

Legislative Council

Tuesday, 11 September 1990

THE DEPUTY PRESIDENT (Hon J.M. Brown) took the Chair at 3.30 pm, and read prayers.

GUARDIANSHIP AND ADMINISTRATION BILL

Assent

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

CLERK OF THE LEGISLATIVE COUNCIL - MARQUET, MR LAURIE

Subpoena

THE DEPUTY PRESIDENT (Hon J.M. Brown): Honourable members, I have received the following letter from the Clerk of the Legislative Council -

Dear Mr Deputy President

I was served with a subpoena (copy attached) on Friday, September 7 1990, to appear as a witness for the plaintiff, the Honorable Clive Griffiths MLC, at the trial of his action against West Australian Newspapers Ltd for defamation.

The plaintiff's solicitors inform me that I am being called as an expert witness and that my testimony will be restricted to my professional opinion of certain aspects of parliamentary custom and usage.

I therefore seek leave of the House to appear in answer to the subpoena.

Yours sincerely

L B Marquet

Clerk of the Legislative Council

September 11 1990

On motion without notice by Hon J.M. Berinson (Leader of the House), resolved -

That leave be granted to the Clerk of the Council to answer the subpoena and give evidence accordingly.

URGENCY MOTION - "DAILY NEWS"

Trade Practices Commission Decision

THE DEPUTY PRESIDENT (Hon J.M. Brown): I have received the following letter -

Hon. James Brown MLC
Deputy President,
Legislative Council Chambers,
Perth 6000

Dear Mr Deputy President,

I give notice that at today's sitting of the House I shall move an Urgency Motion that the House at its rising adjourn till Saturday, September 22, 1990, at 11 a.m. for the purpose of discussing the Trade Practices decision in relation to the future of the Daily News.

Yours faithfully,

Phillip Pandal

September 11, 1990.

To be accepted for debate, this matter requires the approval of at least four members.

[At least four members rose in their places.]

HON P.G. PENDAL (South Metropolitan) [3.37 pm]: I move without notice -

That the House at its rising adjourn till Saturday, 22 September 1990, at 11.00 am for the purpose of discussing the Trade Practices decision in relation to the future of the *Daily News*.

I thank members for agreeing to hear me on a matter in accordance with Standing Order No 63, which provides for debates to take place on matters of public urgency. The matter I raise is hopefully one where the Opposition will receive support from all parts of the House. It is a matter which demands a level of bipartisanship which is not often apparent in our debates.

It is probably true to say that most members of Parliament, in the course of their careers, would claim to have been unfairly treated by the media, therefore it is perhaps something of a novelty for a motion to be moved in the Parliament which seeks to come to the aid of a particular section of the media which sees itself as being under siege. I put it to members that the Trade Practices Commission's decision of last night has certainly put this city's afternoon newspaper in a position of extreme concern, if not of being under siege, to those people who wish to see that newspaper survive.

This morning's edition of *The West Australian* stated that the Trade Practices Commission had finally handed down its decision on the matter of the ultimate ownership of the *Daily News*. The article stated -

The future of the *Daily News* is in jeopardy after the Trade Practices Commission's refusal to allow WA Newspapers to buy the debt-ridden afternoon newspaper.

The article goes on to state in the third paragraph -

In handing down the decision last night, the commission acknowledged denying WAN the right to buy the paper would result in the "probable immediate closure" of the newspaper.

I cannot think of any other decision by a Government body, be it quasi-judicial or otherwise, which takes on more serious tones than the decision of the Trade Practices Commission. The fact that the commission has sought to prevent the purchase of the *Daily News* by West Australian Newspapers Ltd it is not something that I pretend is the result of recklessness on the part of the commission; nor do I intend to portray the issues that are at stake as being simple issues that can easily be resolved by parliamentary debate. However, the decision handed down by the commission last night provides the very serious prospect that we will be faced with the probable closure of the only other metropolitan daily newspaper. The time has come for the Federal Government and State Governments to intervene in order to have this decision reviewed and, if necessary, to introduce urgent legislation to relieve the pressure on the *Daily News* so it does not have to close down.

I have before me a brief summary of the history, role and structure of the Trade Practices Commission. In these circumstances one is entitled to ask what the Trade Practices Commission is doing when it makes a decision like the one it made last night. I remind members that the Trade Practices Commission was established by a Federal Statute some 15 years ago and a number of very clearly defined objectives were issued. One of those objectives is relevant to the motion, which is -

to prevent anticompetitive conduct, thereby encouraging competition and efficiency in business, and resulting in a choice for consumers in price, quality and service;

From those words I extract the burden of my remarks. According to the official document before me the Trade Practices Commission exists to prevent anti-competitive conduct, yet I argue that its decision last night will have the opposite result. The Trade Practices Act provides that the commission shall take action that will ensure or result in a choice for consumers in a variety of things, including service. The provision of an afternoon daily newspaper would fall within that category. The Trade Practices Act is not being well served by the decision that was made by the commission. No-one can convince me that the commission has taken an action that will prevent anti-competitive conduct; no-one can convince me that the Trade Practices Commission has taken an action to encourage competition in the newspaper industry; and no-one can convince me that the Trade Practices Commission has made a decision that will result in a choice for consumers who are seeking a service.

Another distinct objective of the Act stated in the same document relates to the objectives of the commission itself and is relevant to my argument. It states -

The Commission administers the Act in line with its four objectives:

The second objective is important when it states -

to foster competition, fair trading and protection for consumers by taking initiatives to overcome market problems;

A market problem exists: The *Daily News* is ready to go to the wall for want of a suitable buyer. One of the stated objectives of the Trade Practices Commission is to administer the Act to foster competition. However, last night it took a decision that will, I submit, have the opposite effect.

What are the implications of that decision for Western Australians? The most obvious implication is that it will bring about the death of the only competitor to *The West Australian*. What would occur if the *Daily News* were to move into the same stable as *The West Australian*? I put it to members and the wider community that it is far better for the *Daily News* to be owned by *The West Australian*, even though that would concentrate the media power in the hands of a few. That to me is a preferable and better option than the alternative.

Hon E.J. Charlton: Its death.

Hon P.G. PENDAL: As Hon Eric Charlton has said, it really amounts to nothing less than the death of the *Daily News*. It does not overstate the position to say that if a country behind the iron curtain - or what was the iron curtain until a few months ago - were confronted with the position in which the Government of the day decided to close down a newspaper it would be said that that is what one would expect in a totalitarian society. That is what one would expect from a Government in a land, province or state that lacks any essential belief in a free Press and a multiplicity of owners. However, that is precisely what has happened in this society. A Government body has said that the *Daily News* may not be purchased by WA Newspapers and, by its own admission in *The West Australian* this morning, that as a result of that decision the paper will probably be subject to immediate closure.

Many elements could be canvassed in a debate like this, but I have given an undertaking that I will be brief in my remarks. A not insignificant matter touched on was that of the livelihood of 200 people who are employed by the *Daily News*; however, that problem is not only faced by those people, but will also become a wider problem when such unemployment has to be absorbed at such a rate with one business closing down. This point was highlighted this morning when I came by an urgent transmission sent to the Leader of the Opposition by Mr Mike MacAulay, who is the Managing Director of Aeroparts, a company of aviation consultants. I urge members of the House to understand the immediate effect which our society confronts quite apart from the loss of 200 jobs for 200 families. The document is dated 11 September, is signed by Mr MacAulay and is directed to the Leader of the Opposition, Mr MacKinnon; and it states - as I have done in my argument - as follows -

If the *Daily News* is forced to close because of the Trade Practices Commissions decision to once again prevent The West Australian Newspapers Ltd from taking them over, in excess of 200 Western Australians will lose their jobs, in the midst of the worst economic climate we have been faced with for many years.

It then goes on to say - I have not told the House this as yet - the following -

For my part I will be faced with a ruined business, an \$80 000.00 aircraft lease, a \$20 000.00 bank overdraft, some creditors, and will be forced to retrench my full time pilot.

The pilot referred to provides the air service to deliver the *Daily News* from Perth to Kalgoorlie.

Hon George Cash: That is one example.

Hon P.G. PENDAL: Yes, and the likely effect of the Trade Practices Commission's decision will involve many others.

Hon Murray Montgomery: What about other country towns?

Hon P.G. PENDAL: Indeed. Country members will be quicker to appreciate that than city

members like myself. The implications go far beyond the 200 people at the *Daily News*. One of the arguments which has been overlooked by many people in the commercial and Government sectors over the past couple of years, when referring to what amounts to a lot of nonsense about the over-concentration of media in a few hands, is the fact that the *Daily News* was once part of *The West Australian* - this was not all that long ago. The advantages of that should be apparent to all members. For example, if two newspapers are owned by one company, the newspapers will share common printing facilities; a single news bureau, as did *The West Australian* and the *Daily News* in the past; a common library service; a common car pool, which runs to many dozens of vehicles; and a single dining facility for the staff. So, a multitude of advantages exist for newspapers which are attached to the same stable. That point should have been apparent to the Trade Practices Commission, given the gravity of the matter with which it had to grapple over the last few days. I imagine that most members of this Chamber, and certainly Labor Party members who have had to confront the rather agonising question of privatisation in recent days, recognise that we have arrived at the age of deregulation. However, here is a classic case in which one major business, in the form of a newspaper, will cause at least one small business, and probably many others, to go into liquidation as a result of regulations applied in the Federal sphere. However, this could also happen with regulations applied from this Parliament. This is a serious matter for the whole of society. This is not just a matter for journalists, and it is not something for politicians to be relieved about in that they may have received a beating from this media or that media from time to time - as we all do - as at stake is the serious philosophical question of whether society should allow that sort of decision to stand. If it does it would be a tragedy in a free society.

I realise that the Trade Practices Commission was not confronted with the easiest of options, yet - and I say this with the utmost respect for the members of the commission - it exercised the worst possible option. Bad enough that it is for any Government decision to send a business to the wall, but it is unbelievable in a society like ours that we should be prepared to abide by a decision of a Government agency, a parliamentary agency, which has the effect of getting rid of a major afternoon newspaper, of which there are few enough in Australia. It is the job of the Trade Practices Commission to guard against monopolies; it is not its job to create them. We would be doing ourselves a service to join in a bipartisan, political way to express that view. We could then fax that view to the commission as expressed in this motion.

For the benefit particularly of the Press, under Standing Orders I must withdraw this motion once the debate is exhausted. However, that withdrawal will not - and never does - signify that it is a matter that this House does not think highly of. This is simply a procedure designed to allow a matter of urgency to come before the Parliament quickly and without too much red tape. I invite members to join with the Opposition to call on the Trade Practices Commission to think again and to consider the implications of the decision it made yesterday. If the commission has information to which we are not privy, it has certainly kept it close to its chest. Even the commission has acknowledged that it does not hold out much hope of some better solution than the one that now seems to be inevitable.

Hon Fred McKenzie: Was there not a report that Heytesbury Holdings was interested in buying and operating the newspaper? Was that not an option?

Hon P.G. PENDAL: If the *Daily News* is kept alive by Heytesbury Holdings, after Mr Holmes a Court's death, I for one would be delighted. If raising this issue in this place hastens that position, we would be doing society a favour. However, my job is not to argue the merits of the *Daily News* going to *The West Australian*.

Hon Fred McKenzie: Fair enough.

Hon P.G. PENDAL: The Government's job is to argue the case for the newspaper not to be put to death, and that is what should concern all of us. Whether the offer by the late Robert Holmes a Court is adequate is not for me or the House to decide. In fact, one does not need to know too much about newspapers to realise that an offer of a quarter of a million dollars for the masthead of a major newspaper is laughable. However, Robert Holmes a Court was an astute businessman and it was obviously a starting point. Even though that may still be an option, of all the options that we should never accept should be the option of the death of a major afternoon newspaper and I ask members not to support that.

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [4.02 pm]: The sad fact is that the last edition of the *Daily News* was printed this afternoon. I understand the board of the newspaper met at two o'clock this afternoon and moved to appoint a provisional liquidator. A very sad historic event is in progress and we may never again see a second daily operating in our State.

Running a newspaper is extraordinarily difficult and expensive. Many people want to establish a newspaper or publication for one reason or another. However, the reality is they are difficult to maintain. Today a decision has been made to remove our afternoon paper from the streets and to remove from Western Australians another source of up-to-date news and information. I agree with the Opposition spokesperson on this motion that that is a very serious and sad matter.

Hon P.G. Pandal: Your information is later than mine. I am appalled to learn that has occurred.

Hon KAY HALLAHAN: A Press release by the board of Daily News Pty Ltd has been issued. Because this event is so significant, I think it should be read into *Hansard*. It reads as follows -

The T.P.C. yesterday evening denied the application for authorisation by West Australian Newspapers Limited of their proposed acquisition of Daily News Pty. Ltd., publisher of Perth's evening newspaper.

At a meeting convened to consider the T.P.C. decision, the Board was of the view that the Company could no longer pay its debts as and when they fell due. As a consequence the Board had no alternative but to apply for the appointment of a provisional liquidator.

That application has this afternoon been granted.

The Board registers its extreme disappointment at the T.P.C. determination which has precipitated this action.

In its conclusion to the 41 page document denying authorisation, the T.P.C. makes the observation "that it seems to the Commission that many of the public benefits claimed by the applicant would generally be available if some alternative purchaser were to acquire the Daily News". This, in spite of the fact that the Commission is fully aware that despite the widespread media attention as to the availability of the Daily News, only one offer was received and that was rejected for several reasons not least of which was the Board's inability to satisfy several of the conditions to that offer.

And then, the observation that if the application were allowed it "would make competitive entry for a new metropolitan daily paper difficult by virtue of the barriers created" when elsewhere in the document it notes that the one interested applicant had indicated "its intention to enter the newspaper market irrespective of the outcome of this application".

That the efforts of many dedicated staff, past and present, and the availability of an evening newspaper for Perth be terminated on such contradictions, however well intentioned, is a matter for shame.

That spells the death knell of a long established publication in our community. Like Hon Phillip Pandal there have been times when one has not agreed with its editorial policy. However, larger than that is the necessity for a variety of news outlets in a democratic society. While I go along with considerations that try to avoid monopolies, the fact is that the Trades Practices Commission, by its actions, has created a monopoly. I fear that will be the case for many years to come.

One hundred and fifty staff members and 30 or 40 casual staff members are involved. I also understand that about 40 people at West Australian Printing Division will be affected also by this decision. They were to be notified about the termination of their jobs this afternoon. Tonight there will be a great deal of uncertainty in many unhappy households in the metropolitan area - I believe none of them work or live in country areas - with the exception of some contractors.

The TPC is an independent agency. It has great strengths. We hear in this House many accusations of ministerial intervention. There is no doubt that this is one case in which we would like to see intervention by the Federal Minister. The Acting Premier has been in touch with the Federal Minister and it has been made quite clear to him that that Minister is not able to intervene in the judgments of this body and the decision is not open to ministerial direction.

Hon P.G. Pental: I understand they could lodge an appeal with the Trade Practices Tribunal. If that is correct, it is incumbent on them to do that.

Hon KAY HALLAHAN: Every avenue will be explored. Certainly the State Government is examining its ability to make a significant submission. If there are ways to intervene in the process, the State Government will intervene.

Hon Garry Kelly: Who lodges the appeal?

Hon P.G. Pental: I don't know.

Hon KAY HALLAHAN: When publications such as this pass, it is an inordinate job to encourage somebody back into the industry. Because of that and because we are seeing the end of the *Daily News* - there is no doubt about that because I have been told that staff members will be given notice of the termination of their jobs this afternoon - I will also read a statement released this afternoon by the Bell Group Managing Director and Chief Executive of West Australian Newspapers, David Aspinall. As *Hansard* is an historic record, it will be useful to read that statement because it will indicate to people in the future how we lost our afternoon newspaper which we had managed to keep for all this time even though other cities had lost theirs. The Press release states -

The Trade Practices Commission's decision to force the closure of The Daily News and destroy two hundred newspaper jobs in Perth is disappointing but not surprising.

The TPC in the past has shown itself to be largely unconcerned for the welfare of newspaper workers and their families.

The most charitable interpretation that can be put on the activities of the TPC over the past few years is that it has no understanding of the newspaper industry.

The activities of the TPC have been directly responsible for the closure of the Brisbane Telegraph newspaper in 1988 and now for the closure of The Daily News.

There can be no doubt that the TPC's decision in March, 1987 to force the separation of The Daily News from W A Newspapers and its sale to United Media led directly to the financial demise of The Daily News.

On its own admission, the TPC in 1987 "considered United Media would offer effective competition to the Bell Group through its operation of The Daily News Pty Ltd coupled with United Media's management, shareholding and board control of Community Newspapers."

This has proved to be a serious mis-calculation by the TPC. Undeterred, the TPC has now tried to force Community Newspapers to sell The Daily News masthead to Heytesbury Holdings which has put forward a proposal to close the newspaper and launch a new product in six to twelve months.

That proposal has been touted by the TPC as a firm offer to buy The Daily News. It skates over the fact that the Heytesbury proposal includes conditions which the directors of Community Newspapers are quite clearly unable to meet.

Despite Heytesbury's clear expression of its intention to close The Daily News, the TPC has apparently also given weight to a Heytesbury statement that it would maintain The Daily News as an afternoon newspaper at least until 1992.

It has apparently accepted Heytesbury's signalled intention to enter the Perth newspaper market, irrespective of the commission's decision.

The price paid by The Daily News' workers demands that Heytesbury now carry through that intention.

The closure of The Daily News will be a disaster, not only for the people who have lost their jobs, but for the whole of Western Australia which is already suffering a serious economic decline.

Some of the groups who made submissions opposing West Australian Newspapers' application for authorisation to buy *The Daily News* clearly did not understand the realities of the situation.

Others, such as the Australian Journalists' Association, tried to use the situation for their own political agendas and clearly must now shoulder some of the blame for the loss of jobs by their members.

West Australian Newspapers has spent time, money and effort to try to save those jobs.

That its endeavours have been frustrated is a sad reflection on the regulatory system in Australia today.

One can only wonder about the information on which the Trade Practices Commission made its decision. That information seems to indicate contradictory judgments, but we are not in a position to make a judgment about that in this House today and one would not want to reflect on a regulatory body which does its work well. It is a sad situation that our State is to be deprived of a second daily paper and an afternoon newspaper when doing so will actually create a monopoly that can operate from tomorrow morning. That seems to be contrary to what we expect from a determination by that body.

The Government supports a bipartisan approach to this matter and it is good to be in accordance with Opposition members on it. From statements made this appears to be a matter which has been determined and which gives little hope that we will see the *Daily News* continue to be published. I think the reality is that the edition before the House today is the last one we will see. From the Government's point of view, this is a regrettable day.

HON E.J. CHARLTON (Agricultural) [4.13 pm]: A great deal more cannot be said in voicing concern about what is taking place. I concur with what has been said and add that we have heard over the past few days statements that Perth is the fastest growing city in Australia, yet today an accepted part of the life of Perth and Western Australia for a long time, the *Daily News*, appears to have been dealt its final blow. How does this sit with the expectations of our society?

We supposedly have better communication services and improved all round communications relevant to today's society, yet if one goes down the list one does not stop at the *Daily News* as many other accepted ways of life have been terminated. I am not preaching doom and gloom as it is a fact of life. I said in relation to a couple of issues last week that we have not seen anything yet and will see a lot more of these sorts of happenings. It is impossible for this paper and many other businesses to continue to operate as they are no longer viable. That is why they are closing - not because they have problems with their mechanisms, demand for product or services, or because of a lack of quality, but because of their basic economic inability to perform.

We all know that the *Daily News* has had a turbulent period over recent times and its ownership has changed on a regular basis. However, as has been stated previously, for it to disappear from the scene simply because there is no possibility of a viable alternate owner or because it cannot come under the umbrella of the other printed daily news media is regrettable. The end result will be that the people of Western Australia will have fewer communication services.

We have seen what has happened in the television area because of the economic situation of communication services. We are seeing our television communications under severe review in relation to their future.

Hon Garry Kelly: That is wrong.

Hon E.J. CHARLTON: That is not wrong. Members on the other side continue to give me a pain in the neck because of their inability to understand. I am talking about economic conditions, which are relative and are a significant part of the reasons for what is happening. I am not blaming the Government in particular for the demise of the *Daily News*. I am talking about the economic viability of a whole host of business operations of which this is one.

A number of business operations are being scrutinised in relation to their future and whether they will remain under present ownership. I am not opposed to change and applaud it

because it is inevitable and is a part of life. Nothing stays the same. However, the reason for some of the changes taking place at this time is the inability of efficient organisations to operate. That is what we should concern ourselves with.

This is not a political witch-hunt. The fact is that the viable operation of this paper and other organisations - in communications or whatever - faces severe circumstances and many will not survive. We are referring in this motion to another of the end products of what is taking place. I am not speaking doom and gloom, but when one debates these sorts of issues confronting Western Australia - as will be shown by the State Budget when it is brought down - one must realise that there will be severe cutbacks in services because of a lack of money. It is now a matter of how this society, this Parliament and this Government decide those priorities will operate.

I support the comments made by both Hon Phillip Pendal and the Minister, and I voice the National Party's dismay at the decision made. I do not know when this newspaper will reappear; we will have to wait and see if something will rekindle the idea of an afternoon newspaper in this State. After being told that Perth is such a fast growing city, and hearing about all the supposedly good things which are taking place, it is a shock to see the reductions we have had in certain areas. In the very near future we will be talking about many other areas in our society which have also been curtailed.

When something happens to a newspaper, the situation becomes very public. Many other businesses have also died in the last few weeks, and many more will suffer in the future, but when something as public as an afternoon newspaper is concerned, obviously the whole State knows about it. The National Party supports the sentiments expressed and hopes that a little common sense will prevail to safeguard not only the wellbeing of the people but that of the State as a whole. This newspaper has performed a service for the State of Western Australia.

HON GARRY KELLY (South Metropolitan) [4.21 pm]: I support the sentiments already expressed about the closure of the *Daily News*. I do not think anyone would contend that it is one of the great newspapers of the world - it is no *Guardian* or *Christian Science Monitor* - but it has occupied an important niche in this State since its first publication. More important than the newspaper itself is the impact its closure will have on the people who work there and their families. As a result of the decision of the Trade Practices Commission, this newspaper has been forced to close, and that is to be regretted. Perhaps with a little lateral thinking a different decision could have been made.

We are arguing in many ways from a position of ignorance. I have not read the report of the commission, but we are often confronted in this Chamber with issues to which responses have to be made in advance of being fully informed on all aspects of the issues. As I understand the interim decision brought down last year, the commission contemplated allowing *The West Australian* to take over the *Daily News* on the proviso that the *Daily News* divested itself of its suburban titles. I have not seen the final report of the commission, but I would have thought that decision was an eminently sensible one. The history of evening newspapers in Australia is that no stand-alone evening newspapers are published in this country; they cannot survive. The economics are not there, so they operate in partnership with a morning daily. Had the commission's interim decision remained, with the suburban titles going to another owner, the suburban titles could have remained a viable publishing enterprise. In many ways the suburban throwaways are read more widely and have a bigger impact in an advertising sense than the metropolitan dailies. That has been the growth area of newspaper publication in the last 10 to 15 years. If *The West Australian* had brought the *Daily News* under its umbrella, the *Daily News* could have continued to publish.

To give a personal observation, before the *Daily News* was sent out on its own - once again as a result of a Trades Practices Commission decision - I thought, having looked at a few evening newspapers around the country, that the *Daily News* was one of the better evening newspapers during the period when it was part of West Australian Newspapers Ltd.

Hon P.G. Pendal: Hear, hear; it had very fine people working for it.

Hon Mark Nevill: That is generous.

Hon GARRY KELLY: There is an exception to prove every rule! To be fair, the quality of the journalism and some of the stories deteriorated, not since Mr Pendal left but since it has tried to fend for itself.

I am sorry to see the *Daily News* forced to close. It would have been most sensible for everyone had the Trades Practices Commission reinstated its interim decision because it would not have affected the suburban newspapers adversely, and it would have given the *Daily News* employees continuity of employment.

Referring to appeals, I am no lawyer; I would probably speak for another five hours if I were.

Hon Fred McKenzie: Mr Foss will be able to help you out.

Hon GARRY KELLY: Hon Phillip Pendal referred to appeal provisions. The application was made by *The West Australian*, so that is the only body which can appeal against the decision; either *The West Australian* or the *Daily News*. I do not know if a third party can; I suspect not. West Australian Newspapers may not think the game worth the candle; it may not bother to lodge an appeal. I am not sure if the *Daily News* would want to lodge an appeal either.

Mention was made of Heytesbury Holdings offering \$250 000 for the masthead of the *Daily News*. I do not know what else was involved, but I am told that the valuation put on the masthead by the *Daily News* in the Trade Practices Commission documents was precisely that figure. Perhaps Mr Holmes a Court knew something, or the Heytesbury board knew something. Perhaps an offer was being made which the *Daily News* could not refuse because it was its own valuation. Be that as it may, that offer was refused and the *Daily News* now has to close. That is to be regretted. I hope that the Trade Practices Commission, having been confronted with the fruits of its labours, so to speak, might find a way to reconsider its decision.

HON MAX EVANS (North Metropolitan) [4.28 pm]: I hope all members realise that the *Daily News* they received today is now a collector's item; they should not put it in the wastepaper basket. If they have, they should take it out again because it should be kept as a memento for their children. The first edition of the *Daily News* was published on 26 July 1882.

I have a particular interest in the *Daily News*, having worked in the city for most of my life. I started off delivering the *Daily News* about 50 years ago around the streets of West Perth. I had my own round. I lost my job because restrictions were brought in that one had to be 12 years of age and have a licence to sell the *Daily News*. As I was under 12 I was no longer able to sell the newspaper so I lost my job. Not many boys go around the suburbs now, as they did in my day.

Imagine the impact the closure of this evening newspaper will have on the city community! Those who buy the *Daily News* are the lunch time readers, those who travel home by bus or train, and there are a few home deliveries. Lunchtime readers will suffer stress and strain because they will not be able to relax over the newspaper. That will have a great impact on the mental health of the people of Perth. People want to read about the football or other sports and about what is happening in the State. Travellers on buses or trains enjoy the trip reading the *Daily News*.

[Resolved, that the motion be continued.]

Hon MAX EVANS: I repeat, travellers will suffer stress and strain without the *Daily News*. Local shops will experience a drop in trade because people call into the local shop to buy the *Daily News* and perhaps other goods. Without the *Daily News* those trips to the local shops may no longer occur.

The *Daily News* has not been closed down through lack of buyers - as happens with other businesses which become uneconomic to run. Two buyers will compete for the *Daily News*. As mentioned by Hon Garry Kelly, a valuation would have been placed on the plant and machinery and the amount of \$250 000 mentioned would represent goodwill. A suggestion has been made that the Holmes a Court family would take up the name of the newspaper and in six to 12 months' time start up another daily newspaper. That is all very well, but much can happen during that time. Since the death of Mr Robert Holmes a Court, the family might think twice about starting up another newspaper.

We have heard much conjecture about whether someone will move to create another daily newspaper within the next six to 12 months, but we should do all we can to save the *Daily News* today. Hon Garry Kelly talked about a better *Daily News* years ago. I understand that

the rule of thumb was that any good stories in the *Daily News* did not receive any coverage in *The West Australian* the next day. Perhaps that covered professional jealousies between journalists, or if one wanted a story to go into *The West Australian* one would not give it to the *Daily News* and the story would not be jeopardised the following day. I have received the nod from up the top so that must be correct.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order!

Hon MAX EVANS: The bill posters for the *Daily News* have always been very interesting. They were a quick barometer on such matters as football results, the lotteries, or the results of the Melbourne Cup. That will go and it will be a great loss to the City of Perth.

I have carried out some research in the Parliamentary Library and discovered the following -

The first edition of the *Daily News* hit the streets on July 26, 1882.

In those early days it proudly announced it was "the only newspaper in WA with a circulation upwards of 2000 per day".

And further on -

In 1990, 108 years on, 19 editors have steered the paper through vastly changing times - and some very trying times.

Started by the Stirling family, the *Daily News* was leased to a group of businessmen in 1902, taken over by Arthur Lovekin in 1916, sold to Keith Murdoch's News Ltd of Adelaide in 1926, and taken over by WA Newspapers in 1935 . . .

I will always remember the *Daily News* office at 81 St George's Terrace later occupied by Qantas and now Jackson McDonald, halfway between Howard Street and Sherwood Court. I remember Perth Newspapers Ltd offices in the building run as a separate operation from *The West Australian*.

Hon P.G. Pandal: It was 77 St George's Terrace.

Hon MAX EVANS: I stand corrected. Subsequently the *Daily News* merged with WA Newspapers at a time when more plant and machinery was involved and it was more economic to run the two papers at different times of the day. That is done in many countries. In Perth we must not forget that processing today is done by *The West Australian*. In fairness that is probably why WA Newspapers wants to retain its interest. The loss of processing will have a large impact of the profits of *The West Australian* if the throughput on the machinery is lost.

To return to my research -

In the past four years, the *Daily News* has been in the hands of five controllers - including Canberra.

Its fortunes and misfortunes have largely been directed by the Trade Practices Commission and the Foreign Investment Review Board.

In 1986, the paper hit turbulence when Rupert Murdoch won control of giant Melbourne publishing house Herald and Weekly Times Ltd.

He sold its western arm, WA Newspapers, to the late Robert Holmes a Court.

Mr Holmes a Court, already controlling The Western Mail and Channel Seven, was compelled by the TPC to sell the *Daily News* in March, 1987.

They are different circumstances from those of today. One man owned *The Western Mail*, WA Newspapers and Channel 7; that is, four major arms. Today we are talking about the fact that *The West Australian* owns one and a half organisations; that is, half of the *Daily News* is included. This is a different situation from that which existed when the organisation was told to divest itself of certain arms in 1987. I believe that it would be in order for the one organisation to own the whole lot.

My research continues -

The *Daily News* went to United Media, one of accountant Graham Hardie's Temples group of companies and the paper was merged with Community Newspapers, publisher of most of Perth's suburban papers.

The following year, with the *Daily News* in serious financial trouble, the Foreign Investment Review Board scuttled plans to sell a 42.5 per cent stake to Malaysian United Investments for \$4.3 million.

"Contrary to the national interest," ruled its boss, Treasurer Paul Keating.

This triggered United Media's sale of 50.1 per cent of Community Newspapers two months later, September 1988, to Brian Coppin, a Perth businessman with a background in insurance, Kimberley cattle stations, Broome real estate, minerals, hotels, motor retailing and the nationwide Vox Ltd appliance chain.

Bell Group owns the other 49.9 per cent of Community Newspapers and was prepared to buy the rest when Mr Coppin wanted to sell after continued big losses by the *Daily News*.

But the TPC vetoed that move on July 5.

That is an interesting point, because at that time *The West Australian* owned 49.9 per cent. However, the Trade Practices Commission calls for independence. I can imagine that a person with a 49.9 per cent share who controls all the machinery to print the newspaper, and is a member of the board, can do and say or get exactly what he wants. It would be the same situation if that person owned 100 per cent. I would prefer to see WA Newspapers own 100 per cent of those organisations than continue wondering whether a new daily newspaper will be set up in six to 12 months under the Holmes a Court flag or some other flag. If this does not occur, continuity will be lost; the habit that people have of buying a newspaper during the lunch hour or on the way home will be lost. In that case, I can guarantee that the circulation - which is not so large presently - will be broken. In future people will think long and hard before setting up another daily newspaper.

The Holmes a Court family owns several country newspapers and that family is probably hoping to use the same printing presses if the *Daily News* is taken over. That may or may not work out for the Holmes a Court; we will have to wait and see.

We should thank Hon P.G. Pender for bringing this issue to our notice, and Hon Kay Hallahan for keeping us up to date with recent events. Today we have a collector's item on our hands in the last copy of the *Daily News*. In a week's time even it will be very hard to unscramble this egg. The people laid off tonight will have nothing to do on Monday; they will have no stories to write tomorrow or the next day; no newspapers will be delivered and many truckies will be out of business. These events will have a significant impact on the community.

It has all been done for the wrong reasons. *The West Australian* owned 49 per cent of the whole printing operation. Also, it is unlikely that *The West Australian* would exercise editorial control because it would not be in its interests to do so; it would maintain an independent stance. From 1935 until 1986 *The West Australian* owned the *Daily News*, yet in that time I did not hear any complaint as independence was maintained by having different editorial staff. After some 50 years of operating in this manner some bureaucratic board in Canberra stated that the *Daily News* should not be owned by *The West Australian*.

Perhaps the decision made last night by the commission is technically correct, but the commission has lost all commonsense. It should come to Western Australia and look at the situation because we do not have any alternative newspapers. Apart from *The West Australian* and *The Sunday Times*, we have the throwaway suburban newspapers, but we read them only because they relate to our particular areas. The *Daily News* has had a big impact on sport and on people who are interested in sport. The commission has misread the book. Maybe it has a game plan or a strategy by which Mr Holmes a Court's company can pick up the newspaper cheaply; maybe this applied to some other company - we do not know. Everything should be done to protect the *Daily News*, and the Trade Practices Commission requires an amendment to its regulations to allow it to do that. If it did so it would only turn back the clock to 1986 when *The West Australian* owned the *Daily News*. Why not go back? This would be far better than the unknown which we face.

HON MARK NEVILL (Mining and Pastoral) [4.42 pm]: I was not here at the start of this debate, but when I was returning to the House I heard on the radio that the *Daily News* had closed and had issued redundancy notices. It is a great disappointment to hear that. For many years in the late 1950s I sold newspapers on the Customs House corner in Fremantle,

and one of my regular customers every night was Hon Des Dans. I learnt a lot from selling newspapers in that area.

The *Daily News* changed hands a number of times in the last five years. I am not aware of its particular financial situation, but with the reign of paper shufflers over the past ten years, as with many public companies and many mines in my area, the change of hands has no doubt resulted in refinancing. This has resulted in many good businesses being saddled to the eyeballs with debt. I do not know the situation at the *Daily News*, but I am aware that a number of good mines which should be profitable are in trouble as they are saddled with a ridiculous amount of debt. The pressure from that kind of debt is placed on the people on the ground level as the workers, printers, journalists or miners must lift productivity to service the debt. I hope that the debt level at the *Daily News* is not higher than it should be.

I had some dealings with the Trade Practices Commission in relation to an interim authorisation for newsagents in Western Australia. I went to a lot of trouble to present a submission and I gave evidence to the commission, and I was surprised to discover many QCs before the commission. I did not realise that all the publishing companies had an interest in interim authorisations. The chairman at that time was Mr Justice Robert French, who did a very capable job, yet he seemed to be hamstrung by the Act. He said that some of my suggestions were excellent, but he indicated that with an interim authorisation the Trade Practices Commission had to accept or reject the option in total; it could not amend the interim authorisation to incorporate what were regarded as good ideas. I do not know a great deal about the Trade Practices Act, but it would appear that it is incredibly inflexible, and the *Daily News* case is another example of its inflexibility.

The situation is quite ludicrous as the Trade Practices Commission originally split the *Daily News* and *The West Australian* because a monopoly existed in Western Australia, and monopolies are essentially what the Trade Practices Act is concerned with. The commission split the newspapers, suggesting that two newspapers could survive on their own. This has proved to be incorrect. As Hon Garry Kelly said, most, if not all, afternoon newspapers in this country usually have a morning daily in their stables. The Trade Practices Commission obviously made a mistake earlier with its first decision to split ownership, and by sticking to its present line it is compounding its initial wrong decision. It did not know the situation at the time but it does know now. It is incomprehensible that Professor Robert Baxt has continued to deny *The West Australian* an opportunity to take over the *Daily News* and it would be in order for the Trade Practices Commission to acknowledge that its original decision to split ownership was a mistake.

The *Daily News* is part of our history and culture and we should not let it go so easily. I have many fond memories of the *Daily News*. I remember looking at the Rigby cartoon and searching for the urchin and his dog in every issue before looking at such trivialities as the headlines. I am not sure whether the decision made today is irrevocable, but I hope that it is not and that the Trade Practices Commission will reconsider allowing *The West Australian* to purchase the *Daily News*.

HON P.G. PENDAL (South Metropolitan) [4.47 pm]: I thank members for joining in what was intended to be, and has resulted in, a bipartisan expression of concern. When the debate began I was dealing with the possibility, even the probability, of the *Daily News* closing, and in the meantime I have learnt from the Minister that the *Daily News* has come to an end. Therefore, I will now be a little less charitable towards the Trade Practices Commission than I sought to be when I began the debate.

When we reach a point in our society where a major media outlet can be put to death as a result of a decision of a Government body, the time has come when we no longer need that body. Given that the Trade Practices Commission had as one of its objectives - as I indicated earlier - to stimulate competition and competitive outlets, as evidenced in reading some of the sections of its Act, it can be suggested that the commission has exceeded its powers. That in itself calls for some more urgent action on the part of the Federal authorities than we have suggested so far.

Hon Tom Stephens: It has caused a monopoly.

Hon P.G. PENDAL: Indeed it has; I made that point in my opening remarks and on a few media outlets this morning. As Hon Tom Stephens indicated, in its bid to prevent a

monopoly the commission has created one. If that is not some form of monumental incompetence, I do not know what is! When the *Daily News* and *The West Australian* were in the same stable, there was always huge competition between the editorial staffs of both newspapers. While it was true that they were owned by the same proprietor, never a day passed without journalists competing openly as though they were owned by entirely different proprietors. There was never any risk that, with a return of the *Daily News* to the West's fold, there would have been an absence of competition between the two organisations.

The reverberations from this matter will be felt for many months. It will speed up the process of deregulation and give it the legs which it might otherwise never have had. I have never heard anyone speak in favour of the decision that has led to the closure of the *Daily News*. That leads me to believe that, in the long term, some good may come out of the decision, albeit too late to save the afternoon newspaper that has given over 108 years' service to this State and to this city.

I am obliged under Standing Order No 165 to withdraw my motion. However, for the record and for the benefit of those people listening to the debate, that is the device by which we are able to bring matters of urgency to the Parliament. It is incumbent on the Minister and her Government to make swift representations to their Federal counterparts to see whether the decision by the Trade Practices Commission can be reversed or appealed against so that the *Daily News* reappears on our streets.

Hon Max Evans said that once a newspaper dies people's buying habits adjust. Therefore, there is not a moment to lose. I thank members for their expressions of support and, in accordance with Standing Order No 165, I seek leave to withdraw my motion.

Motion, by leave, withdrawn.

EXPLOSIVES AND DANGEROUS GOODS AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [4.53 pm]: I move -

That the Bill be now read a second time.

The principal Act which this Bill proposes to amend relates to safety matters concerning explosives and dangerous goods. Key elements of the proposed amendments include the addition of a definition of "pipeline" to support the licensing requirement and control of pipelines carrying dangerous goods. Delineation of responsibility for the storage of dangerous goods to ensure that the apportionment of blame in respect to a breach of storage requirements is directed towards those persons prescribed as being responsible. Provisions for the licensing of premises used to store dangerous goods are being strengthened to provide for the examination of safety features in the design stage of new plant and buildings.

New provisions proposed will enable the Minister in emergency situations to give such directions as are necessary to minimise danger to persons, property or the environment. Protection from liability is also to be provided for persons who in good faith render assistance in an emergency or accident involving explosives or dangerous goods.

The administrative procedures associated with the authorisation and classification of explosives and dangerous goods are to be simplified by providing for ministerial approval, rather than the Governor through Executive Council. They involve also a redefinition of the title of "Chief Inspector", so that it is consistent with Public Service appointments and acting arrangements. The adoption of codes of practice is also to be simplified as is the prosecution of offenders by allowing evidence to be presented by affidavit in some circumstances.

In section 7 of the Act the definition of the term "Chief Inspector" is to be amended so that the effect given to the administration of the explosives and dangerous goods division and for the appointment of officers generally is more in accordance with the preferred procedure of the Public Service Commission.

Section 9 of the Act is amended to allow the appointment of persons, including the chief inspector, under the Public Service Act 1978 rather than by reference to Executive Council.

The definition of "pipeline" is to be included in section 7 of the Act so that effect may be given to the additional provisions of proposed section 46D - pipelines incorporating subsections (1), (2), (3), (4) and (5). Petroleum products, flammable liquids and gases are controlled by legislation administered by the State Energy Commission and the Department of Mines. In addition to this, extensive pipeline systems are being constructed for other dangerous goods such as corrosives, LP gas, ammonia and chlorides.

Since 1969, the pipeline conveyance of flammable liquids and oils has been controlled under the Flammable Liquids Regulations 1967, by authority of the Act the subject of this Bill. Advice from the Crown Law Department following a recent review of the regulations is to the effect that the regulations relating to pipeline licensing may be ultra vires. These amendments give force to the provisions of the regulations and allow for the issue of licences for the control of pipelines conveying dangerous goods in addition to those controls already prescribed for flammable liquids.

The amendments will not affect those pipelines already covered by existing legislation. The proposed amendment to section 63 of the Act specifies those pipelines which are covered by existing legislation.

The authorisation of explosives is a constant and ongoing function brought about by the industry's development of new and more efficient products. The need to define the composition, quality and character of explosives and to identify those explosives which may be freely manufactured, imported, transported, stored, sold or used in Western Australia is an important element in the control of such substances.

Authorisation is currently carried out by the Governor through Order in Council. This is an area of technical matters and it is believed that submissions to Executive Council are unnecessarily consuming council's time.

The proposed amendments to sections 14(1) to (5) delete the reference to the Governor and replace it with the Minister. This will have the effect of allowing the responsible Minister to authorise explosives and will reduce unnecessary Executive Council involvement. The proposals are not considered to be detrimental to public safety and are consistent with current trends in other States.

Section 42 of the Act deals with dangerous goods in a manner similar to that for the authorisation of explosives. The proposed amendments to section 42 deal with the unnecessary involvement of the Governor through the Executive Council in the declaration and classification of dangerous goods. As this too is an area of technical application of the administration of the Act, the proposed amendments allow the responsible Minister to publish an Order in the *Government Gazette* in relation to such matters. This streamlining of administrative technical matters will have no detrimental effect on public safety.

The proposed amendment to section 43 removes the apportionment of blame in regard to the storage of dangerous goods from those persons who in reality have no direct involvement with the alleged offence. It is intended that the responsibility in respect of a breach of storage requirements will be prescribed according to the duties and actions of the parties involved.

The current provisions of section 45 relate to the issuing of licences and the imposing of conditions subsequent to the issue of any licence. The proposed amendments to section 45 take into account the steps in design and construction of larger chemical process plants where it is essential that a total hazard control plan be developed during the design, construction and commissioning phase prior to the actual storage of dangerous goods.

In order to authorise such requirements prior to the issue of a licence to store dangerous goods, proposed sections 45, 45A, 45B and 45C put in place a procedure to be followed, before the storage of dangerous goods is commenced, and make provision for the preparation and implementation of appropriate hazard control plans and training to be given to occupants and employees in respect of such plans.

Section 51 is amended to give legal requirement to comply with a lawful order given under section 45C.

Currently, sections 48(3), 56(2) and 62(2)(r) of the Act provide for penalties not exceeding \$2 000 or, if the offence is a continuing offence, not exceeding \$200 for each day during which the offence continues. With the increasing concern expressed for public safety in matters concerning dangerous goods, it is considered that the current penalty provisions of the Act are inadequate. The proposed amendments to these sections will increase penalties for breaches of the Act to a sum not exceeding \$50 000 for each offence or a sum not exceeding \$5 000 per day if the offence is a continuing one.

Currently, section 62(2)(t) of the Act provides authority for such regulations as are deemed necessary to protect persons and property from destruction or damage resulting from an explosion. Not all dangerous goods endanger public safety by "explosion" - the failure of a tank of highly toxic liquid or gas need not necessarily be deemed to be an explosion, nor is public safety ensured by regulations which are reactive rather than proactive. The proposal to add a new section, 54A, will rectify this by -

- allowing the Minister in emergency situations involving explosives and dangerous goods to give such directions as are necessary to minimise danger to persons, property or the environment;

- providing the Minister authority to specify terms and conditions under which a direction to control hazards may be given;

- limiting the period of such emergency to 14 days;

- allowing costs incurred to be recovered from any person causing the emergency situation;

- allowing a direction purported to be signed by the Minister to be submitted in legal proceedings as evidence of that direction; and

- by introducing a penalty of \$50 000 or six months' imprisonment or both for failure to comply with a direction given by the Minister in such emergency situations.

The Act does not provide for the protection of persons who in good faith render assistance at the scene of an accident involving explosives or dangerous goods and who could incur legal liability should any unforeseen consequences arise. The proposed insertion of a new section, 55A, addresses this deficiency by ensuring that a person who in good faith and without any fee or reward assists in an emergency involving explosives or dangerous goods is not liable in any legal proceedings for any reasonable act by him or her. The exemption does not apply to a person whose act was wholly or partly the cause of the incident involving explosives and dangerous goods. The exemption also applies to any State department or instrumentality notwithstanding that payment may be due in connection with the services rendered by that State department or instrumentality.

There is no provision in the Act to allow a written declaration on oath to be presented as evidence. The result is that the time of the court is excessively consumed and the inspectorate assisting in the administration of the Act spends time in court, which otherwise could be spent ensuring that safety requirements were being maintained. The proposed amendments by the addition of section 61A and 61B address this deficiency and provide -

- In section 61A, that a summons served on a defendant may be accompanied by copies of affidavits of evidence and also by a notice of advice to the defendant of the procedure to be followed should he wish to appear or not to appear in court.

- In section 61B, that particulars of alleged prior convictions may accompany any summons issued under affidavit evidence. The document detailing these particulars shall be endorsed to advise the defendant of the consequences should he be convicted of the offence alleged in the complaint. It shall also be accompanied by details of the procedures relating to the submission of evidence of alleged prior convictions so as to give adequate protection to the defendant in the submission of those details to the court.

Section 62(4) of the Act authorises the Minister to approve codes of practice and standards which may then be prescribed by regulations as the manner in which things shall be done. It is not clear in section 62(4) the extent to which such codes or standards approved by the Minister may be adopted by the regulations. The proposal to amend section 62 by adding three subsections, (4a), (4b) and (4c), will clarify and provide a more effective use of codes or standards or requirements referred to in codes so adopted by allowing -

In subsection (4a), that the regulations may adopt a code, standard or requirements of a code -

in full or in part;

as amended by the regulations;

as amended from time to time;

in order that any matter or thing in the adopted code shall conform with the requirements specified in the adopted code as amended from time to time; and

may contain such transitional provisions as are considered necessary or convenient.

In subsection (4b), that copies of every code, standard or requirement specified in the adopted code shall be freely available for public inspection and that such copies may be made available for sale from the office of the Chief Inspector.

In subsection (4c), that in legal proceedings a copy of any code, standard or requirement referred to in a code so adopted by the regulations and certified by the Chief Inspector (or an inspector so authorised) to be a true copy of that code, shall be evidence of the code, standard or requirement referred to in the adopted code.

Section 62(5) of the Act currently authorises the Chief Inspector to allow exemptions from the provisions of the regulations. Recent advice on the operation of the Act and its regulations indicates that the existing section 62(5) prevents the notification of exemptions within the text of any regulations. It is desirable that ongoing and general exemptions be brought to the public's attention by publishing them as a provision of the regulations. The proposed amendment clarifies the position in relation to this anomaly while still permitting the Chief Inspector to grant specific exemption where circumstances dictate their necessity. I commend the Bill to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

[Questions without notice taken.]

IRON ORE (MOUNT NEWMAN) AGREEMENT AMENDMENT BILL

Second Reading

Debate resumed from 23 August.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [5.38 pm]: This Bill seeks to achieve two principal objectives: First, the Bill seeks to change the royalty provisions of the principal agreement; second, it seeks to provide an opportunity for Mt Newman Mining Co Pty Ltd to rationalise its mining operation by extending its lease into an additional area. In fact, the Bill amends the principal agreement between the State and Mt Newman and joint venture participants of which the following are recorded in the Bill: Pilbara Iron Limited, BHP Minerals Limited, Mitsui-c. Itoh Iron Pty Ltd and CI Minerals Australia Pty Ltd. Members will be aware that the Bill ratifies an agreement dated 12 July 1990. The Bill is similar to the Iron Ore (Hamersley Range) Agreement Amendment Bill 1990 which passed through this Parliament some months ago. The royalty rate structure will be similar to that in the Hamersley Range agreement. When I say that the Bills are similar, this Bill proposes a gradual phasing out of existing royalty concessions for locally used iron ore. This will take place over an 18 month period which will be deemed to have commenced on 1 July 1989 and will result in all iron ore producers being paid on the same basis for royalties on iron ore. The Bill tidies up some existing anomalies in respect of royalties and the Opposition is pleased to support these moves.

The Bill also allows for changes in the location of lease areas currently held by Mt Newman Iron Ore Company Limited, but will not change the total area held by that company. The total area of the lease will not exceed 300 square miles, which was originally agreed upon in the principal agreement. The Bill provides that the general rationalisation will leave Mt Newman well placed to capitalise on the bullish future which is facing the iron ore market at the present time. The change will see Western Australia, through its iron ore mining companies, in a position to take advantage of future demands from the steel

industries throughout the world. All members would support this aspect of the Bill. I hope the development potential created by these changes will result in some new operations opening up in the iron ore province of Western Australia. The Opposition is keen to ensure major developments in the iron ore towns of the Pilbara. Perhaps they will be of the magnitude of Mt Whaleback or Paraburdoo. Given the current employment situation in Western Australia it is important that we engender confidence within the iron ore industry but, more than that, create the situation where new iron ore mines can be opened.

It is clear that development in the iron ore industry can be maintained and it is of immeasurable importance to Western Australia to see that the iron ore industry is able to make giant leaps into the economic future. The Opposition supported the Iron Ore (Hamersley Range) Agreement Amendment Bill and it is comfortable in supporting this Bill and the specific amendments to the agreement Acts. I stress that as an Opposition that is keen to see significant increased economic development in this State our members believe that the iron ore industry is in a position to offer tremendous employment opportunities in the future. I support the Bill.

HON J.M. BERINSON (North Metropolitan - Minister for Resources) [5.44 pm]: I thank the Leader of the Opposition for his support of this measure. Of course he is quite right in stressing the importance of the iron ore industry in general. Perhaps it is true to say that its position is of even greater significance in view of the difficulties faced in a number of other areas which underpin the Western Australian economy. Fortunately we are in the position with iron ore, unlike for example a number of agricultural products and other mineral resources, that the market remains firm and the demand for iron ore remains very high. I believe that we would all share the view that the further expansion of the iron ore industry would be welcome. The contribution which it has been making over many years, and continues to make, is widely acknowledged and to the extent that we can assist in further development, it is in the interests of us all to do so.

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 (Minister for Resources), and transmitted to the Assembly.

PROROGATION OF PARLIAMENT BILL

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [5.50 pm]: I move -

That the Bill be now read a second time.

I advise the House that Hon Norman Moore will be responsible for the carriage of this legislation on behalf of the Liberal Party. Members will be aware of the keen interest Hon Norman Moore has taken in the drafting of this legislation, which addresses the need for a procedural mechanism to modify the effect of prorogation on the business of the Parliament. This Bill is identical to a Bill introduced by Hon Norman Moore in this House on 25 October 1989. On that occasion the Bill passed through this Chamber with the support of the Government. Unfortunately, time did not permit its consideration by the Legislative Assembly prior to the end of the session and the Bill therefore lapsed. I wish to lend strong support to the arguments Hon Norman Moore made for this Bill in 1989, and again seek the support of both sides of the House to have the Bill pass both the Legislative Council and the Legislative Assembly this session.

The Bill represents a genuine attempt to overcome a problem which has confronted our Parliament in recent years. Traditionally in Western Australia Parliament is prorogued each year and reopened by the Governor each year. The Constitution Act has been interpreted to

require this course of action. Section 4 of the Constitution states that there shall be a session of the Legislative Council and the Legislative Assembly once at least in every year. Consequently, in Western Australia Parliament has its work interrupted every year by prorogation. As members will be aware, prorogation clears the decks by terminating all business before the two Houses at the time of prorogation. This means that any Bills or motions on the Notice Paper cease to exist unless restored by resolution at the next session. Committees which exist at prorogation cease to exist after prorogation.

A brief glance at the dates of prorogation over the years indicates that on most occasions prorogation has occurred relatively close to the next opening of the Parliament. This has probably occurred because Governments have sought to give themselves a degree of flexibility by allowing for Parliament to be called together quickly without the need for a formal opening. For a variety of reasons the present Government has, on occasions, prorogued Parliament immediately after it has finished meeting. In fact, in 1985 prorogation occurred in November while the Legislative Council was still sitting. Obviously, the Governor, on the advice of the Government, has the power to decide on the date of prorogation, and I do not wish to argue about that. However, this Bill seeks to modify the effect of prorogation on the business of the Parliament.

Quite clearly the use of committees by the Parliament is increasing dramatically. There are now three new Standing Committees in the Legislative Council, together with other committees that have been operating for some years. The report of the Legislative Council Select Committee looking into a committee system for the upper House recommended that the Council's work would be enhanced by the development of a committee system. If we are to continue to go down this path and develop a committee system similar to that which exists in the Senate, it is essential to deal with the problem that prorogation raises. The Senate works on the basis that each three year parliamentary term is a session of Parliament, and there is no requirement for prorogation every year. This has the effect of allowing its committees to function continuously between dissolutions.

The Bill before the House, however, does not give each House carte blanche; each must consciously decide by resolution each year what business on the Notice Paper and which committees will survive prorogation. It is envisaged that at the end of each session each House would debate a motion to decide which business would carry on until the next session. It would not apply when the Legislative Assembly was dissolved for an election. Obviously the Bill is oriented towards committee business because most of the ongoing business will be conducted in committees. As a member of the Standing Committee on Government Agencies, Hon Norman Moore has often said in this House that he believes there is a very great need for such legislation. In fact, it can be argued that the period of time between sessions is probably the best time for committee work, particularly if in-depth inquiries are being undertaken or the committee needs to travel. The demands of parliamentary sittings would not interfere with committee work during this time.

The Bill applies parliamentary privilege to proceedings on business carried forward. This means, for example, that witnesses giving evidence and members making comments in committee deliberations will be covered by privilege. To put matters beyond any doubt, it contains an express validation clause covering Acts resulting from Bills dealt with in two or more sessions. Additionally, and out of sheer caution, clause 5 of the Bill makes it clear that the legislation confers powers in excess of those that might otherwise be taken under section 36 of the Constitution Act. There is no doubt that Parliament can legislate inconsistently with section 36. That Parliament is doing so by enacting this Bill is stated in the Bill itself.

There are possibly other ways of dealing with this problem. For example, we could adopt the Senate system by having a four year session without the need for prorogation every year. However, unless section 4 of the Constitution were interpreted to cater for this, the Constitution Act would have to be amended by referendum. Further, this remedy would mean there would be only one Address-in-Reply debate every four years and, clearly, this would disadvantage private members. I suggest that the proposals put forward in this Bill will adequately and effectively overcome the problems created by prorogation, and will allow parliamentary committees to pursue their tasks without their activities being terminated at prorogation every year. Should the Government proceed to prorogue Parliament in December this year, all the Select Committees and Standing Committees which are currently

operating will cease to exist in December. Such a situation is unacceptable in this day and age of increasing parliamentary scrutiny of a wide range of issues facing the community - issues which are of equal concern to the Government and the Opposition.

I trust that members will support the Bill in a bipartisan way so that the work of the Parliament can be enhanced and promoted. In commending the Bill to the House I record my appreciation for the work done by Hon Norman Moore with respect to this legislation.

Debate adjourned, on motion by Hon Tom Stephens.

Sitting suspended from 5.58 to 7.30 pm

ROAD TRAFFIC AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 21 August.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [7.30 pm]: This Bill seeks to amend the Road Traffic Act in three ways: First, to create a new drink driving offence of 0.05 per cent blood alcohol level; second, to extend the current probationary driving period from one year to three years; and, third, to remove an anomaly currently contained in section 64A of the Act relating to 0.02 per cent blood alcohol offences.

Members will be aware that the Road Traffic Act has a three tiered structure in respect of drink driving offences. For the information of the House and, more importantly, for the record, I will relate to members the current situation so that we will understand the context of this debate and the context in which the Opposition will be moving amendments to this Bill. The first tier of drink driving offences is contained in section 63 of the Road Traffic Act and is generally related to 0.15 per cent blood alcohol offences. Section 63 says -

- (1) A person who drives or attempts to drive a motor vehicle while under the influence of alcohol, drugs, or alcohol and drugs to such an extent as to be incapable of having proper control of the vehicle commits an offence, and the offender may be arrested without warrant.
- (2) A person convicted of an offence against this section is liable -
 - (a) for a first offence, to a fine of not less than \$500 or more than \$1 200; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months;
 - (b) for a second offence, to a fine of not less than \$1 000 or more than \$1 800 or to imprisonment for 6 months; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 2 years; and
 - (c) for a third or subsequent offence, to a fine of not less than \$1 200 or more than \$2 500 or to imprisonment for 18 months; and, in any event, the court convicting that person shall order that he be permanently disqualified from holding or obtaining a driver's licence.

The other provisions of section 63 also relate to the 0.15 per cent blood alcohol level offence, but I will leave members to read the Act in respect of those other provisions. Section 64 of the Act provides the second tier of the three tiered structure, which is generally related to the offence of driving a vehicle when a person has a blood alcohol level in excess of 0.08 per cent. Section 64 of the Act says -

- (1) A person who drives or attempts to drive a motor vehicle while the percentage of alcohol in his blood equals or exceeds 0.08 per centum, commits an offence.
- (2) A person convicted of an offence against this section is liable -
 - (a) for a first offence, to a fine of not less than \$300 or more than \$800; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 3 months;

- (b) for any subsequent offence, to a fine of not less than \$600 or more than \$1 200; and, in any event, the court convicting that person shall order that he be disqualified from holding or obtaining a driver's licence for a period of not less than 6 months.

Section 64A provides the third tier of the three tiered structure, and relates generally to the offence of a probationary driver driving a vehicle when he has a blood alcohol level in excess of 0.02 per cent. The section reads -

A person who, being the holder of a driver's licence issued on probation, drives or attempts to drive a motor vehicle while the percentage of alcohol in his blood equals or exceeds 0.02 per centum commits an offence.

The penalty is not less than \$100 or more than \$300. Members will be aware that a probationary driver who is convicted of that offence will also automatically lose his driver's licence for a period of three months.

I wanted to relate to members those three specific offences so that they will understand where the Government's proposal fits into the current legislation, because the Government is in fact proposing that the current three tiered structure in respect of blood alcohol offences be increased to four tiers by the provision of a 0.05 per cent blood alcohol level offence, and that the penalty for that offence be the fine outlined in the Bill, and also the loss of six demerit points. It is important for members to consider the arguments that were put forward by the Minister for Police in his second reading speech because I have to say that a close reading of the speech indicates that it is peppered with what I would term very emotional statements, some of which are fairly vague and general in their outline. The second reading speech fails to provide the appropriate empirical and statistical data that one would expect to find when a Government is trying to convince the Parliament that there should be a significant change to the Road Traffic Act as it relates to drink driving offences.

It could perhaps be said that the lack of empirical and other statistical data indicates a lack of commitment by the Government to the proposal before the House. On the other hand, a more generous view may be that the academic experts who have considered the arguments support the 0.05 proposition, and that those who are generally opposed to the proposition cannot agree among themselves about the statistical level of change that occurs in respect of increases in blood alcohol levels in people, and in particular in those who are driving vehicles.

It is a question that has been open to a tremendous amount of discussion. Members will be very aware, from the correspondence sent to them by various parties, that academics and other learned people, particularly those who specialise in statistical analysis, seem to be unable to agree on many of the important points that relate to the 0.05 blood alcohol level.

Hon Graham Edwards: That is not denied. We recognise that but, setting aside that disagreement, the overwhelming attitude is that the move to a 0.05 blood alcohol level is something that would be of benefit to road users. That is the overwhelming view I have come to.

Hon GEORGE CASH: I appreciate the fact that the Minister may have come to that view. The point I was making was that even those academics who have specialised in the statistical analysis do not seem to be able to agree on the evidence put forward from time to time for each side of the argument. The Minister has made it clear that he has formed a view. He will appreciate that I have also formed a view and that we do not necessarily agree on all matters when it comes to the 0.05 blood alcohol legislation.

Hon Graham Edwards: But there may be some matters that we will agree on, and I can assure you that the Government will do its utmost to find those areas.

Hon GEORGE CASH: In making my comments on the conflict, particularly among academic circles, about statistical evidence gathered on the 0.05 proposal put forward by the Government, I do not criticise the Minister or the Government for either accepting or rejecting the advice tendered by various parties. Considerable conflict exists within the community about the value of some of the statistical work and analysis of various data. That has lent some confusion to the debate about whether the Government's proposal to institute the 0.05 blood alcohol level for the whole driving community has value. Others on the Opposition side, and indeed on the Government side - where, it would be fair to say, there is

probably not unanimity of purpose about the value of the current proposal - would agree that the proposition before the House represents a case of the Government's using a sledgehammer to crack a nut. Many responsible members of Parliament recognise that legislation should be implemented to ensure that the blood alcohol level of certain groups in the community is restricted when individuals of those groups are driving vehicles. However, we should not penalise everyone in the community because certain groups have been subject to a comparatively high proportion of road deaths and road injuries. In taking a sledgehammer to crack a nut, the Government has gone overboard. In my view, it has not correctly analysed the data and statistics which are available; but, more than that, it has failed to target younger drivers, who are more at risk of suffering alcohol related road accidents than are older drivers.

Members will be aware that I have on the Notice Paper a number of amendments to this Bill and, in general terms, the Opposition's proposition is that recognition should be paid to that age group - namely, the 16 to 20 year old group - which has clearly been shown to be the group at risk in the community when drinking and driving. Members will also be aware that in Western Australia, in most cases, one must be 17 years of age before obtaining a driver's licence and that the current Road Traffic Act provides that, during the first year of holding a driver's licence, one holds a probationary licence. The Opposition has recognised that in its amendments. Therefore, an amendment I will move in due course, but at this time wish to give notice of to the House for the purpose of the second reading debate, will allow us to recognise that those drivers aged 20 years or less should be in the group that is subject to the 0.05 legislation, notwithstanding the fact that probationary drivers will continue to be subject to a 0.02 blood alcohol level when driving.

Hon Garry Kelly: You don't think the probationary period should be extended?

Hon GEORGE CASH: I will address that point in a moment. Members should understand that the Opposition's stance has been accepted in the community as a very responsible stance. There is no doubt that the phone calls and correspondence received by a number of members of the Opposition, since it became public that it intended to move amendments along the lines I have outlined, indicate that the community is prepared to accept the need to target that age group. It is more than clear, certainly to members of the Opposition, and I believe to a number of members of the Government, that to impose 0.05 blood alcohol level legislation on the entire driving community is unnecessary. Apart from the comment I made earlier about taking a sledgehammer to crack a nut, one could argue that about 97 per cent of the responsible driving community would be penalised because of the three per cent who act in an irresponsible manner from time to time.

It is important to recognise that the community can see the merit of the amendment that the Opposition will move later. For the sake of the record, the statistics giving the age of persons killed on Western Australian roads for the 12 months between July 1989 and June 1990 are as follows: For the period July 1989 to December 1989, of the age group 17 to 20 years, 25 persons were killed, which represents 18.5 per cent of the total number of 135 people killed during that time. For the period January 1990 to June 1990, of 103 persons killed, 18 of those were in the 17 to 20 year age group, which represents 17.75 per cent of the total number of people killed.

Using the 17 to 20 year old age group for the period January to July 1990, the Australian statistics appear to be of a similar order: that is, 17.3 per cent of persons killed were of that age group. Clearly that demonstrates the vulnerability of young people in respect of road fatalities and that in part is one of the reasons we have specifically targeted that age group. Soon after it became public that the Opposition proposed to move these responsible amendments I was pleased to see an article in *The West Australian* on Thursday, 6 September, attributing comments to the Minister for Police in the following terms -

Mr Edwards said yesterday while he commended the Opposition's recognition of the need for 0.05, he was concerned that limiting the legislation's target area would reduce the effectiveness of the move.

I understand the Minister's comment but a careful analysis of the data will show that the age group we target is the "at risk" age group, and it is important that the responsible attitude of the Opposition be recognised in these amendments.

Hon Garry Kelly asked whether the Opposition would support the Government's proposal to extend the period of probationary licences from one year to three years. The Opposition believes that again it is unnecessary to extend the probationary licences beyond the current one year period. I suggest to the honourable member that a study of the statistical data applying to probationary drivers who have been charged with offences during probation is well and truly catered for; in most cases a probationary driver loses his licence for three months as a result of convictions during probation. Therefore, the Opposition believes nothing would be gained by extending the probationary period from one year to three years. Again, the Government is using a sledgehammer to crack a nut by penalising responsible young people who are able to drive during the 12 months probationary period without conviction. Responsible drivers should not be penalised any more than currently provided for by the Road Traffic Act.

Perhaps Hon Garry Kelly has considered the effect on metropolitan drivers only in relation to the extension of the probation period from one year to three years. I invite him to consider the plight of country drivers or probationary drivers who have reason to drive into country areas frequently. One of the provisions under which a probationary driver holds a licence is that he does not exceed 80 kilometres per hour. When that provision is related to a trip between, say, Perth and Geraldton it would be unrealistic to expect a young probationary driver - perhaps one who has held a probationary licence for something like nine months without conviction - to have to drive at only 80 kilometres per hour all the way.

Hon Graham Edwards: In relation to the time beyond the 12 months, we will be working towards a provision that that speed limit should not apply to a probationary driver. I do not have any difficulty with that.

Hon GEORGE CASH: That is not what the Bill suggests at the moment.

Hon Graham Edwards: I think we can achieve that.

Hon GEORGE CASH: The proposition advanced in the Bill is that the probationary period will be increased from one year to three years. However, some provisions in the Bill would allow that third year to be discounted back to two years if the probationary driver is not convicted of an offence in the first two years. As a responsible Opposition, having consulted various youth groups - in my case, in the metropolitan area - and based on advice from country members who have canvassed youth in country areas, it would be unreasonable and unrealistic to extend the probationary period for longer than the current period of 12 months.

We cannot support the proposition put forward by the Government; although I detect that perhaps the Minister has some other suggestions to put forward when the Opposition moves its amendments at the Committee stage.

Another area of the Bill deals with an anomaly relating to section 64A of the Road Traffic Act. A probationary licence holder who is convicted of an offence of blood alcohol level in excess of 0.02 per cent will be subject to the provisions of the Act; that is, that person will lose his licence and be fined. However, cases have occurred where persons who do not hold a current driver's licence have been found to have a blood alcohol level in excess of 0.02 and because they are not probationary drivers as defined under the Act and cannot be convicted of a 0.02 offence, they can only be convicted of a 0.08 offence. That anomaly has been highlighted and is being corrected by the Government. The Opposition is prepared to support that move.

It would be possible to speak at length and read from the many letters I have received from people throughout Western Australia who are totally opposed to the concept of 0.05 driving offences being brought into the law. Where I have had the opportunity to speak to people who oppose the 0.05 provision which would cover all drivers, I have put the proposition that if we were to target the 18, 19 and 20 year old drivers in particular and make those drivers the subject of 0.05 legislation - based on the statistical evidence available, the road fatalities suffered are within that age group - most people would be prepared to support the 0.05 blood alcohol level provision. I specifically refer to the 20 year old or younger persons, not being probationary drivers.

I have been encouraged by the comments from the community in respect of what it considers a very responsible attitude by the Opposition to the 0.05 drink driving offences. I therefore do not intend to delay the House by reading that correspondence. However, I refer now to a

recent publication put out by the Federal Government in support of its proposal in respect of the 0.05 drink driving legislation.

I remind members that some months ago the Federal Government made an offer of money to those States that did not have 0.05 legislation. In the case of Western Australia it offered \$12.5 million in additional funds for roadworks if the State would agree to 0.05 legislation. I was personally offended by the Federal Government's proposition to buy off a State by offering money with the proviso that the State Government must change the law in line with what the Federal Government wanted. We hear many arguments about federalism and centralism, and the Federal Government overstepped the mark by taking a giant leap and proposing that course of action. Someone who is less kind than myself would interpret that offer as a massive bribe to ensure the State did as the Federal Government desired. It was clear that the Federal Government wanted its way in regard to 0.05 legislation. The Minister for Police, to his credit, said that the offer of funds from the Federal Government would not necessarily influence the State Government. I recognise that.

The question which must be addressed is: If the Federal Government offered \$12.5 million today to change a law in respect of one matter, what sort of price would it offer tomorrow to change the law in some other area? The extension of that logic is that if a mere \$12.5 million will buy 0.05 legislation from the States - along with some other matters that the Federal Government wanted addressed - a few hundred million dollars would get a State to completely change its laws to fall into line with the Federal Government. Canberra would tell the States what to do and when to do it because it would have bought off the States.

Hon Graham Edwards: Hon George Cash would be aware that while we agreed on the 0.05 question we certainly did not agree with some other parts of the Federal Government's 10 point plan. Indeed, the Premier while in Canberra said to the Federal Minister, face to face, "If this is a condition relating to the restrictions on young drivers, you can take your money and go for a jump."

Hon GEORGE CASH: That is why I recognised the Minister's statement in respect of the Federal Government offer. It should not be forgotten that the Federal Government tried to buy off the State. Fortunately because Western Australia is somewhat isolated and we tend to take a different approach to the Federal Government from that taken by other States, the Federal Government did not win this time. A report produced by the Federal Office of Road Safety entitled "The Case for 0.05 Blood Alcohol Concentration Limit" dated March 1990 has a very important graph which clearly indicates an increase in the relative risk of a fatal crash in respect of drivers aged from 16 to 19 years once the alcohol concentration exceeds 0.049. The Federal Government's argument, which is contained in that report, supports the amendments put forward today by the Opposition; that is, the highest risk group is from 16 to 20 years. This chart relates to the 16 to 19 year old group. It clearly demonstrates and sustains the amendments put forward by the Opposition and will be of significant interest to those interested in this debate. I have related the Government's proposal to the House. I have also related the position that the Opposition intends to adopt when the debate moves into the Committee Stage. I hope that the House will recognise that considerable work and effort has gone into the amendments proposed by the Opposition and that they are responsible amendments which appear to be acceptable not only to the community as a whole in Western Australia but to various interest groups within the community. I hope that the House will in due course be prepared to accept the amendments as an appropriate way of attacking the very specific risk groups of 16 to 19 year old drivers and 17 to 20 year old drivers in Western Australia.

I seek leave of the House to have the chart to which I have referred incorporated in *Hansard*.

[The material in appendix A was incorporated by leave of the House.]

[See page No 4729.]

HON E.J. CHARLTON (Agricultural) [8.07 pm]: Other members have significant contributions to make and I suggest that we will all wait with bated breath for subsequent speakers. The National Party totally opposes the proposal put forward by the Government in this Bill. We do not think there is any need for the proposed changes to be implemented. We reconfirm our position in light of recent statements. The credibility of these changes went out the window when the Federal Government adopted the tactic of allocating funds

with strings attached. As a result one cannot take seriously the proposals in this Bill. If the Government wishes to bring in 0.05 legislation, it should do so on the basis of some statistical background or an improvement in road safety instead of under the umbrella of a Federal Government tactic. The National Party opposes the Bill on those grounds and because it considers that what has taken place in this State in recent times in respect of road safety implementation by the police leaves a great deal to be desired. On repeated occasions we have seen the manner in which some police officers appear to enforce the law.

The National Party does not believe that regulations are enforced in a credible manner. Obviously, if we are to have a set of laws they have to be upheld, but as with everything in this life the letter of the law should not be implemented in a manner that does not leave its interpretation open to a commonsense approach.

I often wonder how effective is this State's traffic control. For example, 45 per cent of the people stopped in this State for breathalyser testing are from country areas. The population of the country areas is approximately 25 per cent of the total population of the State. What is going on? In every other Government service the people in the country cannot get a fair deal. In recent years there have been cutbacks in education, health and just about every other service one could name. In the northern and eastern wheatbelt areas which I represent, 30 per cent of the population has left in the last 10 years. However, they are the areas which are subject to more traffic control than are other areas. I suggest to the Government that had a sensible approach been taken by the Police Department in previous years we would not be confronted with the question of 0.05. Had this proposition been suggested and put forward as a genuine safety measure the Bill would have been passed and members of the Police Force who have the responsibility to implement this type of legislation would have carried out their duties with the full support of the community. This Bill does not have the full support of the community, particularly country communities. It is time some direction was given by the Commissioner of Police, if he is the person responsible, or by the Minister. Commonsense must prevail in the implementation of traffic and other laws. Right now, a lack of commonsense is being displayed in the implementation of traffic laws especially in country areas.

Hon Graham Edwards: I do not accept that. Our Police Force carries out its duties with commonsense and they do a bloody good job. You should look at some of the forces in this country. This force is so far in front, it is lonely.

Hon E.J. CHARLTON: I do not care whether the Minister agrees or disagrees with me. I was about to explain that there are no buses, taxis or any other means of public transport in small country towns. The only form of communication that country people have is at a social gathering which may involve only a handful of people. A couple of weeks ago I gave an example in this House of a group of people who worked for two days on a land care expo for the good of the environment and for sustainable agriculture in this State. At the end of the expo they gathered at the local club to assess what had taken place and to determine whether it had been a success and had benefited the people of Australia. When they left the club nearly all of them were subjected to a random breath test. What is the good of having a law which allows police officers to sit opposite a premises where a function is taking place and wait for people to leave? Most country people do not travel on major highways such as the Great Eastern Highway, but they travel on country roads. On the occasion to which I have referred almost all those involved were followed by police officers on minor country roads and were subjected to a breathalyser test. It is not right for police officers to conduct a random breath test on 10 or maybe a dozen people. On most occasions they are followed on a lonely road for about 10 miles before they are apprehended and requested to undergo a random breath test. What is random about that? Random may mean Rambo! This is the sort of thing that gets up people's noses and they do not like it. It is saying one thing and doing something else and it does not go down too well in the bush.

In the city a person can attend a function, have a couple of drinks with his meal and can go home confidently knowing he will not be apprehended for a breathalyser test. The statistics prove that that is what occurs in the metropolitan area.

Perhaps this legislation is being introduced for some other reason and I would like to know what is that reason. I ask the Minister why 45 per cent of the total breath tests are undertaken in the country area? Is it because the police in those areas are told that they must apprehend

a certain number of people? It must be - why else would they do it? Perhaps the Police Force is overstaffed with traffic patrolmen in the country areas. I am not suggesting it is, but country people are asking that question. The National Party is not opposing the Bill because it is against road safety or because it is critical of the way in which the Police Force is carrying out its duties, but simply because there appears to be one rule for some people and another rule for others.

I certainly do not make any excuses for putting forward my point of view; that is, if the Government wants to introduce something it should come out into the open and tell us what it is about. Another point is that when one wants the attendance of a police officer in the country, one is not available. It is damn near impossible at times to obtain the services of a police officer because the police are understaffed and subjected to a great deal of paperwork. I am not critical of the Police Force; I am critical of whoever is firing the shots and is telling the police officers how to carry out their duties. I am sure that direction is not coming from new officers, but from someone in a high position. Whoever he is, he is not promoting the Police Force in country areas. The inability to obtain the services of police officers in country areas makes one question why there appears to be sufficient officers to keep watch over premises where small social functions are being held.

A few weeks ago I attended the opening of a business in a small country town. The business was officially opened by the shire president and after he had consumed a couple of beers he made the comment that he would have to leave because he did not want to be apprehended by the police to undergo a breathalyser test. That is the sort of scenario that these people face. People in the city can have someone else drive them when they are drinking. This man is performing a service to the community and having driven 20 or 30 miles to open a function, which is the only time people in his district have a chance to meet him, and in the bush it is, Mr Berinson, if he is listening -

Hon J.M. Berinson: The member has addressed me in a very accusative way.

Hon E.J. CHARLTON: If Hon Joe Berinson looks at *Hansard* tomorrow he will find that it does not look accusative at all. There is insufficient understanding of the commitment of people in country areas who try to fulfil their community obligations. This cannot be compared with similar positions in metropolitan Western Australia. I am not criticising what happens in the city, merely demonstrating the differences in the implementation of rules, regulations and laws in country areas.

As I have said previously, the problems experienced by country communities in getting enough police is caused by a lack of officers and the wide area they must service. However, it seems to me there is no problem in attracting the attention of a police officer to a traffic offence. It is because of that background and the way in which this came about in the first place that I raise this matter. It was born out of this dubious, strings attached deal from the Federal Government. We now see the report of the Interstate Commission which says the Federal Government is likely to take over licensing. I wonder where this will end. However, that is another story.

The National Party opposes this Bill; not because it does not wish to promote road safety but, quite the contrary, because we have considered the proposal and what history has demonstrated and we seem to be the persecuted group in this matter. That does not provide us with the confidence to agree to these proposed changes.

HON P.H. LOCKYER (Mining and Pastoral) [8.24 pm]: I know that Hon Tom Helm will make history in a moment by rising and saying that he opposes this Government measure. There is no doubt that he holds the same views that I hold. I am astounded that the Minister for Police introduced this legislation into this House as he is the one person in Cabinet I would have relied on to toss it out when it went before Cabinet. He said he would do that.

Hon Graham Edwards: No, I did not.

Hon P.H. LOCKYER: The Minister had a change of mind; I am informed that the petticoat brigade, which now rules Cabinet -

Hon B.L. Jones: What a sexist remark!

Hon P.H. LOCKYER: It is.

Hon B.L. Jones: They are contributors. Why does Hon Philip Lockyer say they rule?

Hon P.H. LOCKYER: I think it is a fact that the ladies in Cabinet have a strong and obviously persuasive voice to get their way, and they got their way on this matter, I am told, and in particular rolled this Minister. Regrettably, his half forward and half back flank were away on parliamentary business and unable to be at the Cabinet meeting that day and as a consequence this legislation is now before the House. I am reliably informed that is an absolute fact. The Minister may deny this, but I am not far from the truth.

Hon Graham Edwards: In response to a question in this House, I think from Hon Eric Charlton, I said that in the final analysis I would take my advice from the Traffic Board. That is on the record of this House, so Hon Philip Lockyer does not have to worry about what happened in Cabinet. I refer him to what happened in this House.

Hon P.H. LOCKYER: I respect the Minister's remarkable honesty. However, I stick to my remarks. I reckon he was rolled in Cabinet. I find it difficult to understand that he now has to defend something he did not go along with.

Hon George Cash and Hon Eric Charlton raised the matter of Federal Minister Brown, who reminds me of a comic book character called Oil Can Harry. This fellow bobs up from time to time with the most incredible outbursts. One was, "If you do not have an 0.05 level as part of your legislation you will not get the \$12.5 million." To the Minister's credit, I understand that he explained to the House that the Premier totally rejected that proposition when she was in Canberra.

Hon Graham Edwards: Not in relation to the 0.05 figure but a more offensive matter.

Hon P.H. LOCKYER: But if the 0.05 figure was not accepted we were not to get the \$12.5 million.

Hon Graham Edwards: The Premier accepted the 0.05 figure because in the end she believed it was the right thing to do. We were not prepared to be blackmailed into taking the money. The Premier said to the Federal Government that we would not take the money if there were strings attached.

Hon P.H. LOCKYER: Does the Government have the \$12.5 million?

Hon Graham Edwards: No. It is part of the legislation - and it is \$12.3 million. We did not move to the 0.05 figure because of the money involved. I said that it was an important consideration. Hon Philip Lockyer can either accept or reject that statement.

Hon P.H. LOCKYER: I have always found the Minister to be an honest man. He knows the story of Pinocchio and I have carefully examined his nose, and there is no doubt that he is telling the truth. It is a bad thing when a Federal Minister thinks up a stupid idea of holding a \$12.5 million bribe over the head of any State Government. I will have to seek the support of fellow members such as Hon Tom Stephens, Hon Tom Helm and others who represent country electorates. Not one person in my electorate has come to me saying that the 0.05 figure is a good one.

Hon Fred McKenzie: Four surveys have shown that 61 per cent of country people support it.

Hon P.H. LOCKYER: If one goes to a temperance meeting one will get a 100 per cent agreement. I could take Hon Fred McKenzie to the Exmouth races tomorrow and if he held a survey he would find that 100 per cent of the people were against the 0.05 rule. The only good survey is one involving 100 per cent of people. I will back my judgment about my constituents not wanting the change from 0.08 to 0.05. In some cases that involves only a middy of beer. I do not know why such a small change needs to be made. It is horse excreta, to use words that can be used in this Chamber. It is absolute and total nonsense and is attempting to foist upon the public the perception that the Government is doing something about this dreadful drinking problem.

The Government has already started to do something by educating the public. Education programs like the Drinksafe program are working. This last issue of the *Daily News* states that 155 people were killed on the roads last year and 129 this year, so something must be working. Changing the blood alcohol level requirement from 0.08 to 0.05 will not make the slightest difference.

Several members interjected.

Hon P.H. LOCKYER: Members opposite can have a go in a minute and I will listen to them.

It is absolute and total nonsense. One can have all the surveys in the world but all they do is make someone rich. The fact is that if a person has an extra middy of beer it will make that difference. I do not agree with my leader's amendment, but I guess that we will have to go along in the end and accept this for people aged 20 years and younger.

I am a bit like Hon Eric Charlton; I believe we should toss this Bill out the door because it is an absolute nonsense. No-one in the bush accepts it. It never ceases to amaze me that when things start to get a bit tough around the country the Government always hops into the hotel and liquor industry. I have said previously in this House during the nearly 11 years I have been here that, when all else fails, why not hop into the poor old publicans. The Government introduced random breath testing, and even though I vigorously opposed it the Government was able to persuade a number of our former misguided members to go along with it. That arrangement was supposed to last only for a year, but I forecast that very night that it would be here forever, and it is.

Hon Mark Nevill: Read the figures in tonight's *Daily News*.

Hon P.H. LOCKYER: I want to put up a copy of the member's speech in every hotel in his electorate. Those members who represent the mining and pastoral areas and the south west are already in enough trouble for supporting this heinous piece of legislation.

Hon Tom Helm: Why do you feel so confident then, I wonder?

Hon P.H. LOCKYER: I have had Labor members of Parliament, not necessarily in this Chamber, come to me and almost beg me to oppose this Bill. I can tell members opposite that not all their colleagues support it. Many of them are saying, "Thank God for the Legislative Council. It will toss it out or at least amend it so it will be of no use." I am sure of that because members opposite know -

Hon Tom Helm: You cannot support your leader's amendments.

Hon P.H. LOCKYER: Even though I do not agree with them I will support them because that is a concession we all have to make, although I do not feel much like making concessions at present.

What Hon Eric Charlton said about country communities was absolutely right. Some remote communities are lucky just to have running water, electric lights and telephones, let alone their having to worry about random breath testing. To reduce the legal blood alcohol level from 0.08 per cent to 0.05 per cent will absolutely ruin some towns and will certainly ruin the social life in many towns.

Hon B.L. Jones: It might help to save some of the population.

Hon P.H. LOCKYER: I do not believe the member is right, a member whose contribution to this House is next to nil so I will not even give her interjection the benefit of some consideration. I do not believe this move will save one life. It would not matter if we introduced prohibition, which people like Hon Beryl Jones would probably go along with; some people would drink and drive even if they were restrained under wet concrete. There is nothing we can do with that type of person. We see them every day. Hon Tom Helm knows that some people spend every day in the hotel, and most of them are without a licence these days anyway. It would not matter what we did to them; they would still drink and drive.

Hon E.J. Charlton: Some people are a danger when they are walking around!

Hon P.H. LOCKYER: I was pleased to hear the Minister for Police stick up for the police. He is quite right; there is no worse job in Australia today than that of a traffic policeman's. One has to be a committed person to take on that job. It is not a pleasant job. A traffic policeman will never make many friends. Some take the job more seriously than others; some find that commonsense and maturity comes to them a bit later in life. However, I have found that a policeman's lot, -

Hon Garry Kelly: - is not a happy one.

Hon P.H. LOCKYER: - as the Gilbert and Sullivan play says, is not a happy one. I did not know the member had enough culture to know Gilbert and Sullivan. One is surprised from day to day.

We should not criticise policemen, who have a job to do, and who are doing it well in

country areas. I have never asked a question on this in the House, but during the last 12 months there must have been an enormous increase in the number of convictions for driving under the influence.

Hon Doug Wenn: Why?

Hon P.H. LOCKYER: Because random breath testing gives the police a greater opportunity - even though they had access to it previously - to apprehend people and to check them out. So let us not criticise the old copper because he has to get on with the job. Hon Eric Charlton is whingeing and groaning about policemen hiding behind trees, but I have to laugh when the Government talks about introducing legislation to ban radar detectors - which will be fiercely opposed by members on this side of the House -

Hon P.G. Pandal: It will be opposed but you need to declare your pecuniary interest!

Hon P.H. LOCKYER: I have a detector in my car, and I will take it out the day that policemen stop their caper of hiding behind trees and billboards. It is open slather as far as I am concerned. However, they are basically doing a good job because they have to do those sorts of things in order to carry out their job.

Hon Doug Wenn: If you were not breaking the law they would not have to do that.

Hon P.H. LOCKYER: Who says I am breaking the law? I just like to know where they are. I do not like being zapped without knowing that I am being zapped.

The serious part of this matter is that the legislation before this House is a farce. It has been introduced to try to take a bit of the heat off the Government. However, that will not work because I am confident that it is not supported by the community. I believe very strongly that the legal blood alcohol level should remain at 0.08 per cent. It is such a technical matter; the change would be very small, and it should be ignored. However, I will bow to my leader's obvious learned expertise in this area because he has consulted the Western Australian Hotels Association Inc, the liquor industry people, the church people, and anyone who has something to say about this, and he has convinced me in our party room that in order to make some sort of concession we should allow the proposed 0.05 per cent to stand for 20 year olds and younger.

One of the things I am proud of is that I believe I represent my constituents. I do not care what they do in the ballot box, but I can bet members London to a brick on that I am on the right trail with what my people want, and I will back myself on that any time. Members opposite are in enough trouble now trying to convince people about anything. The next two years may grind on slowly but it will get members opposite like a big rat trap in the end and they will go down the gurgler with a minimum of fuss. So few members opposite will be left after the next election that we will be able to send the lot of them home in two taxis.

Hon Doug Wenn: I think I have heard this story before.

Hon P.H. LOCKYER: I do not mind an interjection from someone who contributes to the House, but people who do not are treated with the insignificance that their station in life demands.

I hope that in the end Hon Eric Charlton will support our amendment, and if he does not I may have to go over and sit with him to oppose this Bill in its entirety because it is a stupid move. It reeks of a total farce. I know that a lot of members opposite do not support it, and I believe the public will be pleased when we toss this legislation out the door. With that small concession, I support the second reading.

HON TOM HELM (Mining and Pastoral) [8.38 pm]: As soon as the House rises I will join Hon Phil Lockyer and we will tour all the pubs in the Mining and Pastoral Region and test out his theory because in the Port Hedland area, where I have been known to have a drink or two, I have put this matter to the people who go to the pubs. We must not forget that, if we go to a temperance meeting, 100 per cent of the people present will agree that we should not drink at any time, but if we go to a pub we find the opposite is true. That is obvious.

What we must do in this place, in the cold light of day, away from the pubs, is look at the matter in perspective. Hon Phil Lockyer has pointed out a couple of things which are important. There was a time when he did oppose vehemently the introduction of a legal

blood alcohol level of 0.08 per cent. He said it would not have any effect, yet he pointed out a quote in the *Daily News* tonight saying the incidence of death had gone from 155 to 129.

Hon P.H. Lockyer: I opposed random breath testing.

Hon TOM HELM: The argument the member makes is still valid; that is, that Hon Philip Lockyer and Hon Eric Charlton opposed random breath testing but did not really oppose the random car safety checks which we in the bush knew was what the police were doing to us anyway.

Hon P.H. Lockyer: I do not see any point in RBT.

Hon TOM HELM: We already had RBT; but I will not continue with that line of argument. I was just trying to get the debate flowing. This is an interesting debate, and it is not necessarily an "everyone to the barricades" job, because the Leader of the Opposition in this place suggested some very interesting amendments. Rather than adopting the approach of the National Party - and it was obvious which tack the National Party would take - we did not get what we expected from the Leader of the Opposition; that is, a more reasoned approach. He argued that perhaps we should target those people who statistics show suffer the most fatalities on our roads - young people. He quoted to us and tabled a document which showed statistics to prove his point; that is, if there was a case to reduce the blood alcohol limit from 0.08 to 0.05 per cent, the target group should be young people of 20 years and less. They are the ones who are most at risk, so they are the ones to whom we must apply that law.

I accept that that group should be targeted, but I ask the House to consider other groups which may be at risk. The Leader of the Opposition tells us that he cannot agree to the probationary period being extended to three years. He quoted the case of somebody driving from Perth to Geraldton and staying within the 80 kilometre per hour speed limit, and said that person would be in extreme difficulty keeping to that speed. However, in practical terms that argument does not hold up very well, because from personal experience as well as from the experience of those with whom we associate, we know that when the speed limit is 80 kilometres per hour we tend to drive at 90 or 100 kilometres per hour anyway. Therefore that is not a very good argument and it undermines the argument for targeting the young people. What about the male drivers on our roads who complain about women drivers? If somebody makes a mistake in the car in front of one, and that driver looks like a woman, the immediate exclamation - although it is less apparent now than it used to be - is "Women drivers!" Therefore there could be a case, in the experience that some people have had, for women drivers to be targeted; so we should target young drivers and women drivers. As well, we all have been in the company of people who complain about old people's driving, so we should target young drivers, women drivers and old drivers. As well, we know that some people go into a pub and need only a sniff of the barmaid's apron to no longer be in command of their faculties.

Several members interjected.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! If Hon Philip Lockyer wants to interject I suggest he do so from his own seat. It is out of order to interject from another seat. I have been tolerating interjections but I suggest he interject from the correct place.

Hon TOM HELM: Thank you, Mr Deputy President. The argument used for targeting people can be expanded across the spectrum. I do not know whether I fall into the category of old drivers or of those drivers who need only a sniff of the barmaid's apron to be incapable of driving.

Hon E.J. Charlton: I thought it was both.

Hon TOM HELM: Exactly. Those amendments are a good sign for this House because they give us a chance to have a reasoned debate on the issue rather than merely opposing the amendments as the National Party says we should. The evidence is before us. We have all been following this debate and have statistics which will say certain things. I ask members to use a bit of commonsense. Perhaps those who like a cool drink on a hot day should recognise that there are many reasons why we should go to 0.05 per cent, and that is on top of the statistical evidence we have before us, which comes from those States which have applied that law. There are many reasons for saying that it is an imposition to reduce the blood alcohol level, and many reasons for saying, "I do not know how much alcohol it takes

to reduce the level to 0.05." Nevertheless, if that is the standard by which we go - and members should not forget the restrictions are somewhat reduced and different from the 0.08 level - that is to show us in the long term that the thrust of this legislation really has nothing to do with the issue put forward by Hon Philip Lockyer and Hon Eric Charlton; that is, blackmail by the Federal Government. We have quite clearly shown that we are not vulnerable to that kind of blackmail. That was shown by the other stupid suggestion made to this State concerning young people driving their brothers and sisters around in a car - I did not pay much attention to it. We rejected it out of hand. Once one has the evidence of one's own eyes and the evidence of the statistics, it is sensible to look at the issue carefully and to deal with it, and to discount the suggestion of blackmail.

Hon Margaret McAleer: Was it the same \$12.5 million, or another \$12.5 million?

Hon TOM HELM: I do not know, but I am sure the Minister will tell us how much we did get. I do not think our funds were reduced by anything at all because we did not accept the offer.

I think I can speak for people who live in the bush about the reduction of their social life and also the impositions people in bush communities face as a result of lowering the blood alcohol limit to 0.05 or 0.08 per cent. As members will be aware, in northern towns like Karratha and mining towns like Tom Price and Paraburdoo there are no bus services. The community itself has adapted very well to the imposition of 0.08, and I think members will understand when I tell them that my office is next door but one to Liquorland in Port Hedland, which has the highest off-licence sales in this State.

Hon Peter Foss: That is a coincidence!

Hon TOM HELM: It is a coincidence. I do occasionally go there to buy the odd can. More off-licence beer and spirits are sold there than elsewhere in the State, which would suggest that the community of Port Hedland in particular has adapted very well to those impositions.

Hon B.L. Jones: They have to take it home and drink it.

Hon TOM HELM: That is true, and that is what happens. I will tell members what else they do. For the first time in the history of Port Hedland a double decker bus ran between Port Hedland and South Hedland, taking people home at the end of the night. At 11 or 12 o'clock, those people who had had more than enough to drink were allowed to go home on the bus, quite safely. So the landlord showed initiative, and kept his sales up. Some other pubs have taken the same course of action - they have taken into account the fact that it is illegal for drivers to have more than 0.08 per cent alcohol in their blood. It is more than illegal; people are dying for that very reason. We have had the obvious complaint from the National Party about police powers, as these complaints were raised during the 0.08 blood alcohol level debate and the random breath testing debate. The same procedures of the random breath test will apply to the 0.05 as to the 0.08, so I cannot see the problem. The arguments raised by Hon Phil Lockyer and Hon Eric Charlton did not address the issue at all. These arguments were complaints about the female sections of the ALP having some influence on policy matters, and about more people from the bush being harassed by the police. They argued that these officers have nothing better to do than chase people for 10 kilometres and then ask them to undertake a breathalyser test. It seems to me that if the police follow a car for such a distance, the driver must have been driving erratically to draw attention to himself. The police are not being heavy handed and they are doing a good job under a great deal of strain. In the country areas the policemen are members of the community and if they are harassing people without due regard to rights the matter can be fixed without any song and dance.

Hon Peter Foss: Do you believe that?

Hon TOM HELM: Yes I do; I live in the country. If Hon Peter Foss were exposed to the community work done by the police in Port Hedland he would be surprised. A couple of weeks went by without a single juvenile crime in Port Hedland as a result of the involvement of the police, especially in addressing young people. I do not know about the past when perhaps a nod was as good as a wink to a blind horse, but it does not do our society any good to attack the messenger. The fact is that the policeman does his job and we as members of Parliament have a responsibility to the people we represent.

If we took our argument a little further than using the statistics and the statements made in

those States which already have 0.05 blood alcohol level legislation, it could be argued that those of us who like to have a drink go into a pub with a hope of walking out of the pub feeling a little different from when entering the pub.

Hon E.J. Charlton: That is not true.

Hon TOM HELM: So, Hon Eric Charlton goes into a pub without the intention -

Hon E.J. Charlton: I go into a pub to have a talk to the people.

Hon TOM HELM: Does the member walk out happier or sadder than when he entered? Is he the same walking out as he is walking in?

Hon E.J. Charlton: I walk in the opposite direction.

Hon TOM HELM: Does the member not feel happier and feel like a skip and dance?

Hon E.J. Charlton: I am not one of those people.

Hon TOM HELM: I like to go into the pub and have a game of pool or darts and have a chat to let the day's worries wind off me. However members may wish to describe it, I feel different when leaving the pub. With the price of beer one would not want to stay the same! I suggest that one feels different after a middy although I am not suggesting that one is necessarily drunk. Without referring to statistics, I know that I feel different after a drink and I know that I drive differently. I wish that the statistics did not say that people drive differently after drinking as I would like to drink and drive, but I know - without reading the statistics - that drinking makes people drive differently. So, the pleasure which one feels has to be tempered with the knowledge that one must abstain from driving for the night, get a lift home or decide to drink squash. It may be better to do a community service, but it will not be better to run somebody over, to run off the road or to hit a kangaroo or sheep. The relevance of Hon Eric Charlton's argument is minuscule. We cannot argue that it is fine to do community service work or land care projects and then wipe ourselves out on the road.

Hon E.J. Charlton: You are missing the point totally. If you will implement legislation that says that police officers will test everybody, then say that; but you should not talk this being random legislation when nine people will be picked up out of a group of nine people. You were talking about 45 per cent of the population.

Hon B.L. Jones: It is a random point at which the police pull up people; they choose at random one function as opposed to others.

Hon TOM HELM: We have not seen anything to say that it is 45 per cent. Hon Eric Charlton said that the only reasons given for the increased ratios of people stopped with above the blood alcohol level limits in the country is that country people live a long distance from the various pubs and towns and that they drink more than they should. It could be that city people are wise enough to keep below the proper levels whereas country people are not - I do not know. It does not happen to a lot of people in the Pilbara or in Port Hedland, so maybe down south they have a different way of doing things.

We must do something about the number of deaths on our roads; we cannot let it go by. Members should not forget that the 0.05 blood alcohol legislation is part of a general package proposed by the Government to make people aware of the carnage on our roads and the trauma this creates.

Hon E.J. Charlton: Do your statistics say how many people involved were between 0.05 and 0.08?

Hon TOM HELM: The figures from New South Wales indicate that following the introduction of 0.05 legislation in that State, a 12 per cent permanent reduction in the traffic fatalities on Saturdays occurred independent of the effects of random breath testing. This is clearly significant as it represents approximately 27 lives saved a year. This indicates that the same random breath testing level was maintained but a reduction in the number of people testing positive occurred. The statement says that 40 per cent of drivers killed on the roads had been drinking. It goes on to say that the amendments put forward by the Liberal Party fail to recognise and address the serious drink driving problems. From 1984 to 1989, a total of 677 drivers were killed on our roads. Forty seven per cent of those fatalities were drink drivers.

Hon E.J. Charlton: Before you brought the Bill into Parliament, you should have come and told us how many were killed that were between 0.05 and 0.08.

Hon TOM HELM: All right. I ask Hon Eric Charlton: Would it be a fair guess to say that it would be more than one?

Hon Peter Foss: It may be totally random.

Hon TOM HELM: In all probability, does the member think that one of those deaths would have been a person with a 0.05 BAC?

Hon Peter Foss: It is not what I guess; it is what is in the statistics.

The DEPUTY PRESIDENT: Order!

Hon TOM HELM: I suggested at the beginning of my comments that I would not rely on statistics but that I would try to put forward observations and relate our experiences because there are lies, damn lies and statistics. I suggest to Hon Eric Charlton and Hon Peter Foss that it could be proved that one person killed had more than 0.05 BAC.

Hon E.J. Charlton: I would bet on that, too. The only thing is that it may not have been the cause of the accident.

Hon Peter Foss: You look at the statistics. They state that there is no difference between zero and 0.08.

The DEPUTY PRESIDENT (Hon Doug Wenn): Order! I ask the member to direct his speech to the Chair. If he wants to share his time with others, that is his prerogative, but we will stay with his speech at this time.

Hon TOM HELM: I will take your advice, Mr Deputy President. I am being led astray by the unruly interjections which I feel should be answered.

Hon George Cash put forward a proposition that in my view goes some way towards putting in place ideas that will address part of the problem. However, Hon Philip Lockyer and Hon Eric Charlton said there was no problem and Hon Philip Lockyer said that we are cracking a nut with a sledgehammer. I suggest that if we can save not only the person driving but the person hit by the drunk driver, let us do it and make the exercise worthwhile. Any argument that suggests that country social life will be destroyed because of this legislation or that pubs will close down and people will be sacked is unacceptable. My view is that we should not drink and drive. If that is what the evidence suggests, that is the way we should go. Therefore, the Government is being somewhat hypocritical -

Hon E.J. Charlton: I think that is right, too.

Hon TOM HELM: If one goes to the pub these days, there is a way that one can get home.

The National Party and Hon Philip Lockyer have told us that this legislation will not work. The fact is that it has worked. The number of deaths on our roads has been reduced from 155 to 129 because of measures taken by the Government to address the terrible fatality rate. At least we have not become blasé when reading in our newspapers about the carnage on the roads. We should not be accused of being hypocritical or wowsers or as being part of a group that bans drinking altogether because of this legislation. That is not the case and many people may be surprised to learn that I like a drink but that I like to restrict my drinking when I drive.

I believe Hon Philip Lockyer will oppose radar guns and will oppose the law that makes illegal radar detectors in cars. Surely we have to say to the people of this State that the carnage on our roads is costing millions of dollars of taxpayers' money. We have to have an effective Police Force in place. When we are aware that we can be picked up for speeding, we reduce our speed. If we see police cars we reduce our speed immediately. I believe that the same sort of attitude will apply to a 0.05 BAC. If we believe that there is a possibility that we could be picked up, we will restrict our drinking or take other measures. If we believe that the police will not do their job or that we can get away with breaking the law, our society breaks down.

We should support the reduction in the BAC from 0.08 to 0.05.

HON PETER FOSS (East Metropolitan) [9.07 pm]: It is very important in the Legislature to make a distinction between the standards that we impose on ourselves and the standards

that we impose by law on the remainder of the community. Frequently we should impose higher standards on ourselves than those which we force on the rest of the community. My personal standard for drink driving is that if I am going to drink I do not drive and if I am going to drive I do not drink. There are a few reasons why I do that. The first is that it is a nice and simple rule. If I start drinking, it is very hard to judge when I have had too much to drink. We all know that alcohol affects our judgment. If we have a simple rule of not driving when drinking, it is easy to follow. I imposed that rule on myself because there was a period that I was involved in personal injury matters and the evidence was overwhelming that alcohol was a major cause of serious accidents on our roads. None of us can deny that that is the case. I imposed that rule on myself because it was my right and my freedom. As a Legislature, before we interfere with the rights and freedoms of other people, we have to be certain that what we do is justified.

Many of us receive requests on a daily basis to ban this or that. If we banned everything we were asked to ban, there would hardly be an activity that we could continue to carry on with in the community. Most of the people who demand that we ban things seldom put forward any real evidence to support their arguments. They seldom justify why it should be done. They trot out trite statements but they seldom have real, hard, well thought through reasons. What should be the principles on which we decide to control the driving of people in Western Australia so far as their consumption of alcohol is concerned? First, we should define the right to drive. We give people a licence to drive, and it is probably fair to say that the right to drive is a privilege given to people rather than an essential right they have without establishing why they should have it. Before people are entitled to drive they must be of a certain age; that makes sense. Young people tend to have insufficient judgment and insufficient motor control to drive a vehicle. They must have judgment and motor control sufficient to enable them to drive. Secondly, a person must pass a test. That too makes sense because driving is a skill, and it is inherently dangerous. The driver of a vehicle is propelling a large piece of metal around at significant speeds. It is likely to cause injury and property damage if the vehicle is not properly managed. A person must show that he has the skills and capacity to drive. I do not believe anyone in society would object to the requirement that people must demonstrate that they have the skill to drive before they are permitted to do so.

The problem with alcohol, as evidence shows, is that it impairs a person's capacity to drive. Therefore, the very capacity a person has demonstrated when obtaining his licence is impaired by the consumption of alcohol. The question must be asked: How much alcohol must a person consume before his driving is impaired to such an extent that he should not be allowed to drive? It should be capable of some form of empirical evidence. If one considers the empirical evidence, it has been amply demonstrated that a blood alcohol content in excess of 0.08 affects a person's driving. That appears to be without any contradiction whatsoever. It is clear from all the scientific evidence and the tests carried out that a threshold is passed when the blood alcohol content exceeds 0.08.

The Government is now asking us to lower that level to 0.05, and we must ask what scientific evidence is available to justify this. Various matters have been put before us in an attempt to justify it. It has been suggested that most of the people in Western Australia support the lowering of the permitted blood alcohol level. So far as I am concerned, if there is no scientific basis for it, I do not care whether the majority of people in Western Australia support it. I do not believe we should legislate to govern the behaviour of the minority, even with the support of the majority, if there is no scientific justification for it. On the other hand, even if only a minority of people wanted the legislation to reduce the permissible blood alcohol level to 0.05, I still think it should be done if it is supported on the scientific evidence. The real test is whether there is a scientific basis for saying that a blood alcohol content of 0.05 impairs a person's ability to drive sufficiently to justify the State's deciding that a person may not do something which otherwise he would be permitted to do. That is the only question to be asked and the only question that need be answered.

It has been suggested that by lowering the blood alcohol content to 0.05 lives might be saved because people who would normally drive with a blood alcohol level of 0.15 might reduce that to 0.10, even though it would make no difference to the driving of a person who would normally drive with a blood alcohol level of less than 0.08 who now reduces it to less than 0.05. It is irrelevant to include in the argument whether the public think it is a good idea or a bad idea to reduce the level. It is also not fair to reduce the level on the basis that people

who drive with blood alcohol contents in excess of 0.08 may be influenced to reduce their alcohol consumption. There is ample evidence that many of the accidents on the road are caused by people driving with blood alcohol levels well in excess of 0.08. No matter what is done with this permissible level - whether it is 0.08, 0.05, 0.02 or 0 - that group of people will probably still drive with excessive amounts of alcohol in their blood. However, another group of people in the community carefully guard their behaviour and limit their alcohol consumption so that their blood alcohol level is below 0.08. Those same people probably also limited their consumption of alcohol when no specific limit was in force, but when a person was not allowed to drive under the influence of alcohol.

Hon Graham Edwards: I think it is fair to say that random breath testing has encouraged a greater level of responsibility in this area.

Hon PETER FOSS: I agree, but can the Government use a reduction to 0.05 which impinges on the people who are observing the law, to influence those who do not observe the law? Let us assume a body of people are observing the law and keeping their blood alcohol level below 0.08. Let us assume that by doing so they are keeping their blood alcohol level to a safe level. If that permissible level were reduced to 0.05, those law abiding people would lower their consumption of alcohol to keep within that limit. In doing so they would have lost the opportunity to drink the amount of alcohol which makes the difference between a blood alcohol level of 0.08 and one of 0.05. However, there is no doubt that in doing that the State will be restricting those people who were safe when driving with a blood alcohol level below 0.08. The Minister may be able to show some epidemiological evidence that the number of road accidents could be reduced by lowering the permissible level because those drivers who drive with blood alcohol levels of say 0.10 or 0.15 will reduce their levels to 0.09 or 0.11. Is that fair on the community? Should the Government introduce a lower blood alcohol limit which is not justified by the scientific evidence in order to frighten off the irresponsible people who will continue to breach the law? That is one of the things I am very concerned about.

Hon Graham Edwards: I think it is a very fair question but I pose it to you in another way. Do you think it is right that legislators should preside over what is a very disturbing drink related road trauma?

Hon PETER FOSS: No, I do not believe that. It is not just the legislators who have a responsibility; the Government has a responsibility because ultimately the answer is to enforce the law. My first question is whether the Government can do it merely in order to terrorise the people who do not obey the law anyway, bearing in mind that it will cause inconvenience to people who do observe the law. My answer is that the Government cannot do that. If the appropriate limit has been set at 0.08 but people are not observing it, the answer must be that we should get out there and enforce the law so that people will observe it.

Hon Graham Edwards: I can tell you honestly that one of the things I would be looking for in moving to 0.05 is a flow on effect, in much the same way as you have described.

Hon PETER FOSS: That is not a legitimate thing to do. If the blood alcohol limit which is scientifically correct is 0.08 per cent, that is the one we should have and that is the one we should enforce. We should not use the natural human habit of saying that if we set the speed limit at 80 kilometres per hour, people will drive five or 10 kilometres above the limit because they know they will get away with it because the police will nearly always give them a 10 kilometre per hour allowance, so if we want people to drive at 80 kilometres an hour we should set the limit at 70 and they will drive at 80. It is not fair to apply that sort of logic because it will penalise those people who observe the law. We know that we are not enforcing the law against those people who do not observe the law.

Hon Graham Edwards: But any law that we may impose will penalise those people who would ordinarily obey that law without its being put in place by us.

Hon PETER FOSS: It does not penalise them because if they are not going to drink over 0.08 anyway a restriction for them to stay at 0.08 would be no imposition at all. There is a very strong moral aspect for us to look at here as legislators. Should we use the law purely as a psychological thing to try to get people to stay below 0.08?

Hon Graham Edwards: That is one of the flow on effects that I would hope to see.

Hon PETER FOSS: I realise that. If we can legitimise the 0.05 per cent legal blood alcohol limit in the first instance, the flow on would be an acceptable benefit, but to do it for that reason alone cannot be justified. We should not lower the legal blood alcohol limit and penalise those people who observe the law in order to produce a psychological effect on those people who are not observing the current law and who could be picked up if the current law were enforced. That is where some of the epidemiological evidence becomes of doubtful use. I can accept that if we lower the legal blood alcohol level people may become more cautious and there will probably be an overall lowering of consumption, although not by the heavy drinkers. The evidence seems to indicate that, no matter what we may put in place by way of legislation, some people will continue to drink to excess.

Hon Graham Edwards: Hon Phil Lockyer has mentioned that already.

Hon PETER FOSS: Yes, and Hon Tom Helm mentioned it also. Lowering the legal blood alcohol limit will have more effect on those people who break the law a little.

Hon Garry Kelly: You do not think that the end justifies the means?

Hon PETER FOSS: No, and that is my point. If that were to happen because we had a scientific basis for it, that would be good, but there must be scientific justification in the first place for 0.05.

Hon Graham Edwards: I think there is scientific evidence.

Hon PETER FOSS: We will get to that.

Hon Graham Edwards: It is a matter of whether you accept it.

Hon PETER FOSS: First, there is the moral point of whether we are asking the right question. The right question is whether there is scientific evidence for 0.05. I am saying there is not sufficient evidence of that in order to support the flow on effect. The flow on effect is another bonus once we establish that 0.05 is correct. We should be careful about the epidemiological evidence from other States because it may come from the flow on effects. We have to look at the direct scientific evidence for 0.05, and that is the question that must be answered by us as legislators, because it is all too easy for us to be stampeded by the sorts of letters that we get from people. I have received many letters saying the evidence is clear for 0.05. I must say I am tempted to take those letters and throw them in the bin, because the evidence is not clear.

Hon Garry Kelly: So you would rather err on the side of caution?

Hon PETER FOSS: No. The difficult part in any argument is not picking out the statistics that support the case but explaining away the statistics that do not. It is the same as giving a legal opinion. The easy part is to quote all the cases that support the proposition. Anyone can find those cases and quote them, but a lawyer earns his money and he starts to do the hard work when he finds the things that do not support his proposition and explains them. That is what I have been waiting to hear in this debate. I have an open mind about 0.05 or 0.08. I am quite happy to be persuaded about what is the appropriate level. If I were persuaded that 0.05 was the appropriate level I would not hesitate to support this legislation; my question would have been answered.

I said in this House previously when we were debating the random breath testing legislation that I supported 0.05. As a result of my saying that, I was invited to a seminar at the university which was run by the Road Trauma Unit. Members must remember that I went to that seminar believing that 0.05 was correct because I had been involved in a case many years ago when I had called a witness who had given very good evidence to say that 0.05 was correct. However, I came out of that seminar thinking that 0.05 was a load of bull because the evidence presented left me in considerable doubt.

It is unfortunate that the seminar was a bit of a propaganda exercise. It did not really attempt to address the doubts. It was all about taking the good bits and pushing them forward. There was some very well assembled evidence from one of the scientific persons which indicated that much of the evidence not only did not support 0.05 but was quite to the contrary. However, no attempt was made to explain that away. I do not for one moment suggest that it could not have been explained away but I will give members one example of what came up. They flashed up a big slide to show us the effect of alcohol on drivers. There was a series of bar graphs, and each bar represented the number of errors made by a driver; and, as we might

expect, the bars got bigger the more alcohol the driver consumed. However, one of the big problems with these types of graphs is that they are not very good on what the vertical axis says, and if that is not made clear all sorts of things can be done with the graphs.

The first bar was about so high, and it showed how many mistakes were made by a driver who had had no alcohol. The next bar was a little bigger and it showed the case when the driver's blood alcohol level was 0.05 per cent. It really did not give much of an indication of what happened. The speaker missed one bar in between, a quite large bar, and went across to the next one. This was a really big bar, which represented the effect of alcohol and codeine. I put my hand up and told them they had missed one bar which said codeine alone. So they had four bars showing no alcohol, 0.05, codeine, and codeine and alcohol. I asked how much codeine was represented by the third bar, and I was told, "We do not know. It could have been a couple of pills. I have not checked how much codeine." Here was someone trying to persuade us that it was bad to have 0.05, but the main thing which persuaded me was that one should not take a couple of headache pills if one is going to drive.

Hon Tom Helm interjected.

Hon PETER FOSS: It may be that we are chasing the wrong thing; maybe we should be stopping people taking Bex. I do not know. Here was a top seminar, and these people were telling us how dreadful alcohol was. I was quite prepared to be persuaded, but they did not know how much codeine was represented on this graph.

Hon Garry Kelly: It was a sloppy presentation.

Hon PETER FOSS: It was terribly sloppy. It was all summed up by someone saying, "This clearly demonstrates that an alcohol content of 0.05 affects you." The seminar did not demonstrate that clearly. All the evidence was ambiguous at best, and in some cases it went the other way. I am sure the presentation could have been better, and it could have been more persuasive. People make statements that 0.05 is obvious, but it is not obvious. I am happy to look at the scientific evidence and give it a clear examination, but what concerns me is that so many people trot out this nonsense that it is clear. If people said that it was not clear, and pointed out the reasons why and explained them, it might be all right.

Another man, I think he was Dr Homel from Sydney -

Hon Graham Edwards: Ross Homel.

Hon PETER FOSS: He said, "I looked at the New South Wales statistics and it worried me that they did not support the case for lowering to 0.05. I could never work out why they were wrong." It was not that this man came to these statistics with any preconception. He said, "I kept reworking the figures, and eventually I did it in this way," and he proceeded to describe some incredible torture that he put the statistics through. At long last he said he came out with the right result. My hand went up again to ask him how he knew that that was the right result as opposed to all the other ones. If he had got that result the first time, would he have stopped there, or would he have put it through all this torture in order to satisfy himself? He kept working on the epidemiological statistics till he had the answer he wanted. He said this with a smile on his face, full of confidence, not realising that I was sitting in the front row trying to work out what all this was about. He could not see that his one-eyedness on this matter had completely affected the way in which he looked at the statistics.

Hon Graham Edwards: I am not going into the rights or wrongs of these arguments at this stage, but I wonder whether, if you were at the end of road trauma, as so many people are, you might look at these statistics through different coloured glasses than those you use up here.

Hon PETER FOSS: I had this put to me. I accept completely that alcohol has an effect on accidents. I am surprised that the figures given are as low as 43 per cent, because I never struck anything as low as that. I accept that; but what I do not accept is that 0.05 affects accidents. I have no concern about 0.08; in fact most offenders are greater than that.

I can understand the emotional reaction, because it was the emotional reaction which caused me to come to my rule. I do not drink and drive at all; that is what I impose on myself. I hope all the doctors do, but I know that some do not. We as legislators should not go around imposing on other people our emotional views as to what effects drugs have. If scientifically we can show that alcohol does not affect driving at 0.05, how can we justify doing what is

suggested here? If it does, as far as I am concerned there is no justification for not doing it. To me it is as clear as that. If it is a fact that 0.05 affects one's driving so that one should not be driving, I shall support it, and I shall support much heavier fines and penalties than the Government has put up.

Hon Fred McKenzie: How do you know it does not?

Hon PETER FOSS: We will get back to that. Before we take away a person's right to drive, we must have some basis for doing so. The scientific evidence shown at the seminar seemed to indicate not that 0.05 was justified, but the reverse. The evidence about 0.08 seems to be quite clear.

Afterwards I was stopped by one of the scientists, who said to me, "We know the evidence does not support it, but we have the gut feeling that we are right." I said, "I can sympathise with that, but as a legislator I want to know what makes your gut feeling as a scientist any better than someone else's gut feeling that it is not right?" We do not hire scientists to come along with gut feelings; we hire scientists to use scientific methods to find out what the situation is.

Hon Mark Nevill: It does not cover conservationists.

Hon PETER FOSS: It does not. Scientists are not there to give their gut feelings; they are there to give scientific evidence. I can sympathise with them, but what do we as legislators do? Do we say, "Because you are a scientist and you have a gut feeling we will go along with it"?

I had a letter from an eminent surgeon in Perth who said I used my skills as a lawyer to make the argument look ridiculous. It was not my skill as a lawyer which made the argument look ridiculous; it was the argument which looked ridiculous. I am prepared to say, "Come up with the evidence to support 0.05; it does not have to be nailed down completely, but it has to be persuasive evidence." I am sure that if the work was put in and the matter was looked at properly a better argument could be produced than that which was presented to us. If the argument to support 0.05 is a good one I shall be urging the Government to provide heavier penalties, but to date the presentation has been sloppy. We as legislators must insist that those who put forward a view must support it properly. It is something which the Parliament should look at to see whether this evidence could be more thoroughly scrutinised, but I do not believe a case has been made out.

The report from the Traffic Board has only one scientific attachment, and that is from the National Health and Medical Research Council Road Accident Research Unit. I do not know much about this unit; all I know is that the National Health and Medical Research Council is sponsoring some of the most important medical research in this country, and I assume its road accident research is of an extremely high order. I admit that I am doing exactly what I accuse others of doing, and that is taking the good statistics and using them as opposed to trying to explain away the bad statistics. In confessing this, I should like members to read the report. I think they all have a copy. These comments from the National Health and Medical Research Council are quite interesting. On the front page they show -

- The two highest curves are from studies of fatal crashes.
- The family of curves are essentially flat to about 0.08 when they rise steeply.

That seems to indicate that 0.08 is the one which really makes the difference. The report continues -

- When 95% confidence limits are placed around the points (Adelaide and Grand Rapids curves) they overlap for 0.05 and 0.08. That is, there is no real difference in risk between 0.05 and 0.08.

It is beyond 0.08 that we have the problem. The conclusion continues -

- The risk of accident involvement is basically unchanged with increasing BAC from zero to 0.08 after which the risk increases steeply.
- There is a large amount of uncertainty for each point on these curves.

Two or three pages further on the summary reads -

Drivers between 0.05 and 0.08 are under-represented in fatalities and hospital admissions.

That is the point made by Hon Tom Helm. They are under represented. I do not suggest therefore that everybody should drive with a blood alcohol level of 0.05 and 0.08 to make themselves safer; that would be nonsensical. It is important that people note that is there.

Hon Tom Helm: Lies, damn lies, and statistics.

Hon PETER FOSS: Exactly. One cannot say the gut reaction is to reduce it to 0.05. There is no logic in that.

Hon Tom Helm interjected.

Hon PETER FOSS: On that basis, the member should follow my rule - that is, do not drink at all and drive.

Hon Tom Helm: We know that.

Hon PETER FOSS: The member could also give up smoking, as I have urged him to do, and he would be a considerably better person. Do not drink and do not smoke! Only a small proportion of drivers killed or admitted are between 0.05 and 0.08. The document continues -

- Other studies have shown that drivers with high BACs drink more, and more often, and drive after drinking more often than drivers with lower BACs.

And further on -

- For older drivers the risk of being involved in a crash is basically unchanged as BAC increases from zero to 0.08. Over 0.08 there is a steep increase in risk.
- For young drivers aged 16-19 the risk increases more steeply at every BAC level.

That is the summarising figure which Hon George Cash incorporated in the record of *Hansard*. The document continues -

- It is uncertain how much of the reduction in night time injury and damage-only crashes, compared to day time crashes in NSW and Queensland was due to the change in the BAC limits or to increased enforcement of the drink driving legislation.

Very few drivers killed or admitted to hospital are between 0.05 and 0.08.

On the next page, further conclusions read -

The above evidence suggests that the appropriate targets for drink driving countermeasures are young drivers aged 16-19 years, and drivers over 0.08, because these are the groups with the highest risks.

There is considerable uncertainty regarding the effects of lowering the BAC from 0.08 to 0.05 on reducing night time crashes, separate from changes in enforcement. There was very little effect on fatal crashes.

In the absence of changes to the BAC limits, suitable countermeasures would be:

- 1) Selective BAC limits for young drivers, as well as learner and novice drivers;
- 2) A well funded and well designed and targeted public education program;
- 3) A well funded and highly visible program of random breath testing.

I am convinced that each measure would be very important. I have said before in this House that I am most concerned about the way in which random breath testing is carried out. The amount of random breath testing is in fact ludicrously small. The number of times a person is picked up is far too few. When we considered random breath testing last time we decided we were likely to be picked up only once each year. That is hopeless. The big problem with poor enforcement of random breath testing is that we end up with a worse situation than if we did not have RBT.

Hon Tom Helm: Hon E.J. Charlton picked up on that.

Hon PETER FOSS: He was complaining about a couple of matters - he complained that it was not random in the country and also that it was run twice as much in the country as in the city.

Visibility is important in the enforcement of the law. I have previously made the point that in the ACT a road block was set up on the opposite side to where a huge crowd was coming back from a football match. In that case every single bloke or woman driving away from the match saw the road block and was glad to see it. It is not so much that people are caught but that people think, "There but for the grace of God go I". Psychology is what is needed with RBT. The real effect of random breath testing is to give the impression that people will be caught if they are not careful. If it is not used properly people are clear that they will not be caught. Without RBT people will think that the reason they got home was that they did not drink too much and they drove very carefully. We now know that the chances of getting caught are very low - about once a year. So for 364 days of the year people have a pretty good chance of getting home drunk.

The point I make about the ACT situation relates to a system of stopping one driver in 13. That is good because again 12 drivers go past wondering whether they will be caught. That is as good as stopping people. Let us apply psychology to RBT because I firmly believe that properly done RBT can be extremely useful. I accept the worth of RBT but it is no good unless enforced rigorously. That does not mean that everyone will be stopped; it means that RBT is used to gain a high public profile to scare people to death. Really that is the way we can change the behaviour of people. We should give people the impression that they will be picked up.

Hon George Cash: Police presence on the road.

Hon PETER FOSS: Absolutely.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! Three different discussions are taking place within the Chamber. It is hard enough for the Hansard reporter as it is.

Hon PETER FOSS: The Minister will have my wholehearted support for more psychologically directed random breath testing. I would like to see RBT road blocks opposite football matches so that everyone coming away from the match sees them. That would be a good system because it would really scare people. I would like to see RBT operating where people are stopped -

Hon Graham Edwards: Have you ever been out with a random breath test patrol?

Hon PETER FOSS: No. I spoke to the previous deputy commissioner, Mr Moscardini.

Hon Graham Edwards: I will be happy to arrange that; it may change your attitude.

Hon PETER FOSS: On what?

Hon Graham Edwards: To the way RBTs are conducted.

Hon PETER FOSS: It might; I am most impressed with the fact that I have not seen them.

Hon Graham Edwards: That does not mean to say they are not out there.

Hon PETER FOSS: Many people one speaks to say that they have never seen them.

Hon Graham Edwards: Hon Max Evans was complaining he had been pulled up something like four or seven times in the same period that I had not been pulled up at all.

Hon PETER FOSS: The Minister was not driving a vehicle with a 7WA number plate by any chance?

Hon Graham Edwards: It is a bonus if they pick up a 7WA car.

Hon PETER FOSS: Whatever the reason we have to increase the number. I am not trying to be critical; I am trying to be helpful.

Hon Graham Edwards: I accept that. That is why I suggest you go out on patrol.

Hon PETER FOSS: I am happy to take up the Minister's offer. I believe RBT is a valuable instrument but it has to be used effectively. Thinking caps need to be put on to try to increase the visibility of RBT patrols; that is a vital thing to do.

I accept absolutely the role of alcohol in accidents; I attribute a higher role to that than the statistics show. I accept absolutely the need to do something about it. I accept absolutely that if the evidence is good enough to show that 0.05 is the basis upon which we should be doing something, that is what we should do. I have no problem with that. The only problem

I have at present is that the evidence I have seen does not support 0.05 except for people in the age group 16 to 19 years.

That makes sense because one of the things that alcohol does is to affect one's judgment and one of the things that 16 to 19 year olds do not have is quite as much judgment as they will have when they get older. That is probably because they do not have as many developed skills. One understands why that is the case.

I understand the arguments in support of the Leader of the Opposition's amendments and I support those arguments. Whereas the 0.05 amendment of the Government merely provides for fines and so forth, the amendments to be provided by the Leader of the Opposition will provide for the same penalties as there are for 0.08 and the evidence suggests that the penalties should be the same. I do not support the namby pamby, in between business. If the evidence is there we give severe penalties. I think the penalties for drink driving should be generally increased. If we sit down and ask the questions that should be asked we come up with the answers the Hon George Cash has come up with. That does not mean that I have closed my mind for all time to the possibility that he could be wrong. I firmly believe we have to keep in mind that further research will be carried out and maybe some day he will be shown to be wrong. To date, it appears that the Government's view is not supported.

I support the second reading of the Bill, but will be supporting the amendments to be moved by Hon George Cash.

HON J.N. CALDWELL (Agricultural) [9.53 pm]: I support Hon E.J. Charlton's opposition to the introduction of a 0.05 blood alcohol limit. I was interested to hear tonight two Government members talk about the introduction of the 0.05 BAC having reduced the amount of drinking by the community. They did not say whether they were referring to the community generally or to the driving community. I assure them that the introduction of the 0.05 blood alcohol level will not reduce drinking in the community.

I guess every one of us here tonight is invited out occasionally to a friend's place for a party or for a wedding celebration. Before the evening begins we are generally offered a drink and sometimes an alcoholic drink before dinner. During the evening most of us will participate in two or three glasses of wine and perhaps at the close of the evening a glass of sherry. I do not think that would be overstretching the mark by any means as far as the 0.08 BAC is concerned. It is a well known fact that a good meal dilutes the alcohol and that one can drive home quite safely with that amount of drink. If a blood alcohol content of 0.05 were introduced, there would be some doubt about whether that person could drive home safely. They may not be drunk, but they would certainly run the risk of being picked up.

What would be the proposition then? It would probably include an invitation to stay the night. With that invitation the host or hostess would offer the couple more drinks and by 3.00 or 4.00 am, everybody would be under the weather and would go to bed, wake up and find their way home the next day probably still under the influence of alcohol. This would happen invariably.

Hon B.L. Jones: Not invariably. My husband and I establish who is going to drive before we go out.

Hon J.N. CALDWELL: That is good, but not everybody does that. Sometimes both the wife and husband like to have a pre-dinner drink and to take wine with their meals.

Almost all of us here tonight have had teenage children. What do they do when they go out in the evenings? We have heard of bush bashes and the bachelor and spinster balls. We see stickers on the back windows of cars suggesting that they attend probably two or three of those events a year. What happens to them? They go to those functions with no intention of driving home. They take their swags and rolls which are a great idea and get themselves absolutely smashed out of their minds.

The suggestion a couple of years ago that the introduction of a 0.08 BAC would stop people from drinking was ridiculous; in fact, it has had the opposite effect. People have been taught to drink more. I do not know whether many people have thought about that. Young people are drinking more these days. They go out and get plastered, which is very unfortunate. That is one of the side effects of the introduction of the 0.08 BAC.

Another result from the introduction 0.08 BAC has been the popularity of bottle shops and

the belief that the best place for one to have a quiet drink is in one's home. I do not think anyone would quarrel with that. If a blood alcohol content of 0.05 were introduced, that custom would become more widespread and people would go to bottle shops to buy their liquor. That happens now in country areas where people have to drive long distances to their homes. They purchase large quantities at bottle shops. The result of that will be that bottle shops will be knocked off more often by thieves because there will be a lot more money for them to take. Recently in my home town a publican was confronted by a knife-wielding person looking for some extra money. Undoubtedly, he was out of work or one of those not looking for work and he knifed the publican and ran off with some takings. Unfortunately, that sort of offence will become the norm.

I wonder whether it is correct that the Federal Government is to take away the dole from many people and especially those living in country areas. What will happen to those people? It has been suggested that it will retrain people. That is great, but that retraining will not be done in many country areas and if the dole is taken from people, these bottle shops will become targets for people to replace the money that they will no longer receive from the dole. That should be seriously considered.

Pubs and clubs have been devastated by the introduction of random breath testing. Many country folk are experiencing the effect of increasing fuel prices when travelling to and from town. Country areas will be hardest hit if the 0.05 legislation is introduced. They are reeling at the moment and are having difficulty with the previous legislation which implemented the 0.08 BAC level. Country people cannot catch buses and most of them cannot catch taxis. It is disappointing that they have no other way of getting home.

I am concerned with the way random breath testing is carried out in country areas. An incident occurred in our town some time ago when the town hall was blocked off at both exits. It was a special occasion and a well patronised event; old settlers and dignitaries from around the State were present. The roads at both exits from the town hall were blocked off and every driver had to undergo random breath testing. It was disappointing to see this happen.

Hon Graham Edwards: Where was that?

Hon J.N. CALDWELL: In Katanning. It was some time ago.

Hon Bob Thomas: Were the car parks blocked off?

Hon J.N. CALDWELL: The road that led from the town hall was blocked off.

Hon B.L. Jones: Were most of them booked?

Hon J.N. CALDWELL: To my knowledge nobody was booked. The whole exercise was considered to be in very poor taste. Although the police thought they were doing their job, people objected to the manner in which it was carried out. Hon Eric Charlton has pointed out that this is not random breath testing.

Hon Bob Thomas: It sounds like a very good PR exercise. People are talking about it.

Hon J.N. CALDWELL: It was mentioned in the Press and many people spoke about it for some time afterwards. I have been stopped in country areas three times for random breath tests but have never been stopped in the metropolitan area. As a parliamentarian I spend 50 per cent of my time in the metropolitan area. It is my experience that country areas are over policed as far as breath testing is concerned.

Hon Graham Edwards: I will draw that to the attention of the commissioner.

Hon J.N. CALDWELL: If the 0.05 blood alcohol level is introduced it will only cause further hardship to country people and certainly to business outlets in the country. It is only a revenue raising exercise. It is my great fear that the police will be directing more attention to the roads because it is more comfortable to sit in a car with a mate and pick up people who have had a couple of drinks than to inspect back lanes and apprehend the real criminals.

Hon Graham Edwards: I do not think policing is a comfortable job.

Hon J.N. CALDWELL: I only hope that they are not comfortable carrying it out.

Hon Graham Edwards: I do not think that is a fair comment when one looks at the other side and considers the dreadful accidents which police have to attend as well as some of the dreadful jobs they have to carry out in the community,

Hon J.N. CALDWELL: It is probably something that is on everybody's mind and perhaps the comment should not have been made. It is only fair that such a comment be made when considering introducing legislation such as this, especially when the State is in a financial crisis. It is important for the Government to collect as much money as it can.

Hon Graham Edwards: That is not a fair comment either.

Hon J.N. CALDWELL: It may not be a fair comment, but it probably is under these circumstances.

Hon Murray Montgomery: We will see when the Budget comes down.

Hon Graham Edwards: That is an unfair reflection on the job that the police have to carry out. Of all the tasks police have to carry out, one is not to raise revenue for the Government. That is an unfair reflection on the Government.

Hon J.N. CALDWELL: People come to me and suggest these sorts of arguments and I only relay their concerns. I do not think the police consider that at all; I have no evidence of that. I only relate to the House what constituents in the country are thinking.

Hon Murray Montgomery: The perceptions in the community.

Hon J.N. CALDWELL: We can do without this legislation. As Hon Peter Foss has suggested, there is no evidence that it would bring benefits if it were introduced. It would bring greater hardship to the people that I represent; it would present greater problems for people travelling in the country and would disrupt social life in the country enormously.

HON FRED MCKENZIE (East Metropolitan) [10.06 pm]: I refer to the last point made by Hon John Caldwell that there is a perception in the country that this legislation is a revenue raising measure by the Government. I hope the member will be fair and explain to those people that the initiator of this legislation was the Federal Government through the Federal Minister for Land Transport, Hon Bob Brown. I am sure that he would not be thinking about WA Inc or any of the other things that country people may be uttering. In fairness, the member should point out that although the Government is not objecting to the introduction of this legislation it was not initiated by it.

Now that Western Australia has joined the national effort to attain uniformity in the law I would like to mention some other aspects of the argument. It amazes me that when this type of legislation is before the House - there has been quite a lot of it lately - in an attempt to save lives, people either directly oppose it or endeavour to water it down. On the one hand the National Party opposes the legislation and on the other hand we have the Liberal Party attempting to amend the legislation in order to water it down. In my view neither case stands up.

I am aware of a lot of opposition to this legislation in the country. I cannot understand the arguments for that because there are more fatalities in country areas than in the metropolitan area. It seems that country people want to kill themselves. Any measure that will prevent those accidents is worthy of support. It is unfortunate that over the years there has developed in the country a special gathering at the watering hole. That may have been acceptable in the day of the horse and buggy when one could hop on the buggy and the horse would take one home. It is a vastly different matter these days. Motor vehicles have become lethal. They are fast and dangerous and alcohol does have an effect on the people who drive them. People become careless and engage in activities in which they do not have full control of their vehicles.

Hon Peter Foss said that there was no scientific evidence to show that 0.05 was a blood alcohol level at which impairment of driving would occur. It all depends on whom one listens to. I have a lot of figures that indicate that alcohol does have an effect on people's driving capability. I have statistics which show that 47 per cent of drivers killed have been drinking.

Hon Derrick Tomlinson: What was their blood alcohol content?

Hon GRAHAM EDWARDS: It is immaterial. Hon Fred McKenzie has made one of the most telling points made tonight.

Hon Derrick Tomlinson: We are arguing about the 0.05 level.

Hon FRED McKENZIE: I will come to that in a moment. Evidence shows that in New South Wales the introduction of a blood alcohol level of 0.05 for drivers reduced the number of road deaths on Saturdays by 12 per cent. It is critical to note that the amendment fails to recognise or address the seriousness of the drink driving problem. My statistics show that between 1986 and 1989 a total of 677 drivers were killed on Western Australian roads and 47 per cent of those drivers had been drinking; that is, 316 of the deaths. Drink driving related deaths are an outrageous waste of life and a tragedy for the families concerned and the community as a whole. That cannot be disputed. I do not think anyone would want to dispute that.

The Opposition's amendment appears to me to say that if a person is over 21 years of age the 0.05 blood alcohol level requirement will not apply. Let us look at that. Of the total group, 77 per cent were outside the 17 to 20 year age group. It is important that these figures appear in *Hansard* as they are statistics from the WA Police Force supplied to me on 4 September 1990. Ten drivers aged 17 years were killed, three of whom were drink drivers; 0.9 per cent of the total number of drink drivers killed. In the 17 to 20 year age group the total number killed was 146 of which 67 were drink drivers; 21.2 per cent of the total number of drink drivers killed. These figures show a heavy percentage between 17 and 20 years of age.

In the 21 to 24 year age group - and this amendment only incorporates those aged up to 21 years - 136 were killed of which 76 were drink drivers; 24 per cent of the total number of drink drivers killed. In the 25 to 29 year age group, 97 people were killed of which 66 were drink drivers; 20.8 per cent of the total number of drink drivers killed. In the 30 to 39 year age group, 97 people were killed of which 55 were drink drivers; 17.4 per cent of the total number of drink drivers killed. In the 40 to 49 year age group, 79 people were killed of which 32 were drink drivers; 10.1 per cent of the total number of drink drivers killed. That was a marked fall off, so I guess by the time people get to 40 they are starting to get a bit of sense.

Hon Murray Montgomery: Hon Fred McKenzie must realise that the last two figures he used are 10 year brackets and he was using a four or five year bracket before that.

Hon FRED McKENZIE: That is a good point. That illustrates the number of people who die from drink driving and who are under 30 years of age. The figure for those between 21 and 24 years of age is 24 per cent; between 25 and 29 years of age, 20.8 per cent. If one looks again at the 17 to 20 year age group one sees that the figure is 21.2 per cent. If one looks at a three year period the worst years are between ages 21 and 24 years; therefore, if the Opposition wishes to move a change to the age nominated why use the age of 21 years? Why not make the age 24 years, as the highest percentage of drink drivers killed is in the 21 to 24 year age group. I do not believe there should be any differentiation, I am merely pointing out how ludicrous the amendment will be.

Once people are over 50 years of age I guess what little bit of life is left is valuable. I am in that bracket. In the age group between 50 and 59 years, 35 people were killed, nine of whom were drink drivers; 2.8 per cent of the total number of drink drivers killed. In the age group from 60 years onwards 77 people were killed, eight of whom were drink drivers; 2.5 per cent of the total number of drink drivers killed. Therefore, the older one gets the more sensible one becomes. That is obvious from these figures.

Hon Derrick Tomlinson: How many pedestrians in that age group were killed, because it could be that more of these people are not driving.

Hon FRED McKENZIE: That may be so. By the time people reach 60 years of age perhaps they have given up drinking. I think they should have given it up earlier. We ought to do anything we can to achieve that aim. At some level alcohol creates an impairment to driving. It has an effect at the 0.05 level, in my view. I have backed that up with these figures. Surveys held show that in excess of 60 per cent of the public support the introduction of this legislation. Therefore, 60 per cent or more of the public must accept the scientific evidence.

The following organisations support this legislation, and I do not believe they can be written off: Royal Automobile Club of WA (Inc); Public Health Association; Alcohol and Drug Authority; Health Department of Western Australia; Australian Medical Association; Western Australia Police Department; Western Australian Traffic Board; People Against Drinking Driving; Australian Association of Health Promotion Professionals; National

Centre for Research into the Prevention of Drug Abuse; Alcohol Advisory Council Of WA; Royal Australian College of Surgeons - Road Trauma Committee; Curtin University - health promotion, and addiction studies; Australian Council for Health, Physical Education and Recreation; Western Australian Professional Health Educators Association; and the Western Australian Network Of Alcohol and Other Drug Agencies. That is an imposing list of influential bodies in the community which treat accident victims.

The other thing we must consider is that this does not only involve drink driving but also innocent people who become statistics because of the drinking habits of others. This must be taken into account as it is a substantial figure.

Other evidence I have seen relates to costs involved in providing hospitalisation for injured people. Let us look at the number of people injured in accidents as there are a substantial number. It is estimated that this Bill will reduce by an estimated 3 500 the drink driving injuries occurring each year in this State. That is a significant number. Western Australian country people will have to find other pursuits and get out of the horse and buggy days and into the real world by finding social activities other than drinking.

The writing is on the wall. We are not suggesting they should not drink. One could have a couple of glasses and be considered safe on the road, but we must be more careful. Hon Peter Foss said that he does not think we have enough random breath testing. Mr Caldwell said we have too much; police wait at entrances of halls. There seems to be a difference of opinion on the Opposition benches.

Hon Graham Edwards: Pity the poor policemen!

Hon FRED McKENZIE: What the police are doing in the administration of the random breath testing law is very sensible. They are doing their job in the way we want it done. I can remember that when this House was discussing random breath testing legislation all sorts of horrific pictures were painted of how people would be victims and they would be stopped for virtually nothing. The legislation would inconvenience them; we were infringing on civil rights. With hindsight there has not been a lot of fuss and bother, and the law will be with us for ever more. I can remember that the legislation was thrown out the first time it was introduced, the Opposition would not have a bar of it, but eventually the legislation was passed.

I indicate my support for this legislation. I am amazed that each time the Government tries to save lives, its efforts are opposed by the Opposition.

Hon George Cash: That is a little unfair. If you look at the proposed amendments, they are responsible amendments.

Hon FRED McKENZIE: They are not. The Leader of the Opposition must have heard me say, and I shall repeat it, that they are aimed at allowing anyone over 21 years of age to be exempt from the 0.05 provision.

Hon George Cash: No; they are subject to 0.08.

Hon FRED McKENZIE: Anyone over 21.

Hon George Cash: That is right.

Hon FRED McKENZIE: The Leader of the Opposition is the shadow Minister for Police. The police statistics show that 77 per cent of drivers are outside that age range, and that the 21 to 24 year old group represent the biggest group of offenders. Between the ages of 17 and 20, the percentage of drink drivers killed was 21.2 per cent. The 17 year old group was 0.9 per cent. In the 21 to 24 year age group, the percentage of drink drivers killed on the road was 24 per cent. In the next group, 25 to 29 years of age, the percentage was 20.8 per cent.

These are the statistics which have been supplied to me, so I do not think the amendments are responsible ones. They are an attempt to water down what would otherwise be very comprehensive legislation. On the basis that 77 per cent of drivers are above 21 years of age, and a substantial group up to the age of 30 accounts for almost 45 per cent of drink drivers killed, the Opposition wants to cut it off at 21. This is ludicrous.

Hon George Cash: One of the problems you face with the statistics you are using at the moment is that they do not distinguish between drivers of motor vehicles and motorcyclists.

You do not have a breakdown of pedestrians, passengers in motor vehicles and passengers on motorcycles. If you look at those individual statistics, the figures you are quoting change somewhat if you relate the figures strictly to drivers of motor vehicles and motorcycles.

Hon FRED McKENZIE: That is a very clever attempt to destroy my statistics.

Hon George Cash: I am using a parliamentary answer.

Hon FRED McKENZIE: The amendment does not distinguish between motorcyclists and pedestrians either.

Hon George Cash: The amendment has been drafted so that it does take that into account. In part we used an answer to a question which the Minister for Police provided to one of the members where all those statistics are set out.

Hon FRED McKENZIE: The Leader of the Opposition will be able to enlarge upon that during the Committee stage, and I shall be listening very intently. It is a very valiant attempt to justify the amendment and destroy my argument.

Hon Graham Edwards: You stick to your argument, Fred; I think you are going well.

Hon FRED McKENZIE: I thank the Minister; I appreciate the encouragement.

Hon Graham Edwards: I think you have handled yourself exceptionally well.

Hon FRED McKENZIE: I can see the Minister wants me to finish, so I shall not prolong the debate. I have made my small contribution to it.

Hon Graham Edwards: An excellent contribution.

Hon FRED McKENZIE: I support the legislation as introduced, and it is not my intention to support Hon George Cash's amendments during the Committee stage.

Hon George Cash: A few minutes ago you said at least you would consider arguments I put forward. Please, Mr McKenzie!

Hon FRED McKENZIE: I shall consider the arguments, as I always do.

Hon George Cash: But you will not be swayed by them.

Hon FRED McKENZIE: I think I can give a pretty firm commitment on that at this stage.

Debate adjourned, on motion by Hon Derrick Tomlinson.

ACTS AMENDMENT (HERITAGE COUNCIL) BILL

Receipt and First Reading

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

Second Reading

HON KAY HALLAHAN (East Metropolitan - Minister for Heritage) [10.27 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to put into effect the intentions of the Heritage of Western Australia Bill by modifying existing Statutes in appropriate ways.

The Heritage of Western Australia Bill establishes a referral process that provides the means for protecting places that are entered in the register of heritage places. This process means that decision making bodies will continue to have responsibility for decisions, as they do now, but must seek advice from the Heritage Council before making those decisions. All existing appeal processes will continue to be applicable.

With regard to the provisions of the Bill, the first items, amendments to schedules and definitions, are minor administrative matters. Section 374 of the Local Government Act deals with the issue of building licences and is amended to extend the time period for the local municipal council to give its approval for heritage places from 35 to 60 days. This is done to ensure that the decision making process remains with the local municipal council rather than its being automatically transferred to the Minister on appeal after 35 days has expired.

The amendment to section 374A deals with demolition licences and enables a municipal council to refuse to issue a demolition licence for a registered place, or a place subject to a conservation order.

The Town Planning and Development Act is amended by an expansion of the definition of "development". Section 5AA is altered to include "cultural" as a subject for a statement of planning policy. Section 7 is altered to ensure advice from the Heritage Council is given for town planning schemes or scheme amendments that include a registered place. Section 7B of the Town Planning and Development Act deals with interim development orders, and once again includes the provision for referral to the Heritage Council for any development that relates to a registered place.

The amendments to section 12 ensure that land to which the Heritage Act applies, and which is included as such in a town planning scheme, is not considered to be injuriously affected and, therefore, would not attract compensation or betterment.

A new section 18C is introduced which ensures that if registered places are the subject of development, an application must be made to the municipal council, or the State Planning Commission through the Department of Planning and Urban Development. Amendments to section 20 require applications for subdivision approval to be referred to the Heritage Council for advice; and amendments to section 20A enable land to be given up at the time of subdivision for the purpose of conservation or protection of the environment. Amendments to sections 37 and 53 relate to the Town Planning Appeals Tribunal and require the tribunal to refer to the Heritage Council for advice any matter which relates to a registered place. The amendment to section 54 confirms that the Minister responsible for heritage matters is the Minister referred to in the section.

The first schedule in the Town Planning and Development Act is amended to ensure that town planning schemes can deal with all heritage matters. The Metropolitan Region Town Planning Scheme Act is amended at section 32A to ensure that the region scheme is not amended in a way that is contrary to or inconsistent with a heritage conservation order unless so determined by the Town Planning Appeals Tribunal. Sections 35B, 35C and 35F deal with aspects of planning controls and are to ensure that referrals are made in respect of heritage places. Section 25 of the Strata Titles Act 1985 deals with the giving of a certificate of approval for a strata scheme. This amendment also establishes the referral procedures to the Heritage Council.

These amendments are a necessary part of the overall heritage conservation package designed to identify, conserve and, where appropriate, enhance those places in the State which are of significance to our cultural heritage. I commend the Bill to the House.

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

HERITAGE OF WESTERN AUSTRALIA BILL

Receipt and First Reading

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

Second Reading

HON KAY HALLAHAN (East Metropolitan - Minister for Heritage) [10.33 pm]: I move -

That the Bill be now read a second time.

Australia's early settlers established a pattern of cultural development that is unique in its reflection of the location, isolation and environment of Western Australia. A hallmark of a community's maturity is its sense of history and its commitment to protect its cultural heritage. This heritage Bill has been designed for the conservation and protection of the very important elements of this cultural heritage.

The Government has consulted with the development industry and community groups since the introduction of the Government's first Heritage Places Bill in 1987. As a result, this Bill reflects the concerns of Government, private landowners, conservation and heritage groups and the community. The object is to identify, conserve and enhance those places in the State

which are of significance to our cultural heritage, to promote public awareness of them and to ensure they have a practical future use.

Part 1 contains the interpretation section. The Crown is bound by this legislation as set out in part 2. Thus, all Government departments and agencies with heritage places as defined in the Bill will come within the ambit of the Bill. The remainder of part 2 establishes the Heritage Council of Western Australia as a statutory body. However, the Minister maintains executive powers in respect of the administration of the Act. Part 3 sets out the powers and the functions of the council.

While the principal functions are to provide advice on a range of heritage matters, the council will also be able to undertake a broad range of activities aimed at documenting aspects of, and increasing public interest in and awareness of, our cultural heritage. This part establishes also the heritage fund and, within that, a trust account called the heritage conservation incentive account. It is intended that there will be an annual appropriation for this account. The moneys will be used to provide a range of incentives for owners of heritage properties which will include low interest loans and grants for approved works and technical support.

The Heritage Council will have a membership of eight. All will be chosen on the basis of their expertise and experience in matters concerning the Bill. Any interest group may nominate members, but three groups will be given representation by right. They are the National Trust, groups representing owners' interests and local government.

Part 4 deals further with the range of financial and other incentives that might be offered to private owners to encourage conservation of heritage places. The low interest loans, grants and technical support become part of a package that is available through a heritage agreement. This is a voluntary agreement between an owner and the Heritage Council, or a public authority or a corporate body each of which would be acting on behalf of the Crown. Heritage agreements can cover a wide range of matters, all of which are aimed at conserving and protecting heritage places. The agreements can relate to the use of land, development, grants, loans, works, indemnities and other measures.

Clause 34 gives the option to order the partial or complete waiver of land tax, metropolitan region improvement tax, municipal rates and charges, or water and sewage rates. Further incentives relate to the ability to amend written laws covered by clause 36 which could apply to the model building code, town planning schemes or similar regulations and laws where the conservation, protection and reuse of heritage buildings can be facilitated.

Part 5 of the Bill deals with the development of the register of heritage places. The register is central to the proper functioning of the Heritage Council and for the consideration of heritage matters in the planning process. The register will contain only places of cultural heritage significance. Entry in, and removal from, the register will be at the direction of the Minister and will involve a detailed consultation process including notification and discussion with owners, occupiers and relevant public authorities. Details of registration will be recorded on title documents to ensure that any subsequent owners are aware of the registration.

Part 6 provides for three types of conservation orders: A consent order which is an urgent order applied with the consent of the owner; a stop work order which is an urgent order applied by the Minister; and a normal conservation order which is applied by the Minister following public advertisement and consideration of submissions.

The stop work order can be applied at very short notice, may remain in effect for up to 42 days, and can be extended by reference to the Town Planning Appeals Tribunal. This is intended to allow time for reconsideration and negotiation. It is intended, during the initial 42 day period, that the Heritage Council would undertake a detailed evaluation of the place and advise the Minister whether the place warrants conservation. The normal conservation order is designed to limit potentially destructive activities such as fossicking and vandalism.

Part 7 allows the Minister to compulsorily acquire a place where it is necessary for the conservation of that place. This draws on the provisions of the Public Works Act. It is envisaged that the powers of compulsory acquisition will be used only as a last resort. The Bill provides also for the acquisition of heritage properties with the owner's consent. A compensation provision covering stop work orders is included in this part. Reasonably incurred expenditure rendered useless as a result of a stop work order may be claimed.

The requirement for referral to the Heritage Council is included in part 8. Applications for development, subdivision, building licences and demolition licences that include a registered place must be referred to the Heritage Council and advice received before the relevant body can make a decision. The development approval procedure will not take any longer; the decision making authority will not be bound to take the advice offered by the council. An applicant will have recourse to the normal appeal mechanisms if he or she is aggrieved by a development approval or refusal.

Part 9 contains general provisions that include the power of the Governor to make regulations and the fact that the Act will be subject to review after five years. A consequential Acts amendment Bill accompanies this Bill and I have already dealt with that.

This heritage legislation is the result of the Government's determination to frame fair and equitable legislation that will satisfy the community's aspirations and apply equally to Government and privately owned heritage places. It will enable conservation of our cultural heritage, provide technical and financial assistance, and give real protection against wanton destruction of, or damage to, our heritage places.

The Bill has been debated exhaustively in the other place. The Government has accepted a number of amendments that will improve the administration of the legislation or that will not frustrate it. My colleague the Minister for Transport has given an undertaking that we will look at a number of other provisions with a view to clarifying their meaning.

The Government's proposal will provide real protection for the State's cultural heritage and will result in a positive approach to heritage conservation. I commend the Bill to the House.

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

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.40 pm]: I move -
That the House do now adjourn.

Adjournment Debate - Select Committee on Aquiculture and Mariculture - Funding Shortage

HON P.H. LOCKYER (Mining and Pastoral) [10.41 pm]: I will not delay the House for too long, but as the Leader of the House is present I will raise this matter. I am chairman of the Select Committee on Aquiculture and Mariculture. The committee has been unable to carry out its duties due to lack of funds. I have been informed by the Clerk tonight that the committee can expect approximately \$2 000 to continue its inquiries. That is insufficient, and that is the politest way I can put it. The committee is charged by this House with a duty of examining industries that are of immense importance to the State. The committee was formed with the agreement of all parties and is served by a member from the Labor Party, the National Party and me as the Liberal Party representative. It is apolitical and was put forward on a non-political basis to examine what are important industries. It is necessary for the committee to travel extensively in Western Australia and to examine the aquiculture and mariculture industries in the other States. I do not expect committee members to fly first class around the world to examine these industries in Canada or Sweden, but members presently would be lucky to get to Guildford and back.

Hon Mark Nevill: There are some pretty competitive bus fares.

Hon P.H. LOCKYER: If it were not so serious, that would be amusing.

Hon Garry Kelly: Why are you laughing?

Hon P.H. LOCKYER: I laugh in pity because it is quite wrong that this Government can find \$6 million to fund the McCusker committee -

Hon Kay Hallahan: Do you disagree with the prosecutions?

Hon P.H. LOCKYER: I do not disagree with anything.

Hon Kay Hallahan: I should certainly hope not.

Hon P.H. LOCKYER: Be silent.

Hon Kay Hallahan: It was a very silly way to start.

The DEPUTY PRESIDENT (Hon J.M. Brown): Hon Phil Lockyer invited that response. I ask that he not invite questions or provoke debate but address his comments to the Chair.

Hon P.H. LOCKYER: I thank the Deputy President for his advice. I will confine my speech within the subject I was discussing before I was so rudely interrupted by an uneducated person who knows nothing about the subject. Regardless of what was said across the Chamber, the Government can find \$6 million for Mr McCusker to examine the misdemeanours of the Government, but it cannot find the appropriate funds for this Select Committee or for any other Select Committee of this House to carry out the duties that the House has charged them with. If Hon Kay Hallahan finds that amusing -

Hon Kay Hallahan: I have not found anything amusing. I thought you said you were not in favour of spending money to prosecute people identified in the McCusker report.

The DEPUTY PRESIDENT: That was canvassed before and I made a ruling.

Hon P.H. LOCKYER: For the benefit of the Minister, who obviously cannot concentrate on two things at once - she should go back to what she was reading and not interrupt a good speech - all members should be aware that insufficient funds have been allocated by the Government for Legislative Council committees to carry out their duties. I speak on behalf of the Select Committee on Aquiculture and Mariculture and I know that my fellow members, Hon Sam Piantadosi and Hon Murray Montgomery, agree with me. The Leader of the House, on behalf of the Legislative Council, should talk with the Deputy Premier as a matter of urgency with a view to re-examining the funds which have been made available to the Legislative Council committees.

Adjournment Debate - Wyndham-East Kimberley Shire - Kununurra Amusement Sideshow Complaints

HON TOM STEPHENS (Mining and Pastoral) [10.45 pm]: Last week I received a number of representations from my constituents in the Wyndham-East Kimberley Shire, particularly from the township of Kununurra, expressing concern about a set of circumstances which I have been able to reconstruct from their representations. Their concern relates to an amusement sideshow which recently came to Kununurra and which was positioned in the usual council owned land where all sideshows which come to town are placed.

Hon Reg Davies: Is that where they put the Labor Party?

Hon TOM STEPHENS: The owner of the amusement show approached the Deputy President of the Shire of Wyndham-East Kimberley, Keith Wright, and asked him if there was a more visible and attractive place where his show would attract a larger number of people. Councillor Wright asked the local supermarket agent if the show could be situated on the supermarket block right in the centre of town. He was told this would be no problem and the amusement show was welcome to move there. Councillor Wright advised the then shire clerk, who called the building surveyor into his office. The building surveyor was also acting health surveyor and he said that it was a most inappropriate position, not only from a health aspect as there was no effluent discharge or toilets, but also from a safety aspect - electrical cords and insufficient power - and that he adamantly opposed the move. However, without any contact with the shire president or the other councillors Mr Wright asked the shire clerk to advise the amusement people that this new site would be satisfactory.

Councillor Wright then received \$1 000 which he deposited in a trust account which he named the Kununurra Foundation. He asked local businessman and former Liberal MLC, Bill Withers, to act as joint signatory on this account.

Many complaints were received from the community about the amusement show being situated on the busiest corner of the town and how it was causing all sorts of traffic problems. The councillors who were approached with complaints, in their innocence, told the ratepayers and other constituents that it had nothing to do with the council and that the supermarket land was privately owned.

I am advised that at a shire meeting on 6 September the shire president brought to the attention of the council what he considered to be the improper action of the deputy president. On questioning Councillor Wright it was ascertained that \$450 had been given to the Kununurra Agricultural Society, of which he is a member, and \$500 to the Ord Festival

Committee, of which he is president. Shire President Racievic stated that in his view this was improper conduct. Firstly, Councillor Wright acted on behalf of the council without any authority to do so and without the knowledge of the rest of the council. Secondly, Councillor Wright accepted payment for the approval for the amusement show to be situated in a central position in the town. Thirdly, he banked money in an account which had no relevance at all to the council. Councillor Wright, despite all the other councillors' condemning his actions, said he felt that he had not acted improperly and that it was up to him -

Point of Order

Hon R.G. PIKE: I may have missed what the member said when he started speaking, and under Standing Order No 136(a) I would like the member to identify his quotation.

Hon TOM STEPHENS: I am happy to identify this as notes which I have constructed from the complaints of a variety of constituents who have contacted me.

Hon R.G. PIKE: It is really your speech.

Hon TOM STEPHENS: It is notes that constitute the construction of these events as put to me by my constituents.

Hon P.H. Lockyer: You should be very careful of your facts.

Debate Resumed

Hon TOM STEPHENS: Councillor Wright, despite all the other councillors' condemning his actions, said he felt he had not acted improperly and that it was up to him and the other signatory, Bill Withers, to decide which community groups received assistance.

Point of Order

Hon R.G. PIKE: Under Standing Order No 136(a)(ii) I ask that the document be now tabled.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! The document has been identified and at the conclusion of the member's remarks a member may move that it be tabled.

Debate Resumed

Hon TOM STEPHENS: The complaints I have received from my constituents have varied. Some suggested that the actions of the Deputy Shire President of the Wyndham-East Kimberley Shire Council effectively constitute acts of corruption. Other allegations have suggested they constituted extraordinary impropriety on the part of the deputy shire president, and others have suggested that it was nothing more than a display of gross incompetence.

I do not wish to make any comments in regard to the matter except that at the request of the constituents who approached me I will take the opportunity, through the process of this adjournment debate, to refer the summary of events as they were put to me to the Minister for Local Government with a view to having the issues considered and hopefully, if the Minister sees fit, to have a municipal investigator assess the complaints with a view to having them investigated.

A decision may then be made as to whether any breaches of the Local Government Act were committed in the sequence of events which I have outlined to the House.

Hon P.H. Lockyer: Have you spoken to Wright or Withers?

Hon TOM STEPHENS: I am concerned about the sequence of events outlined to me. Perhaps the electors of the Wyndham-East Kimberley Shire Council will, in the end, be the only people in a position to deal with the matter decisively -

Hon P.H. Lockyer: I take it you have not spoken to them.

Hon TOM STEPHENS: - when casting a vote in regard to the deputy president's candidacy in future local government elections.

Hon R.G. PIKE: In accordance with Standing Order No 136(a)(ii) I request that as the member has concluded his speech the document be tabled.

Adjournment Debate - Kelly, Mrs Prue - Regeneresen Drug Release

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [10.54 pm]: I take this opportunity to draw to the attention of the House the predicament of one of my constituents, a Mrs Prue Kelly, who lives in Doubleview. I advise members that she suffers from spinal cancer in three vertebrae. I understand from advice tendered to me that the lady is in constant pain and her prognosis is not good.

The reason I draw this matter to the attention of the House is that recently Mrs Kelly imported a drug called Regeneresen from Germany and it was seized by the Australian Customs Service under the Customs (Prohibited Imports) Regulations. In view of Mrs Kelly's condition and the fact that she is in constant pain some special consideration should be given to her request. For the information of members I will read a letter Mrs Kelly sent to Hon Peter Staples which indicates her desperate situation. The letter is dated 31 August 1990 and reads -

Dear Dr. Staples,

I will get down on my knees for you. I am begging you to please let me have the right to my life. I am dying of cancer as you well know. I do not wish to have any further radiation, chemotherapy or the drug Noveadex of which all three clearly outline there is no antidote for over dosage. I have already been left with a crippled hand from radiation.

I have already had one series of Regeneresen in Germany and I am enclosing a letter to prove that this drug will clear up my cancer. Dear Dr. Staples, I have found an answer for my cancer, so please just let it be and let me have the right to make the decision for my life. I am begging you to tell Customs to release the drug I want. I am a lone parent and I still have to work to support my 12 year old child. With chemotherapy or radiation, it will surely kill me. With the drug I am begging you to release for me to live my life, I can still work and have some more time with my one and only child. I will get down on my knees for you Dr. Staples. Please let me take care of my child. Please do not murder me. Please release the drug Customs are holding for me at your request.

In Germany Dr. Gerster is having miraculous success with Regeneresen curing muscular dystrophy and dozens of other degenerative disease. I understand the former President of the United States also had this drug when he had cancer.

Kind regards,

Prue N. Kelly.

I ask, through the Leader of the House, that this State Government take immediate action to contact Hon Peter Staples in Canberra to see whether some action can be taken to release this drug to assist Mrs Kelly. If it is not possible, he should at least explain the reasons that the drug cannot be released and offer some other support to Mrs Kelly in view of the distressing situation.

Adjournment Debate - Wyndham-East Kimberley Shire - Kununurra Amusement Sideshow Complaints

HON R.G. PIKE (North Metropolitan) [10.59 pm]: I would like to refer to the comments made by Hon Tom Stephens. I am inspired to speak on this matter because of my profound and abiding regard for the integrity of Bill Withers. I know him from the time he spent in this House and know him to be a man of impeccable integrity and forthrightness. I have made inquiries about deputy president Wright to whom the honourable member referred and I am informed that he, likewise, has the same attributes. It is a matter for great regret that accusations of the nature made tonight by the honourable member, using parliamentary privilege, have been made without even a courteous reference to either Bill Withers or to this gentleman Wright. While I am one of those who holds steadfastly that we have an undoubted prerogative to use parliamentary privilege in this place from time to time, knowing Bill Withers as well as I do I question the motives and the evasive tactics the honourable member has used in this place. Such an attack should not go without comment.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [11.00 pm]: I listened with interest to the comments of Hon Tom Stephens and Hon Bob Pike. I can assure

Hon Bob Pike that I will circulate his comments to Michael Wood who I am sure will find them of some interest.

*Adjournment Debate - Select Committee on Aquiculture and Mariculture -
Funding Shortage*

HON J.M. BERINSON (North Metropolitan - Leader of the House) [11.01 pm]: I refer, first, to the matter raised by the Leader of the Opposition. Perhaps he could provide me with an early copy of the material involved.

Hon George Cash: I will send it up.

Hon J.M. BERINSON: Perhaps he could also authorise the early release of the *Hansard* copy to me and I will ensure that it goes to the appropriate Minister at the first opportunity; I think that is probably the Minister for Health. I will make inquiries as to the appropriate avenue to follow and will do so as early as possible.

Having heard the sort of difficulties to which the Leader of the Opposition drew attention, it is difficult to get back to more mundane matters. Although I will deal with one matter at greater length, I do not think any member will take the length of time taken on any question as reflecting the seriousness of that question.

I respond to the opening comment in this debate made by Hon Philip Lockyer in relation to the availability of resources for the particular committee to which he referred and for the committee system in general. Hon Philip Lockyer gave me some good advice and suggested I have a talk to the Deputy Premier. I have already had a number of talks with the Deputy Premier directly related to funding issues which arose, in particular, from the expansion of the committee system in this House. I indicate, first, that as a modest result of those discussions the Deputy Premier agreed that the Parliament, and in particular the Council, should be exempted from the position applying to all other departments, which have been instructed that no new positions can be created pending completion of the Budget. Beyond that, and more positively, I have also obtained advance approval from the Deputy Premier for the appointment of four staff specifically for the service of our committee system. That advice, as I understand, was conveyed directly from the Deputy Premier to the Clerk today.

I have also argued for a substantial increase in the funds previously allocated for the work of the Council, again on the basis of the requirements of the expanded committee system that we have adopted. It is not open to me to anticipate the results of those discussions, but we will not have long to wait. I think it is fair to say that when the Budget is presented members, even Hon Bob Pike, will agree that the approach to funding activities of this House has been on a proper and responsible basis. I do not want to suggest by that that members should expect everything they may have wanted to include in an ambit bid, but I am confident that what will emerge is an increase which separates the treatment of the Parliament from the stringency that will be applied to Budget allocations in general.

The Government has been willing to adopt, and has from the outset adopted, a constructive approach to the effort to create a comprehensive and useful committee system. I believe that has been reflected in a number of ways already; certainly it is understood that the system now in place has called for greater funds than we have been used to allocating in this area. Again, and without anticipating the result or suggesting that everyone's ambitions will be satisfied, I believe the result which eventually emerges from the Budget will be accepted as proper and responsible in the circumstances.

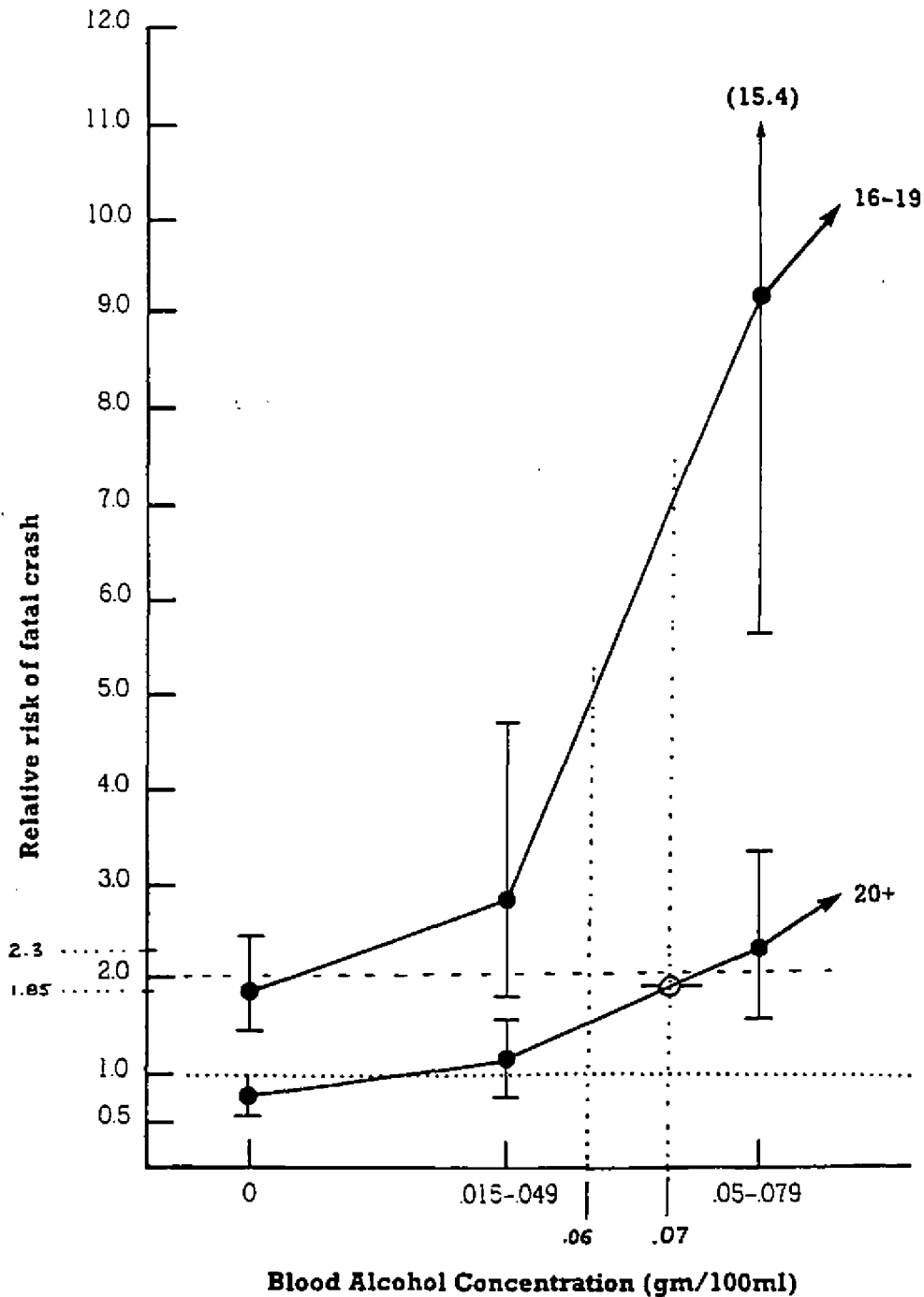
Question put and passed.

House adjourned at 11.07 pm

APPENDIX A

Figure 2

**Relative risk of fatal crash: drivers' age 16-19 and 20+
as a function of BAC**



Source: Mayhew, 1983.

QUESTIONS ON NOTICE

OCCUPATIONAL HEALTH, SAFETY AND WELFARE BILL - TRAINED
EMPLOYEE REPRESENTATIVES

603. Hon GEORGE CASH to the Leader of the House representing the Minister for Productivity and Labour Relations:

How many persons have been trained as employee representatives under the occupational health and safety legislation?

Hon J.M. BERINSON replied:

The following information has been supplied by the Minister for Productivity and Labour Relations -

As at 17 August 1990, 3 306 persons have been trained as health and safety representatives.

BUILDINGS - OXFORD STREET BUILDING, LEEDERVILLE

Occupational Health and Safety Training Lease - Locations Consideration

604. Hon GEORGE CASH to the Leader of the House representing the Minister for Productivity and Labour Relations:

- (1) Which locations were considered prior to agreement being reached, on the leasing of the building in Oxford Street, Leederville, which is used for occupational health and safety training?
- (2) What is the period of the lease on the building and what rental is paid annually for the premises?
- (3) Who are the owners of the building?

Hon J.M. BERINSON replied:

The following information has been supplied by the Minister for Productivity and Labour Relations -

- (1) The matter of location was for the determination of the Trades and Labor Council. Prior to finalising the present lease, a real estate agent provided advice on a list of rentals in the Mt Hawthorn/Leederville area, those being -
 - . CES Building, Cnr Oxford/Anzac Street, Mt Hawthorn;
 - . 284-286 Oxford Street, Cnr Galway St. Leederville;
 - . 38 Oxford Close, Leederville;
 - . Cnr Newcastle and Loftus Street, Leederville.
- (2) The period of the lease was for 12 months with a 12 months option plus outgoing. The rental paid inclusive of outgoing for 1989-90 is \$73 326.
- (3) Electrical Trades Union and the Amalgamated Metal Workers Union.

ROAD TRAFFIC AMENDMENT ACT (No 2) 1987 - PROCLAMATION

617. Hon GEORGE CASH to the Minister for Police:

- (1) Has section 11 of the Road Traffic Amendment Act (No 2) 1987 been proclaimed?
- (2) If not, why not?

Hon GRAHAM EDWARDS replied:

- (1) No.
- (2) The Commissioner of Police has advised that previous administrative problems identified in relation to the legislation have not been resolved however are being addressed.

BREATH TESTING OF DRIVERS - RANDOM BREATH TESTS
Drink Driving Fatal Accidents Increase

633. Hon GEORGE CASH to the Minister for Police:

I refer the Minister to the Police Department's research and statistics section paper No 16, Road Safety Trends (July/August 1990), and ask -

- (1) Is the Minister aware of the apparent upward trend in fatal crashes involving drinking drivers, in the metropolitan area, since mid 1989?
- (2) Is the Minister further aware of any relevant reason which might be advanced to account for this apparent failure on the part of RBT to reduce alcohol related road fatalities in the metropolitan area?
- (3) Is the Minister also aware of the comment in that paper by Dr Ross Homel of Macquarie University NSW who suggests, inter alia -

The effectiveness of RBT in Western Australia could probably be greatly increased if all drivers pulled over were tested, if RBT operations were more visible to the public, and if these changes in procedure were extensively advertised?
- (4) If so, will the Minister take the necessary steps, outlined by Dr Homel, to ensure that the manner in which RBT is utilised becomes more effective?

Hon GRAHAM EDWARDS replied:

- (1) Yes.
- (2) There is no failure, apparent or otherwise to RBT in the metropolitan area of Perth.
- (3) Yes.
- (4) The effectiveness of RBT strategies are continually monitored and evaluated.

LAND ADMINISTRATION DEPARTMENT - POINT SAMSON
Residential Lots Development Cost - Sale Statistics

641. Hon N.F. MOORE to the Minister for Lands:

- (1) What did it cost the Department of Land Administration to develop the residential land at Point Samson which was auctioned on Saturday, 21 July 1990?
- (2) How many blocks were sold?

Hon KAY HALLAHAN replied:

- (1) The residential lots were developed together with three medium density sites, a tourist site and a caravan park site as a single development project, the total cost of which is \$2.115 million.
- (2) Only the residential lots were offered for auction and one lot was sold. The medium density sites, the tourist site and the caravan park site require further sewerage works and are not yet ready to be released for sale.

DOWDING, HON PETER - MUSCA, MR LEON
Defamation Action - Private Capacity

655. Hon GEORGE CASH to the Attorney General:

- (1) Is the Attorney General aware that the defamation action which was initiated by Perth barrister and solicitor, Mr Leon Musca against Mr Peter Dowding, which defamation Mr Dowding has not admitted to, and apologised for, was the subject of a writ of summons issued by Mr Musca on 13 September 1989 against Mr Peter Dowding in his private capacity and not as the Premier of Western Australia?
- (2) Is the Attorney General aware that the last paragraph of the "Apology" published by Mr Dowding, clearly says and refers to settlement out of court of

the writ issued by Mr Musca against "me" (Mr Dowding) "whilst in the office of Premier" and that the "Apology" does not attempt to represent any writ issued against Mr Dowding as Premier?

- (3) In view of the facts contained in (1) and (2) above, is it correct that it is only coincidental that Mr Dowding was a serving Premier when the writ was issued?

Hon J.M. BERINSON replied:

(1)-(3)

The action related to statements by Mr Dowding in his official capacity.

DOWDING, HON PETER - MUSCA, MR LEON
Defamation Action - Cabinet Decision

656. Hon GEORGE CASH to the Leader of the House representing the Premier:

- (1) Did the decision by Cabinet in November 1989 have the effect of -

- (a) committing taxpayers' funds;
- (b) creating an imbalance

in that a private citizen (Mr Musca) had the burden of paying from time to time his own legal costs to support the defamation action he initiated against Mr Peter Dowding, whereas the defendant, Mr Dowding, did not have the burden of costs of litigation and consequently had the advantage of using the legal system without the prohibiting factor of the burden of legal costs which in ordinary circumstances is a factor which a litigant must consider?

- (2) Why was the public not told that taxpayers' funds were being committed as a result of the Cabinet decision and why was the plaintiff (Mr Musca) not informed that he was suing a person whose costs and damages were going to be met by Government?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

- (1) The question of costs, or any arrangement relating to costs, is a matter for the individual parties.
- (2) That was in conformity with long established practice.

DOWDING, HON PETER - MUSCA, MR LEON
Defamation Action - "Official Responsibility"

657. Hon GEORGE CASH to the Leader of the House representing the Premier:

I refer to policy (TP382) concerning guidelines relevant to Ministers and officers involved in legal proceedings and ask -

- (1) What did the Government consider was the "official responsibility" that Mr Peter Dowding was discharging which encouraged it to indemnify Mr Dowding for the costs involved in the defamation action which was initiated by Perth barrister and solicitor, Mr Leon Musca, and which defamation Mr Dowding has now admitted and apologised for?
- (2) What did the Government consider was the "public interest" being defended and what was the "assessment" provided by the Attorney General and Crown Solicitor in respect to page 3, paragraph (a) of the policy?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

- (1) Mr Dowding was acting in his official capacity.
- (2) The Government considered it was reasonable and in the public interest to meet Mr Dowding's costs as it related to a matter which

arose while he was acting in an official capacity.

SUBIACO OVAL - VESTING AGREEMENT

667. Hon BARRY HOUSE to the Minister for Lands:

With reference to clause 30 of the recent Reserves and Land Revestment Bill concerning Subiaco Oval, has final agreement on the vesting of the Subiaco Oval Reserve been arrived at between the Subiaco City Council, the Western Australian Football Commission and the Subiaco Football and Sportsman's Club?

Hon KAY HALLAHAN replied:

Negotiations between the parties are continuing.

HOSPITALS - BENTLEY HOSPITAL

Ward and Theatre Closure

673. Hon GEORGE CASH to the Minister for Planning representing the Minister for Health:

- (1) Have any wards at Bentley Hospital been closed?
- (2) If so, for what reason?
- (3) Which theatres at Bentley Hospital have been closed for renovations?
- (4) When will each of these theatres be recommissioned and available for operative procedures?
- (5) Is it intended that one theatre shall remain closed after the renovations have been completed due to a shortage of funds?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) One ward of 14 beds has been closed at Bentley Hospital.
- (2) The normal practice of closing the ward during the Easter break has been extended not only due to budgetary constraints, but also because the renovation of the theatre suite made the ward redundant while the theatre was closed.
- (3) Both major theatres.
- (4) One theatre reopened on 13 August 1990. The other theatre is still under renovation and is expected to be completed on 21 September.
- (5) The second theatre will be closed except for emergency use until the hospital's 1990-91 budget is received when a reassessment of service provision will be made.

HOSPITALS - ROYAL PERTH HOSPITAL

Surgery Patients - Mount Hospital Transfer

675. Hon GEORGE CASH to the Minister for Planning representing the Minister for Health:

- (1) Are patients transferred from Royal Perth Hospital to the Mount Hospital for specific types of surgery?
- (2) If so, what types of surgery are performed at the Mount Hospital on patients transferred from Royal Perth Hospital?
- (3) If patients transferred from Royal Perth Hospital to the Mount Hospital do not have private health cover, who is responsible for the payment of fees and other costs associated with their hospitalisation?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) No. Royal Perth Hospital does cooperative with the Mount Hospital in the provision of Intensive Care Medical Services at both consultant and registrar level. The Mount Hospital fully reimburses Royal Perth Hospital for this service.

(2)-(3)

Not applicable.

HOSPITALS - ROYAL PERTH HOSPITAL

North Block Operating Theatres

676. Hon GEORGE CASH to the Minister for Planning representing the Minister for Health:

- (1) How many operating theatres are contained within "North Block" at Royal Perth Hospital?
- (2) Are all theatres operational and in use?
- (3) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) Fourteen.
- (2) All theatres are operational but only 12 are in use.
- (3) One theatre's anaesthetic room is being used for glutaldehyde soaking of flexible endoscopes pending the purchase of a mobile fume cabinet.

The anaesthetic room has special air-conditioning which evacuates directly to atmosphere for anaesthetic gases. It is the only place where glutaldehyde fumes can be evacuated to the atmosphere and not recirculated throughout theatre suites by standard air-conditioning. Standard air-conditioning systems recirculate 75 per cent air. One theatre is usually closed as part of the planned cycle of preventative maintenance.

GOVERNMENT EMPLOYEES HOUSING AUTHORITY - POLICE OFFICERS

Home Rental Charges Increase

681. Hon GEORGE CASH to the Minister for Police representing the Minister for Housing:

- (1) Is the Minister aware that the Government intends to increase rental charges on Government Employee Housing Authority homes on 1 October 1990 which will adversely affect police officers?
- (2) What is the proposed percentage rental increase?
- (3) Is the Minister aware that a number of Government employees e.g. State Energy Commission and Western Australian Water Authority employees, pay significantly less rental for GEHA houses than the rental paid by police officers?
- (4) Can the Minister advise why police officers should be required to pay more than other Government employees?

Hon GRAHAM EDWARDS replied:

The Minister for Housing has provided the following reply -

- (1) GEHA rents will increase from 1 October 1990 for all Government employees occupying GEHA or departmental employee housing.
- (2) The rental increase will be the equivalent of the CPI increase.
- (3) All Government employee housing whether GEHA or departmental is provided at standard GEHA rents. In some instances, long term occupants are in the process of catching up to full GEHA rents by means of annual increments. This is as a result of past award conditions which limited the rental payable by employees.

Departments providing their own employee accommodation are required to abide by all GEHA standards and policies in respect of that housing.

- (4) Police officers in GEHA housing pay similar rents to all other Government employee tenants.

POLICE - HELICOPTER
Police Officer Observer Crew

682. Hon GEORGE CASH to the Minister for Police:

- (1) How many police officers act as observer crew for the recently acquired police helicopter?
- (2) What formal training do the police officer observer crew have in the area of -
 - (a) winch operation;
 - (b) first aid, paramedic; and
 - (c) training in respect of possible aircraft emergencies?
- (3) How many police officers currently have formal qualifications to pilot the police helicopter?
- (4) What steps are being taken to have police officers qualify for pilots for the police helicopter?

Hon GRAHAM EDWARDS replied:

- (1) Two police officers.
- (2)
 - (a) All observers are holders of a certificate of competency for helicopter winch operators issued under the provisions of order 29.11 of the Civil Aviation Authority.
 - (b) All observers have completed a first aid course with St John Ambulance Association. The Police Department has an agreement for the St John Ambulance Association to provide any necessary paramedic personnel and ancillary equipment.
 - (c) Observers are familiar with and have received training in possible helicopter emergencies and under water evacuation.
- (3) None.
- (4) A program is currently being developed.

HARVEY FRESH - OWNER AND CONTROLLER
First Western Group Ltd

697. Hon Murray MONTGOMERY to the Minister for Police representing the Minister for Agriculture:

Further to question 554 of 1990 -

- (1) Who now -
 - (a) owns
 - (b) controlsHarvey Fresh?
- (2) Before approving the purchase of 50 per cent equity by First Western Group Limited, what steps did the Minister take to -
 - (a) determine whether or not First Western Group Limited has links with a recently collapsed financial institution; and
 - (b) ensure that safeguards are in place to prevent First Western Group Limited on-selling its share -
 - (i) for speculative gain to Coles, Woolworths or Foodland or any of their subsidiaries?

- (3) Can the Minister assure the House that he will not permit or enable the control of Harvey Fresh to be taken over in such a way that it will reduce the level of effective competition in the milk distribution industry?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following response -

- (1) He understands that -
- (a) Harvey Fresh ownership at this time resides with 'Sorgiovanni' family and a company whose directors are associated with the First Western Group Limited.
 - (b) The control of Harvey Fresh rests with a receiver and manager who was appointed by the R & I Bank - as a secured creditor - on Friday, 24 August 1990. It is understood that this is Mr M.H. Lyford of Melsom Wilson.

(2)-(3)

The honourable member is referred to the reply to question 643 of 21 August 1990 in relation to these matters.

PORTS AND HARBOURS - FREMANTLE PORT AUTHORITY

Port Efficiency Advertisements

710. Hon GEORGE CASH to the Leader of the House representing the Premier:

- (1) Following the introduction in March 1990 of cost saving measures to diminish unnecessary expenditure and encourage restraint in the use of public funds which included restrictions on Government advertising, will the Premier advise why the Fremantle Port Authority continues to regularly place large advertisements in the media which appear to have no other purpose than to lay claim to improved efficiency, make optimistic claims on port throughput or otherwise convey the impression that the port is being well managed?
- (2) Will the Premier advise the cost of these advertisements for the financial year ended 30 June 1990?
- (3) Can the Premier advise if specific ministerial approval has, as required, been given for these advertisements?
- (4) If not, why not?
- (5) Will the Premier now require that these advertisements case as they cannot be considered of an essential nature?
- (6) If not, why not?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

- (1) The Fremantle Port Authority is a non-consolidated revenue funded statutory authority deriving its total revenue from its commercial operations. The referenced advertisements are part of the authority's marketing program, and are directed at the generation of future revenue for the authority and communication of the opportunities and the results of port activities. The advertisements used contain factual data, including details of a record year for the financial year ended 30 June 1990. With respect to the cost saving measures introduced in March 1990 the referenced advertisements fit within the guidelines provided.
- (2) The approximate cost of these advertisements for the financial year ended 30 June 1990 is \$20 000.
- (3) The Minister for Transport remains fully briefed on the Fremantle Port Authority's marketing program, including its advertising. The Minister for Transport has approved and supports the authority's

marketing initiatives, including its advertising in the media.

- (4) Not applicable.
- (5) As advised in the response to question (1) above, the Fremantle Port Authority is required to maintain a prudent marketing program directed towards revenue generation and the promotion of trade through Western Australia's major port.
- (6) Not applicable.

PORTS AND HARBOURS - VICTORIA QUAY

Second Container Terminal - North Quay Berth Rebuilding

713. Hon GEORGE CASH to the Leader of the House representing the Treasurer:

Is the Treasurer aware that the current and projected throughput of containers at Fremantle does not justify the provision of millions of dollars of Government funds for the rebuilding of berths at North Quay and the provision of facilities for a second container terminal at Victoria Quay?

Hon J.M. BERINSON replied:

The Treasurer has provided the following reply -

The Fremantle Port Authority does not rely on Government funds. It is a financially self-sufficient commercial organisation which has responsibility for repaying borrowings by way of revenue generated from port operations.

The reconstruction of No 9 berth at North Quay is part of the Fremantle Port Authority's ongoing program to ensure that there are adequate modern, suitable, safe and efficient facilities available to cater for and to attract the growing level of shipping and cargo handled in the Port of Fremantle. It is also the first berth upgrade undertaken in about 10 years, over which time container throughput has increased by 116 per cent from 61 000 TEUs to 132 000 TEUs per year.

The proposed second competitive container terminal is not planned for Victoria Quay. It will be located at North Quay and will provide port users with a choice between two competitive terminal operators in comparison with the virtual monopoly situation which currently exists.

PORTS AND HARBOURS - NORTH WHARF, FREMANTLE

Second Container Terminal - Construction Effects

715. Hon GEORGE CASH to the Leader of the House representing the Treasurer:

Is the Treasurer aware that the construction of a second container terminal at North Wharf, Fremantle, will involve -

- (a) the need for the Government to provide in excess of \$10 million on port infrastructure;
- (b) deny the Government the opportunity to redevelop Victoria Quay which has an estimated land value in excess of \$150 million;
- (c) prevent the City of Fremantle developing its true potential as a riverfront city, uncluttered by cargo movement and port traffic; and
- (d) create container terminal throughputs to fall below viable levels, thereby preventing economic investment in new efficient container handling equipment by the existing container operator?

Hon J.M. BERINSON replied:

The Treasurer has provided the following reply -

There are in fact already three container terminals on North Quay. The two major terminals are operated by Fremantle Terminals Limited, which has a virtual monopoly because the remaining terminal operated by National Terminals (Australia) Limited does not have a suitable area from which to operate with access to modern and efficient berth facilities.

National Terminals (Australia) Limited are seeking to upgrade their presence in Fremantle so that they can provide a truly effective and efficient container terminal in competition with Fremantle Terminals Limited.

The Fremantle Port Authority, with State Government support, recognises the advantage of effective competition to port users and, in adopting a fair and evenhanded approach to both commercial operators, is prepared to make a suitable area available to National Terminals for the establishment of an upgraded terminal facility.

- (a) National Terminals (Australia) Limited will be required to fund development of their own terminal. The Fremantle Port Authority does not rely on Government funds and will not be funding the development of the terminal.
- (b)-(c) Regardless of whether National Terminals (Australia) Limited proceed to establish a competitive container terminal at North Quay, it would be inappropriate for Victoria Quay to be released from port related requirements at this time. Victoria Quay currently plays a very important and strategic role in port operations and will continue to do so in the foreseeable future.
- (d) The State Government and the Fremantle Port Authority do not support the view that there is insufficient cargo and container volumes to support the establishment of a competitive terminal by National Terminals.

LAND - "NEW KWINANA STRIP CHOSEN" REPORT
Bathymetric Information and Maps

718. Hon GEORGE CASH to the Minister for Resources :

- (1) Will the Minister provide bathymetric information for the areas five kilometres north and south of, and 15 kilometres westwards of each of the two locations chosen as alternative industrial sites for Perth, and referred to in the article titled "New Kwinana Strip Chosen" on page two of *The West Australian* on 18 August 1990?
- (2) Will the Minister also provide topographical relief maps of the two areas mentioned?

Hon J.M. BERINSON replied:

(1)-(2)

Yes. The requested material has been forwarded to the member direct.

LAND - "NEW KWINANA STRIP CHOSEN" REPORT
Relevant Lands and Surveys Map Details

719. Hon GEORGE CASH to the Minister for Resources:

- (1) Will the Minister provide an extract from any relevant lands and surveys map showing the extent and location of each of the parcels of land referred to in the article titled "New Kwinana Strip Chosen" on page 2 of *The West Australian* on 18 August 1990?
- (2) Will the Minister provide details - including lot numbers, present owner and/or occupier, whether the title is lease or freehold, and most recent valuations of the land - of the seven parcels of land at the Wilbinga site, and the 16 holdings in the Breton Bay area?

Hon J.M. BERINSON replied:

- (1) Yes. They information has been forwarded to the member direct.
- (2) Valuations have not been carried out. Other details have been forwarded to the member direct.

WATER RESOURCES - TURNER RIVER-SOUTH HEDLAND
Water Pipe Commitment

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

- (1) Is it correct that the Government has made a commitment to pipe water from the Turner River to South Hedland?
- (2) If so -
 - (a) what is the commitment and when will it be implemented; and
 - (b) will the water be provided free of charge to the South Hedland community and, if not, what will be the cost?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following reply -

- (1) No.
- (2) (a)-(b)
Not applicable.

**EDUCATION MINISTRY - CHILDREN WITH SPECIFIC LEARNING
DISABILITIES**
Education Policy Statement

733. Hon REG DAVIES to the Minister for Planning representing the Minister for Education:

- (1) Does the Ministry for Education have a written policy statement for the education of children with specific learning disabilities (for example, children with reading difficulties)?
- (2) If the answer is yes, would the Minister table a copy of such statement, and if such document is not immediately available, specify a date as to when a copy could be made available?
- (3) What "Most Recent Medical Advancements" *The West Australian* report of 10 July 1990 are being adopted and in what schools are these being used?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following answer -

- (1) Ministry of Education policy is to provide for the education of students with disabilities in the least restrictive environment. Currently this policy is being updated within the framework of an overall equity policy. It is still in draft form.
- (2) It is anticipated the ministry equity policy and the guidelines for the education of students with disabilities will be available by December 1990.
- (3) Officers working in the Ministry of Education are aware of current medical research in the area of learning difficulties. The area is controversial and no one theory has been developed which is universally accepted. There is a need for ongoing and critical discussion in this area.

It is difficult to respond to this question as the article in *The West Australian* referring to the most recent medical advancements is not specific about what they are. It must be stressed that ministry officers are fully aware of the debate in this area and, as part of their regular duty, keep abreast of new developments.

POLICE - MEDICAL RECORDS
Computer Database System - Legislative Requirements

735. Hon GEORGE CASH to the Minister for Police:

With reference to the answer to question 550 of 1990 -

- (1) What are the legislative requirements alluded to in answer (2)(i)?
- (2) What are the relevant sections of the Road Traffic Act referred to in answers (2)(a)(iii) and (2)(b)(iii)?

Hon GRAHAM EDWARDS replied:

- (1) Regulation 702 and part 13 of the police regulations provide for the supply and retention of medical records relating to members of the Police Force, police cadets and police aides.
- (2) Section 42 of the Road Traffic Act.
 Section 48(7) of the Road Traffic Act.
 Section 42(4) of the Road Traffic Act.
 Regulation 4(4) Road Traffic (Drivers Licences) Regulations.
 Regulation 14.1 Road Traffic (Drivers Licences) Regulations.

WATER RESOURCES - LATHLAIN RESIDENTS
New Water Meters - Rates Increase

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

- (1) Is the Minister aware that during the last six months some residents of Lathlain have had new water metres installed?
- (2) Is the Minister aware that, after these meter changes, some residents have received excess water bills, when they have never done so previously?
- (3) Why is it that such residents, puzzled by receipt of excess water bills, were charged \$30 by the Water Authority to have their new metres checked?
- (4) Is the Minister aware that residents in the Lathlain area have received water rate increases of more than nine per cent on last year's figure when the Premier announced that such charges would not rise beyond 7.8 per cent?
- (5) Why has such a larger than expected rate increase occurred?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response -

- (1) Yes, as part of the Water Authority's normal maintenance program.
- (2) It is possible as the older meter is likely to have been registering slow and the new meter now registers more accurately the quantity of the water actually used.
- (3) Any residents who feel that their consumption is excessive can request their meters to be tested, the fee for this is \$33.50 for a 20mm meter. This fee is refunded if the meter is found to be registering outside of the tolerance allowed - five per cent plus or minus.
- (4) Some properties have experienced increases in rates by more than 7.9 per cent. The 7.9 per cent increase is based on the average residential property.
- (5) The fixed charge for water on all residential properties has increased from \$101 to \$109 or 7.9 per cent which is within the inflation rate. However, sewerage charges are based on the gross rental value - GRV - of the property as assessed by the Valuer General's Office. For every \$1 of the gross rental value, the property owner is charged a specified "rate" in the dollar. It is this rate, that was adjusted to

achieve an average of 7.9 per cent increase.

The gross rental value - GRV of all metropolitan properties is reviewed every three years by the Valuer General's Office. However, rather than increase the Water Authority charges by large amounts triennially, the new valuation is "phased-in" over a three year period. This means that the value upon which rates are applied, increases slightly each year until the full amount of the revalued GRV has been applied; in the third year. Although the rate in the dollar was set to achieve an average increase of 7.9 per cent from the average residential property, there are some properties, whose value increased by more than average, which have experienced greater increases. At the same time, there are other properties whose valuations were adjusted by less than the average and this resulted in lower increases.

LAND - JOHNSON OVAL, SOUTH PERTH
Zoning Change Requirements

742. Hon P.G. PENDAL to the Minister for Planning:

I refer to the piece of land in South Perth known as Johnson Oval, currently zoned for park and recreation and ask what would need to be done to change the current zoning of this land so that a civic building or extension could be built on it?

Hon KAY HALLAHAN replied:

The Ernest Johnson Oval - Reserve 3618 - is zoned urban in the Metropolitan Region Scheme and Local Park and Recreation Reserve in the City of South Perth Town Planning Scheme No 5. Council would need to initiate and receive approval to an amendment to Town Planning Scheme No 5 to include the land in the Civic and Cultural Reserve.

DENTAL NURSES - TRAINING COURSE CHANGES

744. Hon P.G. PENDAL to the Minister for Planning representing the Minister for Health:

- (1) Is it correct that the present dental nurses training course, conducted at the Perth Dental Hospital, is to be phased out or abolished?
- (2) If so, is the present course curriculum to be incorporated into any other training course of similar duration?
- (3) If the answer to (2) is yes, what are the details of the planned course changes?
- (4) If the answer to (2) is no, what is the rationale for abolishing this course of study?
- (5) If the present dental nurses course is to be abandoned, is it envisaged that dental assistants will take the place of trained dental nurses in the profession?
- (6) If so, what is the explanation for this move, when currently dental nurses undertake a longer course of study and, in practise, have greater responsibilities than dental assistants?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) Yes.

(2)-(3)

A curriculum advisory committee is to be established to ensure that the requirements of dental services are met by the existing alternative training arrangements, and also by additional training arrangements to be developed either at Perth Dental Hospital or TAFE. This training will cater for special areas requiring additional skills.

(4) Not applicable.

(5) Yes, although this does not represent any major change for either the

private sector or public sector. Dental nurses are in the main only employed at the Perth Dental Hospital.

- (6) This move was made to eliminate the duplication of training courses available in Western Australia. The decision came after a review of the dental industry's training requirements which concluded the full-time tertiary based - TAFE - Dental Assisting Certificate course provided all base skill requirements for the industry. Additional training courses will now be developed to specifically cater for those specialist areas requiring additional skills.

LOCUSTS - SPRAYING PROGRAMS

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

- (1) Have any widespread spraying programs to eradicate locusts been carried out during the last 10 years?
- (2) If so, in which years were these programs conducted?
- (3) Following such programs, what follow-up studies were done to ascertain -
 - (a) the success of the eradication programs;
 - (b) the effects of the chemical sprays used on -
 - (i) the environment sprayed; and
 - (ii) the health aspects of residents in areas sprayed?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following response -

- (1) Yes.
- (2) 1981 and 1982.
- (3) (a) Results have been reported in Agriculture Protection Board annual report for years ending 30 June 1982 and 30 June 1983.
 - (b) (i) Limited monitoring was done.
 - (ii) Refer to Minister for Health

LAND - LOT 605 PEEL ESTATE, ROCKINGHAM

Government Ownership

749. Hon GEORGE CASH to the Minister for Lands:

- (1) Does the Government hold title, in whole or in part, to lot 605 Peel Estate, in Rockingham?
- (2) If in part, with whom does the Government hold that title?
- (3) What is the name of the Government department instrumentality or body which is shown on the title of that lot?
- (4) Is there any caveat over that title?
- (5) If so, would the Minister provide details of such caveat?

Hon KAY HALLAHAN replied:

- (1) Yes.
- (2) Fleuris Pty Ltd.
- (3) Western Australian Development Corporation.
- (4)-(5) Yes.

[See paper No 523.]

HOSPITALS - BENTLEY HOSPITAL
Bed Capacity

754. Hon GEORGE CASH to the Minister for Planning representing the Minister for Health:

- (1) What is the bed capacity of Bentley Hospital?
- (2) What is the current availability of beds at Bentley Hospital?
- (3) Following the closure of the first floor of Bentley Hospital what has been the reduction in bed capacity?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) The total approved bed capacity at Bentley Hospital is 126.
- (2) The current available number of beds is 112.
- (3) The reduction in bed capacity due to the closure of first floor is 14 as indicated in the reduction from 126 to 112 detailed above.

HOSPITALS - BENTLEY HOSPITAL
Pathology Services - After Hours Restrictions

755. Hon GEORGE CASH to the Minister for Planning representing the Minister for Health:

- (1) Are there any restrictions on the availability of pathology services at Bentley Hospital after 6.00 pm or on weekends?
- (2) If so, will the Minister advise the reasons?
- (3) What is the availability of having X-rays taken by the X-ray department at Bentley Hospital after 6.00 pm or on weekends?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) The normal hours of the pathology laboratory are from 8.00 am until 5.00 pm Monday to Friday and depending on workload 8.30 am to 12 noon Saturdays and 9.00 am to 1.00 pm Sundays for inpatients only. On other occasions for urgent inpatient work or patients needing admission one of the technologists is on call. This out of hours service is also available for accident and emergency cases at Armadale Hospital.
- (2) Not applicable.
- (3) There is no after hours service offered by the X-ray department at Bentley Hospital.

MEDICAL BOARD OF WA
Charges Dismissal - Inquiry Costs Responsibility

756. Hon GEORGE CASH to the Minister for Planning representing the Minister for Health:

I refer to the recent decision of the WA Medical Board which dismissed charges against a Scarborough doctor for prescribing intravenous valium to two registered drug addicts between October 1987 and April 1988 and ask -

- (1) Why was the doctor ordered to pay the enquiry's costs?
- (2) What is the estimated amount of these costs?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) Although the Medical Board dismissed the charges, it was the board's

decision that as his conduct had warranted an inquiry to be held, it was pertinent that he be ordered to pay the costs in accordance with section 13(6i) of the Medical Act.

- (2) I am unable to provide an estimate of costs as this is still being determined by the Medical Board which is seeking submissions from both parties' solicitors.

VISIONQUEST - JUVENILE OFFENDERS WILDERNESS CAMPS

Western Australian Activities - Elsberry, Mr and Mrs

757. Hon BARRY HOUSE to the Minister for Lands representing the Minister for Community Services:

I refer to the report in *The West Australian* dated 25 August 1990 on the activities of VisionQuest, a US company which runs wilderness programs for juvenile offenders -

- (1) Is the Minister aware of the extent of its activities in WA?
- (2) What action is intended relating to the experiences of Mr and Mrs Elsberry and others from WA?
- (3) Does the Government use the services of VisionQuest at present?
- (4) If the answer is no, does the Government intend to do so in the future?

Hon KAY HALLAHAN replied:

The Minister for Community Services has provided the following answer -

- (1) The only activities that the Minister is aware of are -
 - (i) A short visit to Perth in 1988 of Mr Bob Burton and Judge Dennis Adams.
 - (ii) A short visit to Perth in 1989 of Mr Bob Burton and Dan Old Elk.

Both visits were in response to invitations and on each occasion they spoke to individuals and groups promoting VisionQuest. In addition, representations to and meetings with Ministers have been arranged by local supporters of VisionQuest who were seeking Government support to develop a local version of VisionQuest. No support has been given.

- (2) The Government has a report from Mr and Mrs Elsberry. This report will be taken into consideration should VisionQuest seek to establish itself in Western Australia.
- (3) No.
- (4) The Government has no immediate plans to do so.

MIDLAND SALEYARD - ADMINISTRATION AND FEE CHARGES

Government Profit

761. Hon D.J. WORDSWORTH to the Minister for Police representing the Minister for Agriculture:

What profit, if any, does the Government gain from the administration and charging of fees at the Midland abattoirs and saleyard?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following response -

In 1989-90 the Midland Saleyard had an operating surplus of \$109 415.

LAND - HEPBURN HEIGHTS

No Development Assurance

762. Hon REG DAVIES to the Minister for Planning:

Would the Minister give assurance that no steps will be taken to undertake the

development of Hepburn Heights land until her inquiry has been completed and she is satisfied that all matters pertaining to the amendments have proceeded lawfully?

Hon KAY HALLAHAN replied:

I have recently received advice from the Crown Law Department and advised the Mayor of the City of Wanneroo of the current position and the Government's intentions in respect of the Hepburn Heights project.

SCHOOLS - NAREMBEEN DISTRICT HIGH SCHOOL

Upgrading

763. Hon MARGARET McALEER to the Minister for Planning representing the Minister for Education:

An officer from the Ministry of Education's building branch together with a Building Management Authority architect visited the Narembeen District High School on 26 July 1990 and conducted a feasibility study on the school's requirements. At the time, an assurance was given that the architect would make preliminary drawings of the proposed upgrading to the school buildings and these were to be available in three weeks' time. As four weeks have now elapsed without any further contact, could the Minister advise what the ministry's intentions are in respect to -

- (a) proceedings with the works as identified by the ministry's officer; and
- (b) allocation of funds for these works?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following answer -

- (a) The feasibility study for the Narembeen District High School upgrade has been completed. The project will be discussed with the school staff and Parents and Citizens Association representatives on Tuesday, 11 September 1990.
- (b) The allocation of funding will not be known until the announcement of the State Budget.

HOSPITALS - BENTLEY HOSPITAL

First Floor Closure

772. Hon GEORGE CASH to the Minister for Planning representing the Minister for Health:

- (1) Has the whole or any part of the first floor of Bentley Hospital been closed?
- (2) If so, will the Minister provide the reasons and the extent of the closure?
- (3) How many theatres exist at Bentley Hospital?
- (4) How many of these theatres have recently been renovated?
- (5) Are all theatres at Bentley Hospital available for operative procedures?
- (6) If not, will the Minister advise the reasons why they are not available?
- (7) Is the Minister aware of the concerns of medical practitioners at the delays experienced in the availability of the pathology services and X-ray facilities at Bentley Hospital after 6.00 pm and during the weekends?
- (8) If so, what action does the Minister propose to alleviate these delays?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) Fourteen beds on the first floor at Bentley are closed at the present time. First floor also accommodates the two major operating theatres at the hospital.
- (2) The above ward is closed due to budgetary constraints relating to the

current indicative budget given to the hospital. This situation will be reviewed once the budget allocation for the 1990-91 year is known.

- (3) There are three operating theatres at Bentley Hospital.
- (4) The two major theatres have recently been renovated.
- (5) No.
- (6) Renovations on one of the major theatres have still not been fully completed - these renovations are expected to be complete on 21 September 1990. This has been unexpectedly delayed due to the availability of parts for the air-conditioning system and in order to replace the flooring - not previously part of the contract. Once this theatre is ready for use it will only be used in emergencies pending the receipt of the budget allocation. It should be noted that the day surgery theatre usage has increased significantly and many cases previously done in the second major theatre are now being done in the day surgery theatre.
- (7) No.
- (8) Bentley Hospital does not have an accident and emergency department and therefore people requiring such urgent essential services are not directed to Bentley Hospital. They would be seen at Armadale-Kelmscott Hospital or at one of the major teaching hospitals.

An effective after hours on call pathology service is in operation at Bentley in order to cater for any urgent inpatient work or for any patient requiring urgent pathology service prior to admission. In addition the after hours pathology service caters for the Armadale-Kelmscott Hospital Accident and Emergency Department.

There is insufficient evidence to suggest that an after hours X-ray service is required at Bentley Hospital.

EDUCATION - CARSON STREET SPECIAL SCHOOL

Therapy Services

776. Hon P.G. PENDAL to the Minister for Planning representing the Minister for Health:

I refer to therapy services at the Carson Street Special School and the Minister's answers to question 126 of 1990. As parents have reacted angrily to the Minister's assertion that the therapy needs of children at Carson Street Special School are not as critical as at other similar schools, will the Minister agree to visit the school in the immediate future?

Hon KAY HALLAHAN replied:

The Minister for Health provided the following reply -

No. The Director, Authority for Intellectually Handicapped Persons, who is responsible for therapy services at Carson Street School is available to meet with parents at a mutually convenient time.

WITTENOOM - ASBESTOS

Future Policy

777. Hon N.F. MOORE to the Minister for Police representing the Minister for North-West:

- (1) What is the Government's policy on the future of Wittenoom?
- (2) Does the Government accept the proposition that Wittenoom can be made safe from the threat to health of asbestos fibres?
- (3) If so, on what authority does the Government support this proposition?

Hon GRAHAM EDWARDS replied:

The Minister for North-West has provided the following response -

- (1) Government's policy towards Wittenoom is that people who currently

live there may stay, but the Government neither condones their presence nor encourages them to stay.

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

LAND - BUNBURY CITY

North Shore Reserves - Land Administration Department Transfer

778. Hon BARRY HOUSE to the Minister for Lands:

- (1) Is the Minister aware of requests made to the City of Bunbury to hand over reserves on the north shore to the Department of Land Administration?
- (2) Does the Minister support those requests?

Hon KAY HALLAHAN replied:

(1)-(2)

I understand that negotiations between the Minister for South-West and the Bunbury City Council have been proceeding as part of the considerations for the Harbour City project. However no formal proposals have been submitted by either party for my consideration.

FIRE STATIONS - ROEBOURNE FIRE STATION

Closure

788. Hon GEORGE CASH to the Minister for Emergency Services:

- (1) Is the Minister aware of a decision to close the Roebourne Fire Station and further that fire protection to the fire district be provided from elsewhere?
- (2) Does the Government support the closure of the Roebourne Fire Station?

Hon GRAHAM EDWARDS replied:

- (1) The Western Australian Fire Brigades Board has considered a report outlining problems associated with asbestos contamination of Roebourne Fire Station and the immediate surrounding areas. Board representatives met with the council on Monday, 10 September 1990 to discuss possible courses of action and I am awaiting advice regarding the outcome of these discussions. At this time, no decision to close the fire station has been made.
- (2) The Government recognises the need to protect both the health and safety of volunteer fire brigade members as well as to provide an acceptable level of fire service capabilities to meet the needs of the Roebourne community. As such the Government will consider any board recommendations based on these two criteria.

POLICE STATIONS - KALGOORLIE POLICE STATION

Construction Completion Date - Computer Facilities

789. Hon GEORGE CASH to the Minister for Police:

- (1) When is the construction of the Kalgoorlie Police Station due to be completed?
- (2) What computer facilities will be available in the new Kalgoorlie Police Station?
- (3) How many computer terminals and associated computer hardware will be available for -
 - (a) criminal investigation branch;
 - (b) general duties branch;
 - (c) anti-theft branch;
 - (d) crime collator;
 - (e) traffic branch; and
 - (f) prosecuting branch?

- (4) Will any branches of the Police Force currently attached to either Kalgoorlie or Boulder Police Stations have any less computer facilities than is currently available?
- (5) If so, why?
- (6) How many police officers are currently located at the existing Kalgoorlie Police Station?
- (7) How many police officers will be located at the new Kalgoorlie Police Station when it is completed?

Hon GRAHAM EDWARDS replied:

- (1) December 1990.
- (2) Computer facilities will remain the same in the New Kalgoorlie Police Station.
- (3)

(a) Criminal Investigation Branch	-	Three terminals Two printers
(b) General Duties Branch	-	Two terminals One printer
(c) Anti-Theft Branch	-	Nil
(d) Crime Collator	-	Nil
(e) Traffic Branch	-	One terminal
(f) Prosecuting Branch	-	Nil
- (4) No.
- (5) Not applicable.
- (6) Fifty-one.
- (7) Seventy-four.

RETIREMENT VILLAGES - CONSTRUCTION, NORTHERN METROPOLITAN AREA

Church or Charitable Institutions - Government Funding

793. Hon GEORGE CASH to the Leader of the House representing the Minister for Housing:

What State Government funding is available for the construction of retirement village developments in the northern metropolitan area in conjunction with church or other charitable institutions?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply -

- (1) Final funding allocations will be determined at the time of the State Budget.
- (2) The honourable member appears to be referring to Homeswest's joint venture scheme. Under joint venture the State Government, through Homeswest, establishes priorities and funds are allocated on a submission and assessment basis. Such priorities may have a geographical component, although this is never exclusively the case.

POLICE - OFFICE OF CRIME PREVENTION

Community Policing Constitution - Neighbourhood Watch Incorporation

794. Hon GEORGE CASH to the Minister for Police:

- (1) Will the Minister provide a copy of the constitution under which the Office of Crime Prevention - Community Policing operates within the community?
- (2) Are individual Neighbourhood Watch district organisations incorporated bodies?
- (3) If not, what protection is available to members of the community who serve

on Neighbourhood Watch committees?

- (4) Which Government departments or agencies or statutory organisations provide funds to the Office of Crime Prevention to assist in the community policing projects including Neighbourhood Watch, Industrial Watch and Rural Watch?
- (5) Who are the respective community policing officers in each of the metropolitan community policing districts and where are they stationed?

Hon GRAHAM EDWARDS replied:

- (1) There is no constitution relative to the Office of Crime Prevention or Community Policing.
- (2) Incorporation is at the discretion of individual Neighbourhood Watch committees.
- (3) An insurance policy has been negotiated with SGIO to cover voluntary workers in Neighbourhood Watch.
- (4) SGIO provides sponsorship for Neighbourhood Watch and Rural Watch. Industrial Watch is self-funded by support of local business communities.
- (5) Metropolitan -

Perth	Inspector Hunter, State Coordinator
	Sergeant Sewell
Perth City	First Class Sergeant Goodsell
Cottesloe	Sergeant Adams
	Constable Bergmann
Innaloo	First Class Constable Turkich
Warwick	Senior Constable O'Malley
Maylands	First Class Constable North
Midland	Sergeant Hartman
Armadale	Senior Constable Syme
Victoria Park	First Class Constable Elkes
Mandurah	Constable Kennaugh
Rockingham	Senior Constable Dalwood
Fremantle	Sergeant Cochrane
	First Class Constable Bell

RABIES - CASE STATISTICS

795. Hon GEORGE CASH to the Minister for Planning representing the Minister for Health:

- (1) Have any cases of rabies been detected in Western Australia?
- (2) If so, will the Minister provide details as to when these cases were detected and the number of infected people involved?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) No case of rabies has been recorded in Western Australia since May 1979, when the disease became notifiable in this State. Further, the Health Department of WA has no record of any occurrence of rabies in this State for at least 30 years.
- (2) Not applicable.

SUPERMARKETS - RESTRICTED DRUG SALES

797. Hon GEORGE CASH to the Minister for Planning representing the Minister for Health:

Are supermarkets entitled to sell restricted drugs from supermarket shelves?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

A supermarket which is greater than eight kilometres from the nearest pharmacist may sell Second Schedule medication provided it has obtained a permit to do so. Sale of medication by this mechanism is limited and involves special storage requirements which minimise direct access by the public.

SMITH, MR ROBERT MARK - EVIDENCE

Legislative Council Resolution - Commissioner of Police, Advice

800. Hon GEORGE CASH to the Attorney General:

- (1) Has the Attorney General or officers of the Crown Law Department advised the Commissioner of Police of the Legislative Council resolution in respect of the evidence of Mr Robert Mark Smith to a Legislative Council Select Committee?
- (2) If the answer is yes, has the commissioner advised the Attorney General or the Crown Law Department of the results of investigations on this matter?
- (3) If the answer is yes, will the Attorney General advise the House of the results of such investigations?
- (4) If not, why not?

Hon J.M. BERINSON replied:

- (1) Yes.
- (2) Yes.
- (3) Robert Mark Smith has been committed to the October sessions of the District Court on a charge under section 57 of the Criminal Code.
- (4) Not applicable.

SMITH, MR ROBERT MARK - SENTENCE

801. Hon GEORGE CASH to the Minister for Corrective Services:

- (1) What was the length of the prison term of Robert Mark Smith who was sentenced in the District Court to a term of imprisonment on Thursday, 1 March 1990?
- (2) Has Smith been released from custody?
- (3) If so, when?
- (4) How was the period of time spent in custody calculated and what remissions or other reductions to the sentence are included in the period actually served in custody?
- (5) In which prisons or other institutions did Smith serve his sentence?

Hon J.M. BERINSON replied:

- (1) Fifteen months. Section 37A Offenders Probation and Parole Act - automatic release.
- (2) Yes.
- (3) Released on licence to be at large on 15 July 1990 - Federal offender.
- (4) Sentence divided into two parts -

5 months in prison	EED 15.7.90
10 months on licence	Licence expires 31.5.91
15 days reduction of sentence included in period served in custody.	
- (5) Fremantle, Greenough, Pardelup Prison Farm.

CHILDREN'S COURT OF WESTERN AUSTRALIA ACT (No 2) - SECTION 25

Statistics

802. Hon GEORGE CASH to the Attorney General:

With reference to question on notice 680, notice of which was given on 23 August 1990 -

- (1) Will statistics be collected and subsequently available on section 25 orders?
- (2) If not, why not?

Hon J.M. BERINSON replied:

(1)-(2)

Statistical requirements for Children's Courts are being reviewed in conjunction with the development of proposals for the introduction of computer applications to the court. A time frame for completion of this project has not been set.

PORTS AND HARBOURS - VICTORIA QUAY, FREMANTLE
Redevelopment

804. Hon GEORGE CASH to the Minister for Planning:

Will the Minister advise -

- (1) If the Department of Planning and Urban Development has been made aware of the potential opportunity that exists in redeveloping Victoria Quay?
- (2) The attitude of the Fremantle City Council towards a proposal to retain Victoria Quay land to the city?
- (3) The basis on which the Fremantle Port Authority in justifying its claim that Victoria Quay will be required for at least another 20 years?
- (4) Whether the Minister or her department attaches any importance to the opportunity to relocate cargo transfer operations away from Victoria Quay, thereby eliminating traffic congestion in Fremantle and adjoining suburbs caused by heavy vehicles accessing Victoria Quay for loading live sheep and other cargo?

Hon KAY HALLAHAN replied:

- (1) The Department of Planning and Urban Development is generally aware of the potential opportunity that exists to redevelop Victoria Quay. However no specific proposal has been submitted to the department.
- (2) I am not aware of the detailed views of the City of Fremantle towards any proposal to retain the existing use or redevelop Victoria Quay.
- (3) This question should be addressed to my colleague the Minister for Transport.
- (4) The transfer of operations away from Victoria Quay would have significant implications for the future planning of Fremantle and its adjacent suburbs. Any such transfer would have to be considered in the light of studies and proposals relating to the future operation of North Quay - and any alternative container port site - the future road network and the future economy of Fremantle.

TRAFFIC ACCIDENTS - HIGH PROFILE TRAFFIC POLICING
Reduction Effect - Survey

807. Hon GEORGE CASH to the Minister for Police:

- (1) Has the Police Force or the Government commissioned a survey which would show the effectiveness of high profile traffic policing in reducing the occurrence of road accidents?
- (2) If the answer is yes -
 - (a) when was this survey commissioned;
 - (b) by whom was it commissioned;
 - (c) by whom was it carried out;
 - (d) when and where was it carried out; and

- (e) what was the cost of this survey?
- (3) What were the findings of the survey?
- (4) Were the findings of the survey released to the public?
- (5) If not, why not?

Hon GRAHAM EDWARDS replied:

- (1) No.
- (2)-(4) Not applicable.
- (5) The Police Force or the Government has not found it necessary to conduct a survey into the effectiveness of high profile traffic policing.

MINERAL SANDS - JANGARDUP
Project Briefing

813. Hon W.N. STRETCH to the Minister for Resources :

- (1) Has the Minister been briefed in detail on the development of the mineral sands resource at Jangardup near Narnup?
- (2) If the answer to (1) is yes, I ask the Minister -
 - (a) when did the last briefing take place;
 - (b) what are employment numbers projected for -
 - (i) the development and construction phase of the project; and
 - (ii) the operating and production phase of the project;
 - (c) what is the estimated production life of the project on
 - (i) the proven resource; and
 - (ii) the estimated future resource?
- (3) What income benefit is expected for the Western Australian economy in terms of -
 - (a) Government royalties;
 - (b) export earnings; and
 - (c) import replacement value?
- (4) If the answer to (1) is no, will the Minister undertake to be briefed in detail on this project?
- (5) If not, why not?
- (6) Will the Minister make a statement to the House detailing the answers to parts (2) and (3) of this question?
- (7) If not, why not?

Hon J.M. BERINSON replied:

- (1) Yes.
- (2) (a) I am regularly briefed on project matters by the Department of Resources Development and the project proponent, Cable Sands (WA) Pty Ltd. I last met with the Managing Director of Cable Sands on 30 July 1990 to discuss project matters.
 - (b) (i) One hundred approximately.
 - (ii) One hundred and five.
 - (c) (i) Eight years.
 - (ii) There is a possibility the project may operate for up to 10 years on the Jangardup tenements.
- (3) Initially, income is expected to be approximately -

- (a) \$1.3 million per annum.
- (b) \$25 million per annum.
- (c) Not applicable.
- (4)-(5) Not applicable.
- (6) See (2) and (3).
- (7) Not applicable.

MINERAL SANDS - BEENUP
Project Briefing

814. Hon W.N. STRETCH to the Minister for Resources :

- (1) Has the Minister been briefed in detail on the mineral sands project at Beenup near Augusta?
- (2) If the answer is yes, I ask the Minister -
 - (a) when did the last briefing take place;
 - (b) what are employment numbers projected for -
 - (i) the development and construction phase of the project; and
 - (ii) the operating and production phase of the project; and
 - (c) what is the estimated production life of the project on -
 - (i) the proven resource; and
 - (ii) the estimated future resource?
- (3) What income benefit is expected for the Western Australian economy in terms of -
 - (a) Government royalties;
 - (b) export earnings; and
 - (c) import replacement value?
- (4) If the answer to (1) is no, will the Minister undertake to be briefed in detail on this project?
- (5) If not, why not?
- (6) Will the Minister make a statement to the House detailing the answers to parts (2) and (3) of this question?
- (7) If not, why not?

Hon J.M. BERINSON replied:

- (1) Yes.
- (2) (a) I last met with the Beenup project coordinator on 29 August 1990. In addition, I am regularly briefed by the Department of Resources Development on project developments and issues.
 - (b) (i) Two hundred.
 - (ii) One hundred and thirty five.
 - (c) (i) At least 20 years
 - (ii) The deposit contains sufficient indicated resources to sustain mining operations at the planned extraction rate for a further 20 years; that is, 40 years in total.
- (3) Initially, income is expected to be approximately -
 - (a) \$2.5 million per annum.
 - (b) \$50 million per annum.

- (c) Not applicable.
- (4)-(5) Not applicable.
- (6) See (2) and (3).
- (7) Not applicable.

WESTERN AUSTRALIAN FILM COUNCIL - ORGANISATIONS
Government Funding - Board Member Selection

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

- (1) How much Government funding is distributed to groups/organisations via the Western Australian Film Council?
- (2) How are members of the Western Australian Film Council board selected/appointed?

Hon KAY HALLAHAN replied:

- (1) In 1989-90 the Western Australian Film Council made loans, grants and investments to film industry groups/organisations of \$380 755.
- (2) Membership of the Western Australian Film Council is determined by Cabinet on the recommendation of the Minister for The Arts. The Minister for The Arts consults commercial interests and other film industry bodies and individuals.

QUESTIONS WITHOUT NOTICE

**GOVERNMENT EMPLOYEES SUPERANNUATION BOARD - WESTRALIA
 SQUARE DEVELOPMENT**
Option - Loans

556. Hon GEORGE CASH to the Leader of the House representing the Treasurer:

Some notice of this question has been given.

- (1) Is there any option between the Government Employees Superannuation Board and any other party or parties in respect of the Westralia Square development and, if so, will the Minister provide details?
- (2) Did the Government Employees Superannuation Board lend funds to Mr Warren Anderson or companies associated with Mr Warren Anderson and, if so, what was the nature of those loans?
- (3) Did the Government Employees Superannuation Board lend any funds to any party during 1986, 1987, 1988, 1989 or 1990 to date at the direction of a Minister of the Crown and, if so, will the Minister provide details of such direction?

Hon J.M. BERINSON replied:

I indicate first that although the question is directed to me representing the Treasurer, the answers have, in fact, been provided by the Minister for Finance and Economic Development in the absence of the Premier this week. I am advised as follows -

- (1) Yes. The sale of the Westralia Square site by the GESB and the SGIC to Sharland Pty Ltd and Skeat Pty Ltd was on the basis of one third cash, a second instalment of one third due on 30 December 1989 and a third instalment of one third on 30 December 1990. An option was given to extend the latter two instalments, with interest, to 30 June 1995. The option on the second instalment was exercised on 30 December 1989.
- (2) In addition to the extended payment terms referred to paragraph (1),

the GESB and the SGIC made an advance of \$55 million to Sharland Pty Ltd and Skeat Pty Ltd for the purchase of the Westralia Square building No 1 site which, prior to the title becoming available, was documented as a loan and secured by mortgage.

The GESB also provided finance for Esjay Shelf Company's share of development costs for the Central Park project under the terms of the joint venture agreement.

(3) No.

WA INC - ROYAL COMMISSION

Premier - Attorney General, No Appointment Advice

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

Has the Attorney General in recent times given advice to the Premier not to appoint a Royal Commission to investigate WA Inc?

Hon J.M. BERINSON replied:

That is a remarkable question. The honourable member will know, as well as I do, that ministerial and Cabinet discussions are held in confidence and always have been.

Hon P.G. Pendal: So the answer is yes.

PETROL - PRICE INCREASES

World Oil Price Increase Effect

558. Hon E.J. CHARLTON to the Minister for Resources:

What percentage of the increase in the price of petroleum products in Western Australia is a consequence of the increase in the world oil price? These increases have had an effect not only on motorists but also - it is never publicised - on industry, which has had a compounding effect on the cost of production. Are these increases totally a result of the world price or is it simply that Australia has accepted the world parity pricing? I repeat myself to make it abundantly clear.

Hon Tom Helm interjected.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order!

Hon E.J. CHARLTON: The interjection by the member is -

The DEPUTY PRESIDENT: It was quite unnecessary. Will the member please proceed with the question. Members, there are rules governing questions without notice.

Hon E.J. CHARLTON: There has been an increase in the price of petroleum products at the pump which has had an effect not only on motorists but also a compounding effect on industry. Is the increase in the price of petroleum products totally a result of the world increase in the oil price or is it partly that and partly a consequence of Australia's domestic production being related to the world price?

Hon J.M. BERINSON replied:

No-one can deny the significance to the economy of movements in the oil price. The member is quite right in drawing attention to the fact that the increase impacts not only on motorists in general but also on commercially related transport and on industry. However, I am not in a position at the moment to give a precise answer to the question. It is in an area where there is an interaction of both Federal and State policies and of, I believe I am correct in saying, two separate price setting bodies.

Hon E.J. Charlton: As well as the world price.

Hon J.M. BERINSON: If the member were asking whether increases were applied only to imported oil, I believe the answer would be no. The reason for that is

that, on my understanding of the position, locally produced oil is entitled to reflect, by a particular formula, movements in the world price. I do not know what the formula is or whether it can be said that the total increase in charges at the retail or wholesale level reflects the movement in world prices plus local movements which reflect those world movements. I will be happy to have the matter considered further and obtain a report from the department, and provide it to the member separately.

LAND - EXMOUTH RESIDENTIAL LAND

Adequate Supply

559. Hon TOM HELM to the Minister for Lands:

What is the Government doing to ensure an adequate supply of residential land in Exmouth?

Hon KAY HALLAHAN replied:

The member will be pleased to learn that an auction of 63 Crown lots in Exmouth was held on 8 September. The lots ranged in size from 745 square metres to 5 160 square metres. They are the first stage of a subdivision resulting from the State's purchase of land from the Commonwealth earlier this year. The lots are fully serviced, including underground power and footpaths, and are evidence of the Government's commitment to providing quality land for housing in developing country centres. The auction of the residential land will be followed in a reasonable time by the release of 22 light industrial lots in the town.

LAND - LEDA, WESTERN RIDGE

Housing Development

560. Hon P.G. PENDAL to the Minister for Planning:

Can the Minister confirm that the Government is renewing its attempts to develop more housing and land at Leda on the western ridge near Kwinana?

Hon KAY HALLAHAN replied:

The land at Leda was always intended to be developed and most of it was suitably zoned. There has been no further move with regard to the western ridge since the debate in Parliament. I am to inspect the area in the next few weeks as there is an interest in developing that residential land, but the western ridge has had no further attention.

HERITAGE BILL - OPPOSITION

Standing Orders Suspension Support

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

- (1) Is the Minister aware of the Opposition's desire to expedite the passage of the Heritage of Western Australia Bill?
- (2) Is the Minister also aware that the Opposition is prepared to support the suspension of Standing Orders to allow the first of the Opposition speakers to debate the Bill by this Thursday?

Hon KAY HALLAHAN replied:

(1)-(2)

I am always willing to accommodate members opposite; however, I do not like members opposite having their personal arrangements accommodated and then parading it in this place as some political kudos for the electorate. The member is travelling overseas and he wants to have a say on the Bill. I have agreed to accommodate that request because I accept that he does have an interest in matters of a heritage nature - not that I think he understands the issue very clearly, but he has a genuine interest.

Hon P.G. Pendal: The bipartisanship is slipping.

Hon KAY HALLAHAN: I resent the way in which the member has now used this

accommodation as a point scoring exercise by throwing this issue out into the electorate in the form of a Press release. Hon Phillip Pendar rarely does anything without issuing a Press release. He always follows a question with a Press release. I make it very clear that I am always willing to accommodate members opposite just as I am willing to accommodate the travel plans of Hon Phillip Pendar.

PRISONS - KARNET PRISON

Strip Searched Visitors

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

- (1) Were all or any female visitors to Karnet Prison on Sunday, 9 September 1990 strip searched by prison staff?
- (2) Were male visitors similarly searched?
- (3) If no, why was there gender discrimination in the procedure?
- (4) Is it a usual practice to strip search prison visitors?

Hon J.M. BERINSON replied:

I thank the member for some advance notice of the question.

- (1) Yes. Three female visitors were strip searched.
- (2) Yes. Two male visitors were similarly searched.
- (3) Not applicable.
- (4) The discretion to search a person entering a prison rests with the superintendent of the institution.

HERITAGE BILL - PUBLIC INFORMATION

563. Hon GARRY KELLY to the Minister for Heritage:

Will the Minister advise the House what steps she has taken to ensure that people are well informed about the Government's heritage legislation?

Hon KAY HALLAHAN replied:

I thank the member for his interest in this matter and for some notice of the question.

The Government has taken a number of steps to encourage informed debate on the heritage legislation. I think people are more aware these days of the value of our buildings of heritage significance and do not want to see them lost to us or to future generations; nevertheless, there are some misunderstandings about how one best preserves that history. I have had wide consultations with groups interested in the legislation, and they are wide ranging groups. They include The National Trust of Australia (WA), the Art Deco Society of WA Inc and the heritage protection group, the Building Owners and Managers Association of Australia Ltd, the Chamber of Commerce and Industry (Inc) WA, the Association of Mining and Exploration Companies (Inc), and certain local governments as well.

As well, I recently issued a Press statement inviting members of the community to telephone or write to the Department of Planning and Urban Development if they would like up to date and accurate information on the heritage Bill, and in response to the many queries I was receiving about the legislation I called together in my office representatives of groups who have had a recognised interest in or involvement with heritage matters to advise them on the progress of the legislation and its implications. A mail-out of information to groups and individuals interested in heritage issues also was undertaken, and that included all members of the National Trust.

I think those actions have been quite necessary. It is important legislation, but is not always well understood. Even though we might say we endorse it, there are nevertheless divisions of opinion as to how we can best preserve our

heritage buildings. It is clear that some of the issues which actually undermined the Liberal Party's own heritage Bill in 1977 are still raging today and I hope that the Bill that is in progress through the Parliament will not be undermined in a similar way. The provision of information has been very important to the Bill which is soon to be debated in this House.

STATE GOVERNMENT INSURANCE COMMISSION - GOVERNMENT UNDERTAKINGS

564. Hon PETER FOSS to the Attorney General:

My question relates to the letter from the Attorney General to me dated 3 September 1990 about the current state of the undertakings given on 16 May in relation to the SGIC. The Government gave two separate undertakings: Firstly, that it would incorporate provisions of the Statutory Corporations (Directors' Liability) Bill in the State Government Insurance Commission Act; and secondly, and separately, that it would look at taking up the recommendation of the Auditor General concerning the Statutory Corporations (Directors' Liability) Bill.

Am I to understand from the Attorney General's letter to me that it is no longer the Government's intention to carry out the undertaking that it would incorporate the Statutory Corporations (Directors' Liability) Bill in the State Government Insurance Commission Act immediately?

Hon J.M. BERINSON replied:

The member will understand that, although I replied to him on the basis that he had directed the question to me, I replied in a representative capacity and on the basis of material which was provided by the Deputy Premier. The follow-up question which Hon Peter Foss now asks can really be put only to the Deputy Premier as the responsible Minister, and I would ask that it be put on notice. I will obtain a response to that at the first opportunity.

STATE GOVERNMENT INSURANCE COMMISSION - GOVERNMENT UNDERTAKINGS

565. Hon PETER FOSS to the Attorney General:

Does the Attorney General realise that the undertaking referred to in my previous question was also given by him, and does he regard himself as having a personal obligation to ensure the undertaking is carried out?

Hon J.M. BERINSON replied:

I have always acknowledged that I was a party to those undertakings. It has always been my understanding that the fulfilment of those undertakings is being actively pursued. I simply do not have the knowledge as to where this matter is at present and, as I have indicated, I suggest that the best way of proceeding would be to have the further question put on notice and I will pursue it promptly.

McCUSKER INQUIRY - TERMS OF REFERENCE

McLernon, Mr Hugh

566. Hon GEORGE CASH to the Attorney General:

Some notice of this question has been given.

(1) Did Perth barrister and solicitor Mr Hugh McLernon have any input into the drawing up of the brief and/or the terms of reference which were finally settled by the Attorney General in respect of the McCusker inquiry?

(2) If so, what was his role and involvement?

Hon J.M. BERINSON replied:

(1)-(2)

I thank the Leader of the Opposition for some advance notice of this question.

As I have previously advised the House on many occasions, the terms of reference of the McCusker inquiry were not drawn up or settled by me. There was no brief. In accordance with the requirements of the Ministerial Council, the terms of reference were determined by the National Companies and Securities Commission after consultation with me. The decision, as intended by the Ministerial Council, was at the discretion of the NCSC throughout.

I have no recollection of any input on this matter by Mr McLernon and, having taken the precaution of checking with him, Mr McLernon has authorised me to indicate that that is his position as well.

HEPBURN HEIGHTS - CROWN LAW DEPARTMENT ADVICE

567. Hon REG DAVIES to the Minister for Planning:

I refer to the Minister's reply to question 762 on today's Supplementary Notice Paper and ask, in relation to Hepburn Heights: What was the advice from the Crown Law Department and what was the advice that the Minister conveyed to the Mayor of the City of Wanneroo?

Hon KAY HALLAHAN replied:

I would rarely get into recalling legal advice, so if the member would like to put that question on notice I will deal with it.

STATE GOVERNMENT INSURANCE COMMISSION - BELL GROUP SHARES PURCHASE

Ministerial Directions

568. Hon GEORGE CASH to the Leader of the House representing the Treasurer:

Some notice of this question has been given. What ministerial directions or instructions have been given to the State Government Insurance Commission in respect of the purchase by the SGIC of shares in Bell Group Ltd?

Hon J.M. BERINSON replied:

As in response to an earlier question, I should indicate that, in the absence of the Premier and Treasurer, the answer to this question has been provided by the Minister for Finance and Economic Development.

I am advised that no ministerial direction to the SGIC was issued on this matter.

McGIVERON, MR JAMES LAURENCE - MARTIN, MR BARRY *Northbridge Restaurant Assault Charge*

569. Hon DERRICK TOMLINSON to the Attorney General:

Some notice has been given of this question.

- (1) Was James Laurence McGiveron charged with having assaulted Barry Martin at a Northbridge restaurant on 7 July 1989?
- (2) Did he fail to appear before the Magistrates Court on 28 May 1990?
- (3) Did the magistrate issue a bench warrant for his arrest?
- (4) Was the bench warrant processed and signed by an officer from the police prosecuting branch that same day?
- (5) Has the warrant been actioned?
- (6) If yes, with what result; if no, why not?

Hon J.M. BERINSON replied:

I thank the honourable member not only for advance notice of this question but for asking the question altogether. As he has indicated there are six parts to the question; however, I will give seven parts in my answer, and the reasons for that will appear clearly enough. As to the six listed questions, I am advised as follows -

- (1) Yes.

- (2) Mr McGiveron did not appear on 28 May 1990.
- (3) Yes.
- (4) The bench warrant was issued on 28 May 1990 and was signed for by an officer of the police prosecutions branch on 31 May 1990.
- (5) No.
- (6) The charge was wrongly listed before the court on 28 May 1990. Mr McGiveron had previously appeared in court on 4 December 1989 when the hearing was adjourned to 28 May 1990. The charge was again listed on 6 March 1990 and because of the unavailability of certain witnesses the hearing date of 28 May 1990 was vacated and fresh dates of 4 December and 5 December 1990 were allocated.

The answers so far have been provided to me directly from the Crown Law Department. I have had a further report on this matter from the Assistant Director of Court Services, and without dealing with it in full, I take up some details provided to him by the Police Department. The report states -

The warrant register shows that the bench warrant was signed for on 31/5/90 by Constable Robin Caddy of the Central Law Courts Prosecution Section.

The OIC Sergeant John King indicated that it is usual practice to attach the bench warrant to the brief and forward all papers to the Central Warrants Bureau for recording purposes. In this case, for reasons which are obvious, the brief had not been called for, and the bench warrant would then have been placed in a file tray for attachment to the brief when available.

There is no record of receipt of the bench warrant at Central Warrant Bureau. The OIC Sergeant M. Coster has indicated that if received it would be returned to the court for cancellation.

It would be clear enough from the facts provided that an error, or even a series of errors, took place with the processing of that charge. Having acknowledged that that error did arise, and probably it is fair to say that it arose in both the court and at the Police Department, the background to this matter appears clear enough.

I indicated earlier that I intended to include a seventh part to my answer. An additional reason for being grateful to the honourable member for raising this matter at this time is that it gives me an opportunity to invite him to offer me an apology. On 10 August 1990 Hon Derrick Tomlinson issued a Press statement, among others, which included the following quite outrageous comments -

"The fact that a bench warrant for the arrest of a man on serious charges has disappeared reeks of interference with the due processes of justice," Mr Tomlinson said today. "The smell of manipulation is even stronger when a hearing date was set for the assault charge but cancelled the same day.

"These events would be a condemnation of the processes of justice in WA regardless of who the accused was.

"But when yet another official of the TWU is the person charged with serious offences, alarm bells begin to ring.

"All of Western Australia will remember how Mr Berinson personally intervened when TWU secretary J.J. O'Connor faced extortion charges following a police investigation.

"Mr Berinson decided that the case should not be tried in court and

Mr O'Connor was never required to answer the serious charges with which the police were prepared to proceed.

"Justice must not only be done, it must be seen to be done.

"The O'Connor case will long be remembered by those who believe justice should be administered equally to all.

It is impossible to read that Press release without drawing the conclusion that Hon Derrick Tomlinson was deliberately implying that I had interfered in the administration of justice. So far as this case was concerned, it would seem that Hon Derrick Tomlinson has drawn some assumptions about the case in question involving some attempt by me at manipulation of the system. Does Hon Derrick Tomlinson deny that that is the only reasonable conclusion that could be drawn from those statements?

Hon George Cash: It is a foolish assumption.

Several members interjected.

Hon J.M. BERINSON: It is an inevitable conclusion from the range of issues which Hon Derrick Tomlinson attempted to draw together in his Press release; that is, he was accusing me of interfering with the due process of justice and attempting to manipulate the system for a particular individual's advantage. When I invited him to answer that suggestion he remained silent; that silence alone is eloquent. That was not only a disgraceful allegation to make at that time, but what made it worse was that it followed an explicit denial of suggestions in almost identical terms in the previous day's media; that compounded the offence. I say again to Hon Derrick Tomlinson that the facts which I have presented to him today must make it perfectly clear that what I indicated in my public comments at the time when the issue was first raised was correct; that is, I had absolutely nothing to do with this matter. Not only did I have no knowledge of it, not only have I not the remotest interest in it, but the long and short of it is that Mr Tomlinson owes me an apology which he should give now.

Hon George Cash: Rubbish!

Hon J.M. BERINSON: Is Hon George Cash saying that any other inference could be drawn?

Hon George Cash: I say that the assumptions you draw are quite foolish.

Hon Kay Hallahan: They were written assumptions.

Several members interjected.

Hon J.M. BERINSON: If one was to ask 100 men in the street about this, 99 would say that the inference I draw is the only one possible; the one from the 100 would be the Leader of the Opposition. He is so used to manipulating the facts and the English language that he may well be capable of manipulating this issue as well!

Hon P.G. Pandal: We have had seven years of WA Inc with Government manipulation!

Hon J.M. BERINSON: Hon Derrick Tomlinson had no right or basis to make the allegation to which I refer, and if he did the decent thing he would now withdraw his comments and apologise.
