload of the DPP, immediately it is formally established, can be coped with. The director will literally have to hit the ground running. Many cases will have to be taken over from the prosecuting section of the Crown Law Department. I expect there will be an early move to consider the broader application of the DPP's powers in respect of prosecutions initiated and/or conducted in other courts. Putting all of that together and making allowances for whatever the law is that says if anything can go wrong it will, the sort of timetable I am suggesting is a realistic one. If it can be expedited, all the better. However, I doubt whether we could shave much off a six month period between the assent to the Bill and its proclamation.

Hon PETER FOSS: Will the Attorney General indicate what sort of consultative process he envisages taking place and whether he sees a direct cut-over so that one day the prosecutions will be conducted by the Crown Law Department and the next day they will be under the auspices of the DPP.

Hon J.M. BERINSON: In respect of the second question I have not involved myself in the technical requirements of the changeover other than to be satisfied that it can be accommodated within the provisions of the Bill. As to the consultation process, I previously indicated what I anticipate by way of a process by reference to comparisons to judicial appointments. In those cases I seek the views of a range of individuals, some of them in a representative capacity - for example, the Law Society of Western Australia and the Bar Association - for proposals they may like to offer on names to be considered. Thereafter, there is the normal selection process to be gone through and that, in turn, requires further views being sought not only from the same people who proposed the names in the first place, but also perhaps from a wider field. The process will involve putting all the names together and coming up with a recommendation to Cabinet which, in the last resort, will be my recommendation.

Hon DERRICK TOMLINSON: The Attorney General's answer indicates that these matters are prospective and will not be commenced before the legislation is enacted. While I can appreciate that is probably necessary, the predecessors of the Bill have been before the Parliament for some considerable time. Do I take it from the Attorney's answer that the matters that need to be completed before the officer can be appointed and the office can be fully functional have not been anticipated at this stage?

Hon J.M. BERINSON: They have not been acted upon. The Government's earlier experience with the move towards a DPP provides the very reason why not. It has often been said in this place that we should draft the regulations and do all the necessary work in anticipation of legislation being passed. Had we done that last year with this legislation it would not only have led to a great deal of work providing nothing other than the content of some pigeon holes, but also that work may never have had any use given the changes between last year's Bill and this year's Bill. I do not think much hangs on it. As I indicated previously, if we are really trying to fast track a process - a process with which I have become disenchanted after my connection with the fast track process for the construction of Casuarina Prison - we might reduce the time by one month or six weeks. In what might be called "the grand scheme of things" I do not think that really rates. The important thing is to establish the principle of this office and to ensure that from its first day of operation it runs in a way which meets the very heavy demands that will certainly be placed on it.

Clause put and passed.

Clause 3: Interpretation -

Hon PETER FOSS: I refer members to the definition of "legal practitioner", which is a familiar definition. Clause 5(2) indicates that a person appointed as deputy director must be a legal practitioner and the director must be a practitioner of not less than eight years' standing and practice. Is a practitioner different from a legal practitioner?

Hon J.M. BERINSON: No.

Clause put and passed.

Clause 4: Office of Director and Deputy Director -

Hon PETER FOSS: I draw the attention of members to the fact that the Opposition would have preferred this clause to be in a different form. The Opposition is of the opinion that the appointment of the director and deputy director should involve a consultative panel process.

Hon J.M. Berinson: It is covered by clause 5.

Clause put and passed.

Clause 5: Appointments -

Hon PETER FOSS: Does the Attorney General understand that the director must be a legal practitioner of not less than eight years' standing and practice in Western Australia?

Hon J.M. BERINSON: Yes. I acknowledge that this Bill is not drawn so as to allow the wider application of the term that we recently adopted for judicial appointments. The Bill relating to judicial appointments has a fairly low standing in the pecking order in the Legislative Assembly because some queries have been raised going further than the comments which were, of course, invited before the Bill was first introduced. If the member is looking for some consistency between the provisions of this Bill and those for judicial appointments he may well find that the consistency will be found by passing this Bill in its present form.

Hon PETER FOSS: I do not agree with some of the comments made by various people outside this Parliament with regard to that Bill. I am not looking for consistency: I have always found the maxim that consistency is the refuge of small minds to be an accurate one.

Hon J.M. Berinson: Neither of us would be interested in it then!

Hon PETER FOSS: Exactly, I raise this on a point of principle. It strikes me that, although there are some problems of practitioners from non-code States fully understanding the differences - especially defences under the Criminal Code - that could be overcome by somebody from one of the non-code States. It may very well be that giving ourselves a far greater opportunity for hiring somebody from throughout Australia would be a good idea. To unnecessarily limit ourselves to someone with experience in this jurisdiction - apart from the question of defences under the code - does not seem good enough justification for this restriction. It would also eliminate people from Queensland, whose laws would be very translatable to Western Australia, and Tasmania, although its code is not the same as ours. In addition, bearing in mind the High Court decision in the Streets case, I wonder whether we would be justified in this form of restriction so far as the Commonwealth Constitution is

concerned. From both those points of view - the practical advantage of having a more broadly based qualification and bearing in mind the way the High Court is heading - I query whether it would be sensible to so limit it.

Hon J.M. BERINSON: It may well be that not only the factors that Hon Peter Foss has mentioned, but also others, will lead to a view that this provision should be reconsidered at some later stage. If, for example, substantial progress is made on current proposals for a uniform Criminal Code, then the argument the honourable member has raised would be strengthened. For the moment, however, I feel that there can hardly be a doubt that the position this Bill looks to create could be met adequately by professionals who meet the specified requirements.

As we have heard many times, the position under the current Bill is that the initial appointment will be for five years. In the light of experience we can look at the position thereafter to determine whether developments in the meantime justify any significant change. For the moment I regard the provisions set out in the Bill now as appropriate. In this respect I do not argue consistency for its own sake, but on the basis that this same approach has led to appointments in various legal fields which have fully met the needs of this State.

Hon J.N. CALDWELL: The retiring age of 65 years was referred to in the second reading debate last night and the Attorney General provided a comprehensive explanation of the thoughts of the Labor Party on this matter. My question relates to a person who may be elected to this position at the age of 62 years: Would his term of office continue for five years or would he be compelled to retire immediately he reached the age of 65 years?

Hon J.M. BERINSON: I refer the honourable member to the first paragraph of schedule 1 which states that the prescribed term means five years or a term expiring when the director attains 65 years of age, whichever is the lesser. An initial appointment at 62 years of age would terminate under current circumstances at the age of 65 years.

Hon PETER FOSS: I return to the Attorney General's last remarks. The most important thing is to get the best possible person to fill the job, it is not a question of there being people in Western Australia who could fill the job. It strikes me that the Western Australian criminal bar is a fairly small bar, although that by no means demeans the quality of that bar. It may be difficult to attract practitioners from that Bar, who probably have fairly lucrative practices. In addition, the prosecution bar is mainly within the Crown Law Department, although not entirely. It is also necessary to appoint a good administrator. The first appointment must be the most important of all. After the first director has been appointed, it is much easier to keep things going. However, the first person must establish an office, systems, ethos and all the essential parts of a successful prosecuting division. We should give ourselves the widest possible opportunity to gain a highly suitable candidate who is the best possible candidate, rather than say we will find people in Western Australia who will do or even who will do quite nicely. We should be trying to make the best possible fist of this, and if it is possible for people from all around Australia to apply for the position we have a greater chance of ending up with a better appointment than otherwise. I am by no means demeaning the people of Western Australia, but perhaps also the persons regarded as most suitable in this State may not seek the job.

Hon J.M. BERINSON: I assure the Committee that we are not looking at this office in terms of finding someone "who will do" or even someone who "will do quite nicely". Of course, it is essential to have an appointee of the highest possible calibre to meet the responsibilities of this very senior and onerous office. Certainly, no amendment of the Act is required, even if the Act does have the effect of restricting us to the practitioners practising wholly within this State for a specified period. I do not want to be held to what I am now going to say, except subject to correction on further inquiry. It has been suggested to me that quite a considerable part of Mr Foss' concern in this respect could well be met by the existence of a substantial number of senior practitioners, including those with a substantial criminal practice, who are resident in other States but have been admitted here.

Hon Peter Foss: Murray, QC, would have been admitted here for a long time.

Hon J.M. BERINSON: Yes. We will not get into many names, but Tom Hughes is another who practises here regularly. As I understand it, there would be a pool of experienced practitioners in addition to those who come to mind when thinking only of persons resident in this State.

Clause put and passed.

Clauses 6 to 9 put and passed.

Clause 10: General principles relating to functions -

Hon PETER FOSS: Are then any plans for the DPP to carry out any of the functions of the Australian Securities Commission and, in particular, what will happen regarding the Rothwells task force?

Hon J.M. BERINSON: At the moment there are what can best be described as informal cooperative arrangements and they will no doubt continue in an appropriate form. The simplest example is the Rothwells task force. In that case there is a clear arrangement between the Crown Prosecutor and the ASC that matters arising from the work of the task force which involve prosecutions under the Corporations Act or the previous Co-operative Companies Act will be conducted by the ASC, and those involving prosecutions under the Criminal Code will be pursued by the Crown Prosecutor. Where there is a mix of the two, consultations will take place between the two officers to agree on the appropriate office to have carriage of a particular case. I see arrangements of that sort simply following on naturally from what is already in place.

Clause put and passed.

Clauses 11 to 17 put and passed.

Clause 18: Additional and related functions -

Hon PETER FOSS: This is one of the clauses that has been altered since the Bill was last before the House. Subclause (1) states -

> It is a function of the Director to do anything that is prescribed.

Subclause (3) states -

> In subsection (1) "prescribed" means prescribed by order made by the Governor.

Subclause (4) states -

> Notice of the making of such an order and of its contents shall be published in the *Gazette*.

Does the Attorney General have anything particular in mind that the he thinks may be so prescribed? Does he think it appropriate that it be done by order, because although an order is published in the *Government Gazette* it is not subject to the control of this Parliament? Might it not be more appropriate for the prescription to be by regulation rather than by order in the *Government Gazette*?

Hon J.M. BERINSON: I am unable to comment in detail on the matter. I am aware it follows considerable consideration of the likely role of the DPP as a manager as well as a prosecuting officer. I confess I do not have the information to respond precisely to the question. If it is satisfactory to Mr Foss, I am happy to provide that detail to him in writing. I am anxious to have this Bill through to the Assembly by tomorrow in order to ensure its passage during the next three weeks. I regret my inability to provide this detail at the moment but I would be sorry if we could not process the Bill in the way I have suggested. I do not have detail of the type of managerial or other matters contemplated.

Hon Peter Foss: Why not regulation instead of order?

Hon J.M. BERINSON: That is another issue to which I cannot respond adequately.

Hon Peter Foss: Why don't we put it in and if it is not needed take it out in the other House?

Hon J.M. BERINSON: Then we will not finish it until we resume. I would be happier to put this clause aside and complete it as early as possible after further consideration.

Further consideration of clause postponed, on motion by Hon J.M. Berinson (Attorney General).

Clause 19 put and passed.

Clause 20: Powers of Director -

Hon PETER FOSS: This is an important clause, especially subclauses (2)(c) and (d), which state -

(2) Without limiting subsection (1), the Director may for the purpose referred to in that subsection -

(c) grant an indemnity from prosecution, whether on indictment or otherwise;

(d) give an undertaking to a person that an answer given or a statement or disclosure made by that person will not be used in evidence against that person.

My understanding is that an indemnity could be given by the Attorney General - although that occurs very rarely - but if that indemnity were taken to law it could not be enforced. That matter arose when Mr Connell brought an action to try to prevent the National Companies and Securities Commission from getting involved in his personal details, and he pointed to an undertaking which had been given to him by the NCSC that it would not carry out any further investigation in regard to matters previously investigated. My recollection is that it was held that the NCSC could not have agreed to give him an indemnity in the way that he suggested it had, even if it were found that it had done so, because that would have been contrary to public policy. Is it intended by subclause (2)(c) that the effect of the Director of Public Prosecutions' granting an indemnity will be that the person will no longer be proceeded against; therefore, the DPP will statutorily be prevented from proceeding with regard to prosecution? Similarly with respect to subclause (2)(d) is it again intended that where an undertaking is given it will be statutorily enforceable? Does this Bill constitute a statement of public policy that such undertakings and agreements may be entered into and, therefore, will be capable of being enforceable?

Hon J.M. BERINSON: I do not believe that this Bill takes the position in respect of indemnities beyond the position which currently applies. The difference is that whereas the Attorney General is currently and notionally in a position to determine questions of indemnity, in future that decision will be made by the Director of Public Prosecutions. If I may go off on a tangent for a short time, my reference to the current notional power of the Attorney General in that respect is to allow me to draw attention to the fact that for some considerable time now I have declined to exercise the power of indemnity and have formally delegated that power to the Solicitor General. I believe the granting of an indemnity will have the effect that its terms imply; that is, a prosecution will not follow. I again confess I do not recollect all the details of the Connell versus NCSC issue, but to put it at its simplest I have to say that the capacity of the NCSC to grant an indemnity over matters which may or may not be within the scope of its own statutory operation is very different from the capacity of an Attorney General. The long and short of what I am trying to say is that a person securing an indemnity from the DPP would, in accordance with the current position, certainly be in a position to rely on the fact that the indemnity would be assured.

Hon PETER FOSS: I take it from what the Attorney General said earlier that no change in the substantive law is being made by these two proposed new sections. It is a procedural change in that whatever may be the substantive law, the person who will administer that law will be the DPP and not the Attorney General.

Clause put and passed.

Clauses 21 to 36 put and passed.

Schedule 1 -

Items 1 and 2 put and passed.

Item 3: Superannuation -

Hon PETER FOSS: This is an important insertion to the Bill. I have some difficulty in understanding how the superannuation entitlements will be applied. I hope this schedule will allow the Bill to be more flexible in regard to the emoluments of the appointment. It appears possible that an appointee who retires after the expiration of his five year term will receive a substantial benefit. The appointee may be in his late 40s or early 50s and receive a superannuation entitlement similar to that of a Supreme or District Court Judge, and if at the end of his period of appointment he decides that he will take the cash, that may be a substantial amount of money. Can the Attorney General indicate how he sees this part of the schedule operating and whether he has any idea about the amount of money we might be talking about?

Hon J.M. BERINSON: I have to say that almost any question about superannuation always strikes me as combining the problems of a minefield and quicksand, and the complexities of the area, apart from making me shudder quite often, lead me to express the view that one must be very cautious about going beyond the particular terminology of the Bill and the explanation that has been provided.

Hon Peter Foss is quite right; it is one of the important differences between last year's Bill and this year's that very substantial superannuation provisions have been included on this occasion and they take two full pages of explanation in the second reading speech. I believe that it is not possible to provide calculations of the possible benefits in every particular circumstance. As members will note, an effort has been made to cover virtually every possibility, and the effects of many of those will be quite clear. For example, if an appointee opts to include his period of service as Director of Public Prosecutions in his judicial service, should he go onto the Bench, then the Judges' Salaries and Pensions Act applies and one can make an actuarial calculation of what that five or 10 years of service as DPP, as the case may be, is worth in cash. That does require an actuarial calculation, though, and the same sort of considerations apply to most of the other alternatives which are offered.

However, if I understand Hon Peter Foss' question correctly he is really asking us to make some estimates as to what an appointee who did not want to enter into any of those specific arrangements might get if he opted instead for the salary established by the Salaries and Allowances Tribunal plus some payment on the completion of his service in lieu of superannuation. That, I think, is impossible to estimate, because it seems to me that not only would it involve an attempt to somehow achieve a reasonable match between the value of the lump sum and the benefits that otherwise would arise, but also it would involve the question, in respect of this possibility alone, of prior negotiation. The salary would be known but the payment on retirement in the event of none of the specific superannuation schemes being implemented is left, as I understand it, to negotiation. In those circumstances I do not believe it is possible to put a figure on it. All that can be said is that one could reasonably look to the payment in that case somehow, and roughly, providing a reasonable equivalent of the benefits that would apply in other cases. I see Hon Derrick Tomlinson smiling and he is giving me an indication that he does not find this explanation, either, as precise as those that I normally provide -

Hon Peter Foss: You really have us smiling now!

Hon J.M. BERINSON: - but the truth of the matter is that, again on my understanding of it, even the actuarial benefits that would arise between the various specific schemes would be different. I can see that you follow that, Mr Deputy Chairman (Hon D.J. Wordsworth), and that Hon Max Evans does.

Hon Max Evans: Count me out - I have a question.

Hon J.M. BERINSON: I thought Hon Max Evans was indicating his agreement by shaking his head. In any event, I really think that in practical terms that is as far as any attempt at anticipating future calculations can go.

Hon PETER FOSS: I have two questions arising from that. Firstly, perhaps we could have a qualitative rather than a quantitative analysis. Does the Attorney General see it as being a significant part of the emoluments of the appointee, and has his office considered whether it would be a significant part of the appointee's emoluments?

Hon J.M. BERINSON: The value of the judicial pension, for example, is certainly recognised as being a very important element of what one might describe as the total remuneration package. Again, however, I do not think I can attempt to quantify that.

Hon Peter Foss: I asked for a qualitative analysis. I think you have answered the question to some extent.

Hon J.M. BERINSON: But only to some extent; because while it is true that the judicial pensions scheme does add significantly to the salary itself, that is subject to members of the judiciary satisfying certain conditions which could well be more onerous than those that are met in the case of the Director of Public Prosecutions. If, for example, the DPP serves for only five years and is of a relatively young age during the term of his service, the considerations as to the value of some later superannuation or payment in lieu of superannuation would be quite different from those which apply to a judge, for example, who

must serve a minimum of 10 years, who must be aged 60 to obtain the full benefit, and who forgoes part of the benefit if he retires at an age between 55 and 60.

There are so many qualifications in this area that it is impossible until one gets to grips with an actual appointee, knows his age, knows that he does not want any of the specific schemes applied to him, and in effect knows how long he will be there and at what age he will retire. There are just too many imponderables. Of course it is a significant element, but I do not think saying "significant" takes us very far in the absence of an ability to provide an indication of how significant. Too many other factors must be taken into account.

Hon PETER FOSS: The second part of my question is this: The Attorney General spoke of negotiations with the appointee. I know the Salaries and Allowances Tribunal fixes it, but does the Attorney General see the tribunal fixing it after taking into account the views, needs and general background of things such as age at appointment in discussions with the appointee, before it goes ahead and say, "This is what we will do"?

Hon J.M. BERINSON: I do not think there is any question of that; in fact I would very much hope that the Salaries and Allowances Tribunal could provide a determination of salary while the initial process of gathering nominations is going on. I do not think it is the role of the tribunal, by any means, to try to fix a salary to a particular appointee. That is not contemplated by this Bill; it contemplates that, as in all cases, where the tribunal establishes a salary, it is a salary applying to the office irrespective of the holder of the office.

Hon MAX EVANS: Over time, would a person receive the same benefits as a judge? Would that be negotiated? Would, say, a judge receive 60 per cent of his salary over 60 years of age? A senior legal practitioner around town was talking about the possibility of becoming a judge on, say, $120 000. It did not look all that attractive, considering what he might lose. I explained the ramifications of the superannuation scheme - that is, he would put in about five per cent of his salary over time. He could be putting away $130 000 a year which would be taken out in 10 years; he would receive 70 per cent of his salary at retirement. No way, as a legal practitioner, would that person put away $130 000 a year after tax from his earnings on a practice, to receive the same return after 10 years. He would need to decide whether he would want to receive a pension for 10 years. However, that is a different matter. How would such a person come out of the situation compared with a judge or with the Auditor General? How are these matters negotiated prior to an appointment being made?

Hon J.M. BERINSON: I would love to simplify this question and provide a simple answer. The reason that the provisions in the Bill are so extensive and the reason the comments in the second reading speech were so detailed is that there is an intrinsic complexity in the area which does not lend itself to simple treatment. I have been saying that in various ways; I do not think I can go further.

Item put and passed.

Items 4 and 5 put and passed.

Item 6: Removal from office -

Hon J.N. CALDWELL: The Governor may remove the director from office for misbehaviour or incompetence. Does that direction to the Governor come from the Attorney General, or from him after consultation with the panel?

Hon J.M. BERINSON: The reference to the Governor in this clause would indicate the need for an Executive Council decision; that would be effectively on the advice of the Government. I would think in the natural order of things, given the fact that the Director of Public Prosecutions Act would normally be expected to come within the authority of the Attorney General, that the Attorney General would be the initiating Minister for any such action. It is, I would say, inconceivable that a move as serious as that would be made without advice at the highest level, and with a range of consultation appropriate to that sort of problem. Again, however, I want to separate anything I am saying from the notion which the term "panel" could connote. I indicated in the second reading speech that it is important to separate the notion of consultation in the way that I have now described it on a number of occasions from the notion of a formal panel with an authority as such to act on the appointment - and the same would certainly apply in respect of any move to terminate an office.

Hon DERRICK TOMLINSON: I refer also to the dismissal clause. There would be no difficulty in demonstrating misbehaviour necessary for the Governor to remove the Director of Public Prosecutions from office. The question of incompetence is always a vexing one where we have a professional person of considerable standing. The usual procedure is that a complaint of incompetence is judged by a jury of professional peers. Here we have a highly specialised practitioner. No doubt there are professional peers who could sit in judgment of him. However, I am concerned with the Attorney General's reference to the function of the Attorney General in initiating an action to dismiss. Where the initiation is by the Attorney General to dismiss on an allegation of incompetence it leaves open the possibility of a great deal of contentious litigation on the issue or simply contention on the issue of a political kind. Has the Attorney General addressed the matter of how one might define and demonstrate incompetence in these cases?

Hon J.M. BERINSON: This provision is in a fairly common form, and the difficulties which would arise in such a case in making a proper judgment are no different from those which arise in every other case where a provision of this sort is found. In fact, it is the peculiar rarity of action based on this sort of provision which best indicates the caution which is required in any move to implement them. Certainly, in a case of this sort, one would need to be very confident indeed that the judgment being made would attract professional respect and support. Frankly, in the unlikely event of action being taken under this section, it is more likely to occur on the initiative of the profession or the courts than from any political office. Hon Derrick Tomlinson used the term "contentious litigation" and then brought that back to "contention". The first term is probably more useful because this is not a provision which could simply be applied arbitrarily without recourse to litigation if necessary. The combination of all those factors can leave us with a reasonable degree of satisfaction that this is not the sort of clause that will apply except in the most exceptional circumstances; by that I mean circumstances which would be widely acknowledged as justifying the action.

Hon DERRICK TOMLINSON: I moved back from "contentious litigation" to "contention" quite deliberately. I would not have a great deal of concern for contentious litigation because the matter would eventually be judged in the courts; I continue to have confidence in the courts. When discussing a previous Bill, considerable concern was expressed about the possibility of the political nature of an appointment and the decision to reappoint. Where provision is provided for dismissal for incompetence, and although the Minister is quite correct in suggesting that it is something that would not be entered into lightly, it is a very convenient clause which could be used in political circumstances in deciding to reappoint. We have had similar instances, not in the question of reappointment of the DPP, but in judicial or quasi-judicial reappointments in other jurisdictions.

Hon J.M. Berinson: We are not dealing with that; we are dealing with the termination of an established appointment. That is very different.

Hon DERRICK TOMLINSON: It is not very far removed because when considering the question of non-reappointment due to incompetence, and by using that convenient clause for non-reappointment, the possibility of contention of a political kind exists.

Hon J.M. BERINSON: We are talking about two different things. I would agree that the Bill as it is presently drafted could allow a purely political decision to be made on the question of reappointment, and because reappointment, like appointment itself, is a matter at the end of the day at the discretion of the Government, nothing can be done about it. What one must look to then is the political cost of making a bad political decision, and the costs are paid in the usual way if the decision is bad. We are not looking at that here; we are looking at the question of termination of an appointment during its term and before its completion. The significant aspect is that it is possible, but only on expressed grounds, and those grounds are amenable to challenge before the courts if the circumstances are appropriate for that. One could take the problem at a lower level of employment. Members could consider the daily, or at least regular, occurrence before the Industrial Relations Commission -

Hon Derrick Tomlinson: Or the Equal Opportunity Commission.

Hon J.M. BERINSON: Yes, but I have the Industrial Relations Commission more in mind because it specifically considers questions of unfair termination of appointment and can make orders in circumstances where it is believed the termination is unfair. That is decided upon the basis of a very broad view of the employer-employee relationship. In this Bill we

have a very specific view expressed as to the grounds on which this very extreme act may be taken. It is inconceivable that a court, if asked to adjudicate on the question of termination based on incompetence, would be prepared to say that the person was a little bit incompetent as a justification for upholding a decision; the justification would have to be serious incompetence in a professional or managerial respect.

Hon MAX EVANS: I am reading a book called *Corruption and Reform* which relates to the Fitzgerald inquiry in Queensland. It says that Justice Vasta refused to go before the Royal Commission to be judged whether he was bad. Fitzgerald said that a commission of three judges should be formed. The trouble with getting rid of the judge was that he would not go before the commission. The same problem with incompetency, as applies with this legislation, could apply if a justice let off a number of people he thought should have gone to gaol. I can see the problem in getting rid of a public official, and this is evident from occurrences in Queensland in recent times.

Hon PETER FOSS: I notice that the schedule is referred to as "Schedule 1". Is this a drafting custom followed by Parliamentary Counsel in which a single schedule is called "schedule 1" as opposed to "schedule"?

The DEPUTY CHAIRMAN (Hon D.J. Wordsworth): Order! I do not believe that that is a question for the Attorney General.

Hon J.M. BERINSON: I suspect that Mr Foss has raised a drafting error, but one which has no effect I suspect. Possibly, in some earlier drafts the schedule was separated into more than one schedule, and the Bill refers to schedule 1, and to change "schedule 1" to "schedule" would involve a fair amount of complicated backtracking. I suggest that that would not be worth doing.

Hon Peter Foss: I suspect that it could be corrected by the Clerk.

Hon J.M. BERINSON: I doubt whether the Clerk has the ability to correct matters of this kind. He could amend the heading of the schedule but not the references within the clauses. I express an extra caution by indicating that it has been pointed out to me that the 1989 Bill also had a single schedule and that was headed "Schedule 1". This leads me to think that a drafting practice may operate to this effect.

Hon Peter Foss: That is why I asked the question.

Hon J.M. BERINSON: I can only say that it leads me to that thought.

Hon Peter Foss: It is now easier if one adds a second schedule at a later stage.

Hon J.M. BERINSON: That is an excellent reason and no doubt explains the whole thing, and I am glad Hon Peter Foss provided the answer to his own question in a way I was not able to do.

Item put and passed.

Item 7 put and passed.

Schedule put and passed.

Postponed clause 18: Additional and related functions -

Hon J.M. BERINSON: I have had the opportunity of taking some advice on clause 18 and there are two questions to be considered: One is the sort of thing that can be prescribed; and the other is whether that should be by order or regulation. I will deal with the first issue. There may well be a need or room for additional functions to be added to those expressed in this legislation, and the ability to add these by administrative means would add significantly to the flexibility of the office. For example, some of these matters would include the addition of names of Acts administered by other Government departments and the ability to prosecute matters under those Acts which at the moment are the function of the particular department itself. Among other matters that may be added to the DPP function are such actions in support of criminal injuries compensation and/or civil remedies analogous to stripping criminals of the benefits of their enterprise. That is the sort of addition to duties that is contemplated and which would be unexceptionable.

The remaining question is whether it should be an order or a regulation. I am relaxed about that. I accept that regulation does offer an advantage in the parliamentary sense in terms of

providing Parliament with an ability to exercise some supervision over the flexibility that is sought to be added to the office. It might be useful if we could take a few minutes to word an appropriate amendment.

Hon PETER FOSS: I suggest that all we need to do is to change the word "order" in subclause (3) to "regulation" and delete subclause (4). Once we make a regulation it is then governed by sections 41 and 42 of the Interpretation Act, and the procedures that govern it automatically are picked up.

Hon J.M. BERINSON: That suggestion sounds right, but I would prefer to have the opportunity to put it to Parliamentary Counsel. For that purpose I will move that we do now report progress and, in doing that, it is my hope that this will be accepted by the House tomorrow as the only question to be dealt with, and we will just have to cop the fact that under our ordinary procedures this will prevent the Bill's going to the other place until the second day we resume sitting. An alternative, and I ask whether this is acceptable to the Committee, is to amend clause 18 in the Legislative Assembly so as to change the provision for an order to a provision for a regulation. This will enable the Bill to go to the Legislative Assembly tomorrow to get the debate going quickly. The Legislative Assembly will have had the Bill over the period of the recess and it can meet its requirements and come back.

Hon Derrick Tomlinson: What happens to your undertaking if the advice of Parliamentary Counsel is contrary to Hon Peter Foss' suggestion?

Hon George Cash: It goes through as it is.

Hon Peter Foss: We would then be able to pass it tomorrow, or the Assembly could have it tomorrow.

Hon J.M. BERINSON: We still could not do the third reading as we would be fouled up in our aim. I will consult with the leaders of the parties - assuming we finalise the amendment tonight - with a view to considering passing both the adoption of the report and the third reading tomorrow.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon J.M. Berinson (Attorney General).

[Continued on page 1908.]

CHILDREN'S COURT OF WESTERN AUSTRALIA AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 14 May.

HON E.J. CHARLTON (Agricultural) [9.50 pm]: Hon Derrick Tomlinson's comments on this Bill covered the proposed changes in detail. Everyone knows that the basis of these changes will give extra flexibility to the President of the Children's Court and it is in everyone's interest that those changes take place.

The Bill also provides for the publication of the name and a photograph of an offender. The National Party believes that when an offender who commits a violent crime is under the age of 16, but has reached the age of 16 when he or she is brought to trial, that trial should take place in an adult court because a violent crime is a violent crime regardless of the age of the offender and discretion should be allowed for that to occur. The National Party supports totally the publication of an offender's name and photograph. The police were vigorously criticised for making public the photographs and names of offenders on previous occasions. It is time that the rights of the offender were balanced against the rights of the majority of society who want to see justice done. I am always amazed that when a person is found guilty of a crime or even when a person is apprehended at the scene of a crime all efforts are made to hide the identification of that person by throwing a coat or some other covering over the person. Why do people go to so much trouble to protect these people when vicious and sometimes totally unacceptable crimes have been committed? We seem to be paranoid about protecting the wrongdoers while paying scant regard to the people who have been affected by the crimes. We all accept one should be given the opportunity to defend oneself and is innocent until proved guilty. However, we go overboard in protecting the identity of people who knowingly and willingly become involved in crimes while the victims receive no compensation, either for loss or damage to their property or for damage to their person.

I congratulate the Government for bringing the amendment Bill to this House. The Bill does not state how long the Supreme Court can take to authorise the publication of the name of an offender. Obviously it will not be allowed to sit on that information for any great time.

Hon J.M. Berinson: I think Mr Tomlinson's reference to ex parte applications meets that point. However, I will refer to it.

Hon E.J. CHARLTON: With those comments I support the Bill.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [9.59 pm]: I support the Children's Court of Western Australia Amendment Bill (No 2). Before commencing my remarks I congratulate Hon Derrick Tomlinson for the depth of the research that he undertook to present his speech to the House. That depth of research and understanding of the Bill was indicated in the learned dissertation that he gave to this House over three nights. Members will be aware that Hon Derrick Tomlinson finished his speech on this Bill at exactly 11.00 o'clock last night and did not need a fourth day to complete it.

I support the provisions of the Bill and refer members to proposed section 36A, which will allow the naming of a juvenile offender under certain conditions. The Bill provides that -

> The Supreme Court may, after considering the public interest and the interests of the child, by order allow the publication, broadcast or disclosure of any matter prohibited by section 35(1), (3) or 36 ("prohibited matter").

People in the community have questioned whether it is wise to identify juvenile offenders. It is my view, and it is certainly the view of the many people who have rung my office to comment on the recent naming of a number of juveniles, that the community supports the publication of the identity of juvenile offenders under the circumstances outlined in the Bill. For some time the police have experienced difficulty in prosecuting a number of core juvenile offenders for crimes committed within the community. Before I continue I make the point that 99.5 per cent of juveniles are good law abiding citizens; it is the core offenders who are causing the current problems in the community. As the Opposition spokesman on police matters over the last five years I have had the opportunity to speak to the police and to learn from them the frustrations they face each day when it comes to dealing with core offenders.

I will digress a little from that part of the Bill concerned with the naming of juvenile offenders. A point that has been made to me on a number of occasions by members of the Police Force is that in the northern suburbs there are probably about 100 juvenile core offenders and, of those, probably about 30 are considered to be leaders of their various groups. Previously when the police have taken action against the leaders of these groups and they have appeared before the Children's Court those youths have not, neither in my view nor in the view of many police officers, been given sentences relevant to current community standards. That matter has been canvassed in the community for some time. I do not intend to suggest that harsher penalties or sentences are the secret to success in addressing the problem of juvenile crime in the community. It is a far deeper question than imposing a severe sentence. When dealing with juvenile offenders a prison term is the sentence of last resort. Where possible we should aim to rehabilitate offenders who appear before the Children's Court. One of the problems confronting the Chief Judge of the Children's Court, His Honour Hal Jackson, and the most recent Judge of the District Court who has responsibility in the Children's Court, His Honour Peter Blaxell, and the magistrates of that court, is that this Government is not funding sufficient diversionary programs and rehabilitation schemes that would enable the court to divert these offenders into meaningful programs that would offer them self-esteem and provide better work skills and, one would hope, provide them with better opportunities in the community. The mere fact that we are not providing sufficient funding and resources to enable those programs to be put into effect is causing those core offenders to continue to commit various offences in the community. If we were to spend our money up front in providing adequate options for the courts in respect of their sentencing and dealing generally with juvenile offenders, the community would be much better off than it is under the existing situation. The Liberal Party, as a matter of policy, is addressing the problem of juvenile crime in the community. My colleague in the Legislative Assembly, the member for Scarborough, who is the shadow Minister for Community Services, has outlined to members of the Liberal Party the various programs that should be funded to offer reasonable alternative sentencing options to the Children's Court.

A subject of much community discussion is car theft and it concerns me that this year we will see a 20 per cent increase in car thefts in Western Australia. It means that a car is stolen every 27 minutes in this State, so we are looking at 19 000 cars being stolen this year. A number of problems are presented when we consider those figures. Clearly, it is quite easy for young people to steal cars and I am generalising in the extreme by suggesting that the majority of cars stolen in Western Australia are stolen by juvenile offenders, but the statistics show that to be a fact. While it is easy for juveniles to steal cars, it is clear to me and to the police officers to whom I have spoken that juvenile offenders, especially core offenders, do not believe that the courts will impose a severe sentence on them. I have said before in this House that I have been to the Children's Court and have had the opportunity to speak to young offenders before they appear before the court. I asked them what they thought would happen to them when they appeared before the court and whether they considered they would be going home that night or would be spending time at a detention centre. Every young offender I have spoken to has assured me that he will be going home. Many of them have told me that they have worked out the system and they will cop a bond, a community service order or some other relatively light sentence, but will still be in a position to meet their mates and work out how to steal a few more cars within the next few days. The perception of young people of the sentencing of the Children's Court leaves a lot to be desired. I do not want to be critical of the Children's Court, but it seems to me that it has its hands tied because it does not have sufficient sentencing options available to it. If the Attorney General argues that the sentencing options are there, I will argue that the court is not adequately resourced and, therefore, those options are not real options for the court.

In dealing with these amendments to the Children's Court of Western Australia Act, and again having regard for the huge number of motor vehicles stolen in this State each year, I want briefly to comment on the statement the Premier made recently and her claim that the Government was getting tough on joy-riders. The Premier said she would ensure that offenders, currently charged with the offence of unauthorised use of a motor vehicle, would in future be charged with the offence of stealing a motor vehicle, a Criminal Code offence. It is an interesting situation, because police officers will say that, without question, it is easier to gain a conviction for a charge of unauthorised use of a motor vehicle than it is for the offence of stealing a motor vehicle. It is easier to gain a conviction for unauthorised use of a motor vehicle because the elements that need to be proved to the court for that offence are different from, and easier to prove than, the elements required to be proved for the offence of stealing a motor vehicle. Therefore, either Premier Lawrence does not clearly understand the difference between the two offences or she is playing with words to give some indication to the community that she knows what she is talking about. The penalties for unauthorised use of a motor vehicle and the stealing of a motor vehicle, which is an offence under the Criminal Code, are the same. Members should also recognise that the Criminal Code applies to adult offenders. The Children's Court Act provides that discretion can be used by the judge, and that juveniles are not necessarily subject to the penalties laid down in the Road Traffic Act or the Criminal Code.

That leads to another area; that is, whether the courts apply penalties for unauthorised use of motor vehicles that convince the young core offenders - those offenders who manage to steal a number of cars in one night - that the community is no longer prepared to cop that sort of treatment. I have said before that I do not think sufficient rehabilitative programs and resources are made available, but I believe the Children's Court has an obligation to make it clear to young core offenders that the community will no longer accept a situation in which 19 000 cars are stolen in this State every year. Over the past five years we have heard the Government say that the problem of the breakdown of law and order in this State has been fixed. However, the number of offences involving stolen vehicles and unauthorised use of vehicles has increased in each of the last five years. I suggest it will get a lot worse before it gets better.

The real purpose of my commenting on this Bill was to record my appreciation for the great work done by the Police Force in Western Australia in trying to maintain law and order in the community. It has done a tremendous job of trying to assist juveniles who find themselves on the wrong track. However, we must also recognise that the Police Force is entitled to support from the Children's Court. Day after day police officers take into custody young core offenders and charge them with offences. Those offenders then appear before the

Children's Court, and at times that court does not offer the justice which, firstly, the Police Force believes should be accorded and, secondly, the community believes should be accorded for some of the offences young core offenders have been committing in the community over a period.

With those comments I signify my support for the Bill, and particularly that section which will enable the identification of juvenile offenders, under very special circumstances after the Supreme Court has considered the provisions required of it, as set out in the Act.

HON J.M. BERINSON (North Metropolitan - Attorney General) [10.16 pm]: I thank the members of the Opposition who have participated in this debate for their support of the Bill. We do not often hear such long speeches as that delivered by Hon Derrick Tomlinson on a Bill which is supported by all parties and, indeed, by all participants in the debate. I do not mean by that comment to suggest that Hon Derrick Tomlinson spoke for too long; on the contrary, the contribution he made to the debate, even though most of it was not contentious, was an important contribution to an approach to an extremely frustrating problem. The problem of juvenile offending is easy to sensationalise and I regret the number of occasions on which certain sections of the media sensationalise it. That being said, however, it remains a very serious problem. It is no consolation to know that the real problem is centred on a relatively small core of juvenile offenders, if the effect of their offences is as extensive as is obvious to us all. There is a great need in these circumstances to develop a balanced and, above all, constructive approach to the problem, and to recognise the need for emphasis at all points on further possible remedial action. This is one of those prime areas where it is very easy, and therefore tempting, to describe the problem and the extent of the problem, but very difficult indeed to provide effective solutions. As has been said by innumerable people, the problem of juvenile offending is certainly not restricted to Western Australia within this country, and it is certainly not restricted to Australia. It is an international problem of huge proportions. As is also said when that is pointed out, if anyone anywhere had come up with a solution of course we would know about it by now and would have implemented it. What we must not do is adopt a policy of despair and throw our hands up saying, "We just have to wait until these juveniles grow up. They will then either mature out of their offending ways or will mature into adult offenders and we will not be talking about juvenile offenders any more." There must be a continuing active approach to all available alternatives; even if on some occasions we adopt measures on a basis of trying something out, so to speak, we must do it.

Hon Derrick Tomlinson raised an interesting concept in the early part of his speech and I hope I understood him correctly. Certainly, he led me to understand that he saw not only a tension between the public interest in security and the private interest in preserving some hope for redeeming juvenile offenders before they get too deeply into their offending conduct, but also that these two interests somehow merged and that there needed to be a recognition that it was not simply a tension or contest between the public interest in security and the private interest in the juveniles' welfare but, in fact, it was a public interest in itself to secure the private interests of the juveniles concerned. I hope I am not wrong in my understanding of that.

Hon Derrick Tomlinson: You put it beautifully.

Hon J.M. BERINSON: I thank the honourable member for indicating that I did understand him because I was about to say that if I did not understand him correctly then his comments were not as interesting as I thought they were. This is another instance where I am anxious to secure the best rate of progress possible. Members would be aware from circulated material that it will be necessary for me to move an amendment during the Committee stage.

I will respond briefly to a matter raised by Hon Eric Charlton who was concerned that the process of applying to the Supreme Court could impose such delays on the implementation of new section 36 provisions as to make them ineffective. I think I suggested by way of interjection that Hon Derrick Tomlinson had pointed the way to a safeguard in that respect with his comments on the ability to make ex parte applications in these matters. I would expect, in fact, that given the nature of the provision and the purpose at which it is directed, applications would be ex parte much more often than not. In saying that, I do not expect that there will be all that many applications, anyway. I am sure that the courts will be reserved in their approach to this matter. Nonetheless, we will be assured of a process which is both

legal and can be independently justified without putting the police into the position they have felt themselves to be in in a number of contentious cases.

I take this opportunity to point out that although this Bill does not go to the whole of the working of the new Children's Court of Western Australia Act, the new court, and in particular its president, Judge Jackson, requires and deserves the strongest support that we can offer. Members of that court have a daunting task and are performing an invaluable service in implementing the standards provided by the new Children's Court Act and, in addition, providing constructive contributions to the debate about juvenile justice and the work that is being done at many levels to improve the situation which is created by juvenile offending. I again thank all members for their support of this Bill and commend the second reading to the House.

Question put and passed.

Bill read a second time.

Committee

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

Clauses 1 to 10 put and passed.

Clause 11: Sections 19A to 19F inserted -

Hon J.M. BERINSON: I move -

Page 9, line 29 to page 10, line 15 - To delete the lines and insert -

Procedure for charges of Commonwealth indictable offences.

19E. Where a child is charged with an indictable offence against a law of the Commonwealth and the Court makes a direction under section 19B(4)(a), the Crown in the right of the Commonwealth acting by the Attorney General, the Director of Public Prosecutions, or some other appropriate official, may assume the conduct of the prosecution and shall then be taken to be the complainant.

This amendment first deletes proposed section 19E(1) and, secondly, makes proposed section 19E(2) the only provision in section 19E. Originally proposed section 19E(1) was included in the Bill because it was thought necessary, in view of section 80 of the Commonwealth Constitution, to ensure that children were not, as a result of section 19E(2), deprived of the right to trial by jury. Section 80 of the Commonwealth Constitution states -

> The trial on indictment of any offence against any law of the Commonwealth shall be by jury, and every such trial shall be held in the State where the offence was committed, and if the offence was not committed within any State the trial shall be held at such place or places as the Parliament prescribes.

The procedure in cases where a child is charged with an indictable offence under a Commonwealth law is covered by section 20C(1) of the Commonwealth Crimes Act, which provides -

> A child or young person who, in a State or Territory, is charged with or convicted of an offence against a law of the Commonwealth may be tried, punished or otherwise dealt with as if the offence were an offence against a law of the State or Territory.

Therefore, proposed section 19E(1) is superfluous and the amendment seeks to delete it. The matter has been discussed with Hon Judge Jackson, President of the Children's Court, and I have also had the advice of the Solicitor General. Because of the relatively technical nature of the question involved, I have also taken the opportunity of providing Hon Derrick Tomlinson, as Opposition spokesman on the Bill, with an advance copy of the reasons for this amendment, and I trust that has been of some assistance.

Hon DERRICK TOMLINSON: I thank the Attorney General for providing me with the information about the amendment and advise that we have no objection to it.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 12 to 14 put and passed.

Clause 15: Section 35 amended -

Hon DERRICK TOMLINSON: Proposed subsection (5) states that proceedings for a contravention "may be taken by the Attorney General or a person on his behalf". The phrase "or a person on his behalf" is repeated in proposed section 36(3) in clause 16 of the Bill. I compare that with the phrase in proposed section 19B(4)(b) on page 6 of the Bill which refers to "some other duly appointed person". Where we have a delegation of authority by a "duly appointed person" or "a person on his behalf", what is the status of the person to whom the authority is delegated, and is this a delegation of authority in a specific instance or is it a general responsibility? How is the person to whom the authority is delegated identified?

Hon J.M. BERINSON: It may be helpful to refer to the Director of Public Prosecutions Bill, and one could envisage in the context of the discussion we had earlier this evening that the DPP would be a duly appointed person for that purpose. When one speaks about action "taken by the Attorney General or a person on his behalf" we are dealing with the situation of delegated authority. The duly appointed person acts on his own authority. The person acting on behalf of the Attorney General acts on delegated authority. That delegated authority may be specific or general. For example, to repeat a position to which I referred in an earlier debate this evening, the Solicitor General has a general delegation to exercise the authority of the Attorney General in any matter where an indemnity is sought. That could just as easily have been dealt with on a case by case basis, and unless we were to proceed with the DPP Bill there would be nothing to prevent the Attorney General's revoking that previous general delegation and proceeding thereafter on a case by case basis. That is the best way I can draw the distinction between the two phrases.

Clause put and passed.

Clauses 16 to 23 put and passed.

Title put and passed.

Bill reported, with an amendment.

DIRECTOR OF PUBLIC PROSECUTIONS BILL

Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair; Hon J.M. Berinson (Attorney General) in charge of the Bill.

Postponed clause 18: Additional and related functions -

Progress was reported after the clause had been partly considered.

Hon J.M. BERINSON: I move -

> Page 8, lines 20 and 21 - To delete the words "order made by the Governor" and substitute "regulations".
>
> Page 8, lines 22 and 23 - To delete the subclause.

This matter has been discussed with Parliamentary Counsel, who agrees that the amendment in the form previously suggested by Hon Peter Foss is appropriate.

Amendments put and passed.

Postponed clause, as amended, put and passed.

Bill reported, with amendments.

Report

HON J.M. BERINSON (North Metropolitan - Attorney General) [10.42 pm]: I seek your indulgence, Mr Deputy President, to raise a matter of procedure. In the course of earlier debate I thought the House would be agreeable to adopting the report and proceeding to the third reading tomorrow. That was for the purpose of allowing the Bill to go to the Legislative Assembly as soon as possible. I have now had advice from the Clerk that for the purposes of Standing Orders it would be preferable for me to seek leave now for the report to be adopted on the basis that the moving of the third reading would be held tomorrow. I have

just had the advice but I have not had the opportunity to check it. However, I believe that the same objective is met, and I accept the advice of the Clerk that this is the preferable procedure. To test the views of the House I seek the leave of the House to move forthwith the adoption of the report.

The DEPUTY PRESIDENT (Hon J.M. Brown): I remind honourable members to look at Standing Order 244(b) so that they will understand the question I am putting. The Attorney General seeks leave of the House in the first instance for the report to be adopted.

Leave granted.

Hon J.M. BERINSON: I thank the House. I move -

That the report of the Committee be adopted.

Question put and passed.

Report adopted.

House adjourned at 10.44 pm

QUESTIONS ON NOTICE

MINISTERS OF THE CROWN - ATTORNEY GENERAL
Ministerial and Electorate Offices Employment

317. Hon GEORGE CASH to the Attorney General:

(1) What is the number of staff employed in your ministerial and electorate offices?

(2) Who are these persons?

(3) Which persons are ministerial appointees, permanent public servants, consultants and part-time employees?

(4) What other classification is applicable to employees or staff not covered in (3)?

(5) Are any of your family members employed in your ministerial office, the Public Service, or under contract to the Government, its departments or agencies?

(6) If so, will the Minister advise of such positions?

(7) How many of those positions referred to in (5) held similar positions prior to 1983?

Hon J.M. BERINSON replied:

(1)-(4)

Eight.

Mrs E. Ardon	Permanent public servant
Mr R. Jones	Permanent public servant
Mr J. Lightowlers	Permanent public servant
Mrs E. Logan	Permanent public servant
Mrs J. Munday	Permanent public servant
Mrs C. Payne	Temporary public servant
Mrs S. Sidery	Permanent public servant
Dr J. Thomson	Permanent public servant

(5) No.

(6)-(7)

Not applicable.

MINISTERS OF THE CROWN - MINISTER FOR EDUCATION
Ministerial and Electorate Offices Employment

318. Hon GEORGE CASH to the Minister for Education:

(1) What is the number of staff employed in your ministerial and electorate offices?

(2) Who are these persons?

(3) Which persons are ministerial appointees, permanent public servants, consultants and part time employees?

(4) What other classification is applicable to employees or staff not covered in (3)?

(5) Are any of your family members employed in your ministerial office, the Public Service, or under contract to the Government, its departments or agencies?

(6) If so, will the Minister advise of such positions?

(7) How many of those positions referred to in (5) held similar positions prior to 1983?

Hon KAY HALLAHAN replied:

(1) 20 - including one part time employee.

(2) Michelle Scott, Melissa Watt, Julie Holmes, Emi Barzotto, Carol Thompson, Ljiljanna Ravlich, Kristeen Simpkin, Chris Keeley, Leigh Radis, Brad Viney, Pam Edmondson, Rob van Dieren, Darren Foster, Sean Connaughton, Sharon Mitchell, Rod Quinn, Susan Schwass, Poppy Mallon, Fiona Crowe and Shirley Lambert.

(3) All are permanent public servants except for Poppy Mallon, Shirley Lambert, Susan Schwass, Chris Keeley and Darren Foster who are employed on a temporary basis. Rod Quinn and Ljiljanna Ravlich are employed under the Education Act but have been given a limited tenure contract under the Public Service Act. Fiona Crowe is a part time employee.

(4) Nil.

(5) No.

(6)-(7)
Not applicable.

MINISTERS OF THE CROWN - MINISTER FOR POLICE
Ministerial and Electorate Offices Employment

319. Hon GEORGE CASH to the Minister for Police:

(1) What is the number of staff employed in your ministerial and electorate offices?

(2) Who are these persons?

(3) Which persons are ministerial appointees, permanent public servants, consultants and part time employees?

(4) What other classification is applicable to employees or staff not covered in (3)?

(5) Are any of your family members employed in your ministerial office, the Public Service, or under contract to the Government, its departments or agencies?

(6) If so, will the Minister advise of such positions?

(7) How many of those positions referred to in (5) held similar positions prior to 1983?

Hon GRAHAM EDWARDS replied:

(1) 14.5 full time employees.

(2) I refer the member to the Leader of the Opposition in the other place who was recently supplied that information. Subsequent to the provision of that information, I have been advised by the Police Department Protective Services Unit that it was unwise to provide those names. Following their advice, it is not my intention to republish that information.

(3)

Ministerial appointees	2.5 FTEs
Permanent public servants	10.5 FTEs
Part time employees	1.5 FTEs

(4) Not applicable.

(5) Yes - employed in the permanent Public Service but not employed in my ministerial or electorate office and not in any department within my portfolio or responsibilities.

(6)-(7)
I am not prepared to provide this information as it represents an unwarranted intrusion into their private affairs.

CONNELL, MR LAURIE - JUSTICE OF THE PEACE APPOINTMENT

332. Hon DERRICK TOMLINSON to the Attorney General:

(1) What was the date of Mr Laurie Connell's application for appointment as a justice of the peace?

(2) Through which member of Parliament was the application submitted?

(3) What specific need for a justice of the peace was established in the locality where Mr Connell resided or worked?

(4) When was the confidential police report on Mr Connell's suitability for appointment completed and received?

(5) When was the Governor advised of the recommendation to appoint Mr Connell as justice of the peace?

(6) When was Mr Connell's appointment gazetted?

(7) What was the date of Mr Connell's appointment?

(8) Has Mr Connell completed or started any of the approved courses for justices of the peace?

(9) Has the Attorney General changed his view that only persons prepared to undertake both the training course and duties should be appointed and that there be a proven need either within the residential or business address of the person seeking appointment?

Hon J.M. BERINSON replied:

(1) 19 March 1984.

(2) Hon John Williams, MLC, former member for Metropolitan Province.

(3) The question assumes specific and inflexible guidelines which have never applied under this or previous Governments.

(4) 1 March 1985.

(5) 30 July 1985.

(6) 20 September 1985.

(7) Appointments are effective from the date of gazettal - see (6).

(8) Mr Connell has not completed a course, and it is not known if he has commenced one. A mandatory requirement for justices to undertake a training course was only introduced in 1989.

(9) I continue to support the guidelines in both respects, but see also answer to (3).

RAILWAYS - NON-PAYING PASSENGERS

370. Hon BARRY HOUSE to the Minister for Police representing the Minister for Transport:

(1) Is the Minister aware that large numbers of passengers using the suburban train services are travelling without paying as there is apparently no watertight system of collection of fares on the railway stations?

(2) Has Westrail conducted any surveys on numbers of non-paying passengers using the suburban train services?

(3) If so, what are the results?

(4) Is there any intention to install automatic ticket dispensers or some other more secure system to ensure payment by all passengers using the rail services?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1),(4)

The statement is not true. It is an offence to board a train without a

valid ticket. Regulation 15A of the Metropolitan Transport Trust Act applies. This requirement is widely publicised at all stations, and automatic ticket vending machines are installed on all platforms.

(2)-(3)

Inspectors on behalf of Transperth regularly carry out ticket checks. For example, for the four weeks ending 20 April the following checks were carried out -

Trains checked	418
Passengers checked	34 669
Passengers with no ticket	172
Percentage evasion (approximately)	.5%

JUVENILE OFFENDERS - DETENTION CENTRES

Freed Offenders Transport Arrangements

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

(1) What arrangements are made for a country resident who has been detained at Longmore, or other juvenile institution, to be returned to his place of residence?

(2) Is the freed offender accompanied by a community services officer to his home town/city?

(3) Are the parents or guardians advised that the freed offender will be returning and on what method of transport?

Hon KAY HALLAHAN replied:

The following answer has been supplied by the Minister for Community Services -

(1) When children are to appear in court and are likely to receive a community based sentence option Longmore remand liaison staff make tentative travel bookings either by rail, road or air. On the release from court children are escorted to the departure vehicle to ensure they are on board. If there is some time lapse between release from court and departure, then accommodation arrangements are made using departmental hostel facilities, relatives or sometimes, in the case of Aboriginal children, the Jack Davis Hostel. Such placements are based on assessment of the most favourable situation to ensure the child's return home. Release from detention centres follows similar procedures including a departure plan developed by the child's field officer.

(2) Not as a general rule - escorts ensure that juveniles meet and board the departure vehicle.

(3) Yes, Department for Community Services staff attempt to inform parents on return travel arrangements. On occasions that parents cannot be informed directly then the Department for Community Services field staff at the division receiving this child are informed and will assist receiving the child and advising parents and guardians.

STATE ENERGY COMMISSION OF WESTERN AUSTRALIA - MOTOR VEHICLES

Private Number Plates - Government Motor Vehicle Policy Committee Criteria

418. Hon GEORGE CASH to the Leader of the House representing the Minister for Fuel and Energy:

I refer to the answer given on 8 May 1991 to question on notice 308 and ask what is the criteria established by the Government's motor vehicle policy committee?

Hon J.M. BERINSON replied:

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

The criteria established by the Government's motor vehicle policy committee is that ordinary plates will be issued in the following circumstances -

(a) Replacement of existing vehicles with private plates.

(b) Vehicles allocated to participants in the executive vehicle scheme.

(c) Vehicles required for security purposes or where confidentiality is essential for the conduct of the function. SECWA does not have any vehicles used for this reason.

POWER STATIONS - COAL FIRED POWER STATION, COLLIE
Tenderers' Donations - Australian Labor Party

419. Hon MAX EVANS to the Leader of the House representing the Minister assisting the Treasurer:

Will the Minister investigate and advise whether any of the successful tenderers for the coal fired power station has made any major donations to the Australian Labor Party or any of the advertising accounts or campaign funds?

Hon J.M. BERINSON replied:

The Minister assisting the Treasurer has provided the following reply -

The contract was awarded solely on the advice of the SECWA Board on the basis of the technical and professional analysis of all tenders received.

EVIDENCE ACT - SECTION 101(2) AMENDMENT
Children's Evidence in Court

435. Hon REG DAVIES to the Leader of the House:

(1) As it is understood that Cabinet approved, on 18 June 1990, changes to the Evidence Act, section 101(2) relating to children's evidence in court, will he advise if this change has been enacted?

(2) If the answer is yes, when will this change become operative?

Hon J.M. BERINSON replied:

(1) No, pending the receipt of more comprehensive recommendations by the WA Law Reform Commission on the evidence of children and other vulnerable witnesses. These have now been received and it is proposed that the 1990 amendment will be implemented with other changes to children's evidence resulting from the Law Reform Commission's recommendations. It is hoped that the amending legislation can be introduced in the Budget session this year.

(2) Not applicable.

ABATTOIR - ALBANY
Payroll Tax - Special Arrangements

450. Hon P.H. LOCKYER to the Leader of the House representing the Treasurer:

(1) Were any special arrangements made with any company operating an abattoir in Albany in the past five years with regard to payroll tax?

(2) If so, which company and what were the special arrangements?

Hon J.M. BERINSON replied:

The Treasurer has provided the following response -

(1)-(2)

The Commissioner of State Taxation has indicated that the secrecy provisions of section 5 of the Pay-roll Tax Assessment Act would preclude the disclosure of information about a taxpayer which had been obtained in connection with the administration of the Act. The

commissioner has also assured that his department's firm policy is that arrangements with taxpayers may only be made in accordance with the provisions of the Act.

QUESTIONS WITHOUT NOTICE

THEFT - VESSELS AND MARINE EQUIPMENT
Metropolitan Waters

220. Hon GEORGE CASH to the Minister for Police:

(1) Is the Minister aware of the increased incidence of theft from vessels and marine equipment in metropolitan waters?

(2) Will he consider the incorporation of the Department of Marine and Harbours marine inspectorate branch under the umbrella of the water police to better facilitate inspectorial and policing functions in metropolitan waters and reflect the findings of the Functional Review Committee?

Hon GRAHAM EDWARDS replied:

(1)-(2)

This question requires a fairly substantial answer and I invite the member to put it on notice.

POLICE - WATER POLICE
Geraldton, Bunbury Bases - Labor Election Promises

221. Hon GEORGE CASH to the Minister for Police:

Given the 1989 Labor election promises of establishing significant water police bases at Geraldton and Bunbury, will the Minister advise what action has been taken to date to implement these electoral promises?

Hon GRAHAM EDWARDS replied:

I invite the member to put that question on notice.

CRIME - BREAK AND ENTER STATISTICS
Wanneroo Police Division - Nollamara Police Division

222. Hon GEORGE CASH to the Minister for Police:

I have given the Minister some notice of this question.

(1) How many -

(a) break and enter offences; and

(b) how many break and enter and steal offences

have been reported in the Wanneroo police division since July 1990?

(2) How many of these offences were -

(a) at private residences; and

(b) at commercial premises?

(3) How many -

(a) break and enter offences; and

(b) break and enter and steal offences

have been reported in the Wanneroo police division since 1 July 1990?

(4) How many of these offences were -

(a) at private residences; and

(b) at commercial premises?

(5) How many -

(a) break and enter offences; and

(b) break and enter steal offences

have been reported in the Nollamara police division since 1 July 1990?

(6) How many of these offences were -

(a) at private residences; and

(b) at commercial premises?

Hon GRAHAM EDWARDS replied:

(1)-(6)

I thank the member for prior notice of this question. I am sure he will appreciate that it is one that will require some research and I invite him to put it on notice - or I shall take it as being on notice.

Hon George Cash: It is on notice.

Hon GRAHAM EDWARDS: That is exactly what I said. The member will appreciate that the question will require considerable research, and, although he gave us notice, I shall require much more time before I am able to respond.

DUCK SHOOTING - QUEENSLAND
Ban Refusal

223. Hon P.G. PENDAL to the Leader of the House:

(1) Will the Leader of the House, on behalf of the House, convey to the Minister for the Environment, Mr Pearce, the news that the Goss Government in Queensland has declined to ban duck shooting in that State?

(2) Will the Leader of the House further convey to Mr Pearce the Queensland Government's decision instead to impose a species identification test on all licensed shooters?

(3) Will he also convey to Mr Pearce the fact that these measures reflect the Liberal Party's position on this matter in Western Australia - both matters opposed by his Government?

Hon J.M. BERINSON replied:

(1)-(3)

This is a most unusual approach, especially as the Minister for the Environment, Bob Pearce, is represented in this House.

Hon P.G. Pendal: I am asking the Leader of the House in his capacity as the Leader of the House.

Hon J.M. BERINSON: In my capacity as Leader of the House -

Hon P.G. Pendal: I hope you serve some useful purpose.

Hon J.M. BERINSON: - I have some responsibilities in relation to the management of the House and in relation to my own portfolios. In addition I have some responsibilities in relation to representing specific other Ministers, among whom the Minister for the Environment, Mr Pearce, is not included.

Hon P.G. Pendal: Will the Leader of the House convey to him that unpalatable information?

Hon J.M. BERINSON: I cannot imagine why this is unpalatable information. It is information.

Several members interjected.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! I have called the House to order. I will not have an interchange between the questioner and the Minister answering the question. We experienced great difficulties yesterday at this time, and points of order were taken. We want to have as many questions asked as possible, but members have to put them to Ministers. We have only a short period in which to ask questions. I do not want to delay the House, but if this type of action continues I shall ask the Leader of the House to take the appropriate action to discontinue questions.

Hon J.M. BERINSON: Just as I am not the Minister representing the Minister for the Environment in this House, neither am I the messenger boy or the post office box for Mr Pendal. He is well able to convey those matters to Mr Pearce if he is anxious for Mr Pearce to have them.

ASSOCIATION FOR THE BLIND OF WA (INC) - LIBRARY
Financial Difficulties

224. Hon P.G. PENDAL to the Minister for The Arts:

In her capacity as Minister in charge of the State Library and Information Service, is she aware of the serious financial plight of the Association for the Blind in its role of providing braille and talking book library facilities in Western Australia?

Hon KAY HALLAHAN replied:

I have met with staff and members of the board of this association in recent times. It was put to me that its library should be treated on an equivalent basis to other libraries. A submission on that basis has just been submitted and I have agreed to consider it. The situation outlined by Hon Phillip Pendal has not been put to me. Of course, we always have from Mr Pendal an attempt to put forward a crisis situation and a misrepresented position. The association's library put to me a very considered position. It was not put to me in the terms suggested by Mr Pendal.

CENSORSHIP - LAW REFORM COMMISSION DISCUSSION PAPER
State Legislation

225. Hon MURIEL PATTERSON to the Minister for The Arts:

Given that the Australian Law Reform Commission, in its discussion paper 47, has made certain recommendations to the Australian Capital Territory Parliament and it is intended that these recommendations will form the basis of censorship procedures which will see an Australia wide conformity, and since Western Australia already has its own State legislation on censorship, possession of pornographic materials and so on, what effect will this have on our State laws, and what does the Government intend to do in regard to the State's laws?

Hon KAY HALLAHAN replied:

The Law Reform Commission discussion paper has been released only recently. People are considering it currently. In time, we will need to consider its contents and what it might mean for our State laws. Last night, in this place, we passed a Bill which will give uniformity to a number of important issues; so we are moving in that direction. Concerns have been expressed about the Australian Capital Territory because it takes a different approach to censorship matters. I agree that the Law Reform Commission discussion paper is valuable. No doubt, it will assist to progress our thinking about legislative changes we may wish to make in Western Australia, and no doubt other States might make similar changes. I have not read the discussion paper, so I cannot flag for the honourable member whether any areas will be significant. However, in time that will become clear.

DRUNKENNESS - SOBERING UP CENTRES

226. Hon DERRICK TOMLINSON to the Leader of the House:

I am not sure whether the leader will answer this question in his role as the Attorney General or that of Minister for Corrective Services. The matter relates to a Bill to decriminalise drunkenness which passed the third reading in the Legislative Assembly on 7 December 1989, was assented to on 21 December 1989, and proclaimed on 27 April 1990.

How many of the proposed sobering-up centres have been established and are now operating?

Hon J.M. BERINSON replied:

I almost hesitate to say this, but the fact is that I am not the Minister for sobering-up centres either.

Hon P.G. Pendal: Are your responsible for anything?

Hon J.M. BERINSON: I would be happy if the member would put the question on notice, to ensure he receives a detailed response.

ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY - CORONIAL SUDDEN DEATH INQUIRIES
Police Responsibility Removal Recommendation

227. Hon DERRICK TOMLINSON to the Minister for Police:

In the report of the inquiry into deaths in custody in Western Australia it was observed that in 20 of the 32 cases investigated in this State, the coronial/sudden death investigation conducted by the police was found by the Royal Commission to be inadequate, in some cases seriously so.

Will the Minister recommend the adoption of the recommendations by the Royal Commission and the ad hoc committee for the review of the Coroners Act, that responsibility for coronial/sudden death investigations should be taken away from police internal investigations and given to a body of investigators under the direction and control of the Coroner?

Hon GRAHAM EDWARDS replied:

I find it interesting that the Liberal Party is suggesting that course of action should be followed.

Hon Derrick Tomlinson: It is a recommendation of the Royal Commission.

Hon GRAHAM EDWARDS: A subcommittee of the Cabinet has been established to examine all the recommendations put forward in the final report of the Royal Commission. We will respond fully to those recommendations. It is difficult, in some instances, to respond only to one recommendation without reference to others. I will make a comprehensive response to the matters for which I am responsible as soon as possible. The final report has given us all a great sense of responsibility; it also offers an opportunity to review a range of matters identified by the report. The document is a large one; it is about one foot thick. I am sure the member will appreciate how much work will be involved. We are now undertaking that work in order to make a fairly lengthy response. I appreciate the member's interest in the matter, and I am sure that he will understand the need to respond in detail.

FOOTBALL - AUSTRALIAN FOOTBALL LEAGUE FINAL
Western Australia Decision

228. Hon T.G. BUTLER to the Minister for Sport and Recreation:

Can the Minister tell the House if a decision has been made whether Western Australia will be granted the Australian Football League final this year?

Hon GRAHAM EDWARDS replied:

I thank the member for some notice of the question. I am mindful of the comments of the Leader of the Opposition yesterday, and I will attempt not to make this answer a ministerial statement. However, I must make nine points: The Chairman of the Australian Football League Commission, Mr Ross Oakley, has announced the criteria for playing final matches outside Victoria. The key points adopted by the AFL Commission are -

if a non-Victorian club finishes first, third or fifth, it will have the right to host a final, subject to complying with the match conditions;

this applies only to the first week of the finals and would involve one game;

if non-Victorian clubs finished first, third and fifth, the highest finishing club would have the right to host the game;

should the match conditions not be met by the club finishing first, then the game would be offered to the club finishing third, and so on;

if two non-Victorian clubs are drawn to meet each other in the first week of the finals, that match will take priority over a game involving a non-Victorian and a Victorian based club;

in this circumstance - two non-Victorian clubs - the club finishing higher on the ladder will have the right to host a final, subject to complying with the match conditions.

I know it is complicated -

Several members interjected.

Hon GRAHAM EDWARDS: - but I have no doubt that members will have kept pace with me, and that they will have a very clear understanding of the situation. The short answer is yes; a decision has been made. Given the fact that the Eagles team is performing very well, we have an excellent chance that the final will take place in this State, although other considerations will need to be taken into account. I will be meeting with the Australian Football Commission next week to consider these matters. It is important that we have a foot in the door, and we have an excellent chance to host the final in this State later this year.

TAFE - COLLIE TAFE
Capital Works Funding

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

I have given some notice of the question.

(1) How much capital funding has been spent on the Collie TAFE facility in each of the years 1988 to 1991 inclusive?

(2) What have been the staffing levels at the Collie TAFE facility in each of the years 1988 to 1991 inclusive?

(3) What plans has the Government for the immediate upgrading of the Collie TAFE workshops and when will the work start?

(4) Will Collie TAFE be upgraded as a matter of urgency now that the power station project will create a need for locally trained people?

Hon KAY HALLAHAN replied:

I thank the member for some notice of the question. I have been advised as follows -

(1) There has been no capital works expenditure on the Collie TAFE facility since 1988.

(2) The staffing levels have remained unchanged since 1988 and are as follows -

4.7 equivalent full time, EFT, lecturing staff;
1.5 EFT public service staff;
1 officer in charge.

(3)-(4)

The development of the Collie TAFE centre has been included as a priority in the 1991-92 Budget context. However, the provision of a workshop is only one of a number of strategies to address the training needs emanating from the power station project. The Department of TAFE has been advised to investigate training options which include alternative delivery strategies, modularised open learning, and industry involvement in joint ventures through the use of company based training facilities and existing learning materials.

ROYAL COMMISSION INTO ABORIGINAL DEATHS IN CUSTODY - WALKER, MR ROBERT

Prison Officers - Action Taken

230. Hon DERRICK TOMLINSON to the Minister for Corrective Services:

I note that the recent national report of the Royal Commission into Aboriginal Deaths in Custody states that the cause of death of Robert Walker was asphyxiation resulting from compression of the chest which he suffered during a struggle with prison officers. What action has been taken against those prison officers who, in the opinion of Commissioner Wyvill, applied brutal force upon Robert Walker causing compression of his chest and his death by asphyxiation?

Hon J.M. BERINSON replied:

No action has been taken against those officers, and the House will appreciate that the same consideration will apply in this case as applied to the answer by the Minister for Police a few minutes ago. As a short preliminary point, however, I indicate to members who have not had the opportunity to read this report in full that as well as using the terms referred to by Hon Derrick Tomlinson, the commissioner in his specific itemised findings referred, among other things, to the fact that neither the four officers concerned in restraining the prisoner nor the prison officer supervising them were conscious of the combined effect of their efforts as opposed to the effect of their own individual actions. Those findings are very significant as they would tend to indicate that any specific action of a disciplinary-type is unlikely. I do not anticipate that result, however, because that will be the subject of further consideration by the Cabinet subcommittee. As I indicated to the House on the day the report was released, this report has been the subject of specific consideration by the Crown Prosecutor because of a reference - though I stress without recommendation - by the commissioner to the term "prosecution". The House will be aware of the Crown Prosecutor's view to the contrary, but that of course does not displace the possibility of some sort of disciplinary action.

Finally, I stress that the emphasis of the commission throughout its operations and in its findings as I understand them has been to look to the future rather than to pinpoint blame. In the case that we are dealing with now the position is that a number of issues raised by the Walker report have already been addressed by relevant amendments to the standing rules governing the operation of prisons and of prison officers. If I remember correctly, some of the weaknesses in the training and management systems to which the commissioner referred had already been addressed before the Royal Commission was established. It remains the interest and the responsibility of the department to ensure that it is constantly alert to opportunities to improve its procedures, and I have no doubt that that is where the main value of this report lies.

POLICE STATIONS - OPENING INVITATIONS

Members of Parliament

231. Hon P.H. LOCKYER to the Minister for Police:

Would the Minister inform the House whether he extends the same courtesy as most of his ministerial colleagues in advising local members of Parliament when he intends visiting their electorates? If he does, is it also a normal courtesy that when a police station is being opened, as was the case in Kalgoorlie recently, all local members of Parliament are invited, and if this is the case, can he explain why my invitation was lost in the mail?

Hon GRAHAM EDWARDS replied:

I was not aware that Hon Phil Lockyer's invitation had been lost in the mail, but I take this opportunity to tell him that the opening went very well. I have never involved myself in the process of issuing invitations, but I did inquire following the matter's being raised by Hon Norman Moore.

Hon N.F. Moore: It was raised by the Minister. He accused me of not going.

Hon GRAHAM EDWARDS: I was only dirty on the fact that I thought I had recognised the member, only to find that he was not there; so I did follow the correct protocol. My understanding is that, as a matter of course, members of the Opposition are invited to such events, and Hon Phil Lockyer was recently in that position in respect of Shark Bay. I will take steps to ensure the matter is looked at. Any member of the Opposition is more than welcome to attend the opening of any of the new police stations or updated facilities that this Government has made available for the police.

BY-LAWS - GAZETTAL, 10 MAY
Aboriginal Communities Act

232. Hon E.J. CHARLTON to the Attorney General:

(1) Is the Attorney General aware that by-laws gazetted on 10 May for several Aboriginal communities include a by-law which states that it is a defence to a complaint of an offence against a by-law to show that the defendant was acting under and is excused by any custom of the community?

(2) Is this a model by-law that will in due course be applied for the benefit of other races or ethnic groups?

(3) Will other Western Australians be granted the same privilege, or is it Government policy to discriminate on the basis of race?

Hon J.M. BERINSON replied:

Will the honourable member indicate whether the by-laws he is referring to come under the Aboriginal Communities Act?

Hon E.J. Charlton: Yes, I think they do.

Hon J.M. BERINSON: The answers to the questions then, are -

(1) No, I am not aware.

(2)-(3) Not applicable.

And in answer to the fourth, unasked question, though I hate to say it yet again, I am not the Minister responsible for the Aboriginal Communities Act. I invite the honourable member, if he wishes to pursue the matter, to draw his concerns to the attention of the Minister for Aboriginal Affairs.

TAFE - NARROGIN CENTRE
Minister's Letter

233. Hon MARGARET McALEER to the Minister for Education:

I refer the Minister to my question without notice 123 seeking details of the TAFE centre at Narrogin. I ask the Minister, what is the difficulty which is preventing me from receiving the letter from her office which she offered to send me on that occasion, and which I have been seeking with some enthusiasm for some weeks?

Hon KAY HALLAHAN replied:

I do not like to hear that a member is seeking a letter with great enthusiasm and has not received it. I cannot tell the member what the obstacle is in this matter. The member has spoken to me about the matter and I have assured her that I had already written a letter to someone else and that the quickest way to reply to the member's query was to send her a copy of that letter. It seems there is a clerical glitch in the system. I will attend to the matter as quickly as possible.