

# Legislative Council

Tuesday, 25 August 1992

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

## STATEMENT - BY HON P.H. LOCKYER

### *Office of the President Report Apology*

HON P.H. LOCKYER (Mining and Pastoral) [3.32 pm] - by leave: It has come to my notice that an article which appeared in *The West Australian* on 29 or 30 July, or thereabouts, may have been construed as reflecting on the position of the President of the Legislative Council. That was not my intention and if that reflection has been cast, I apologise for it. I want to make it clear that the comment concerning the position of the President of the Legislative Council was certainly not a reflection on the office of President.

The PRESIDENT: I am very grateful that the honourable member has taken the first available opportunity to raise this matter. I read the article to which the member referred and concluded that, as reported, the remarks were a reflection on the office of President and required the attention of this House. The member has obviously recognised the seriousness of the comments and I thank him most sincerely for his apology.

## CONDOLENCE MOTION

### *MacKinnon, Hon Graham Charles, CMG*

HON J.M. BERINSON (North Metropolitan - Leader of the House) [3.34 pm]: I move without notice -

That this House expresses its deep regret at the death of Hon Graham Charles MacKinnon CMG, a former member of the Legislative Council and a former Minister of the State, and places on record its appreciation of his long and meritorious public service, and tenders its profound sympathy to his widow and members of his family in their bereavement.

The late Graham MacKinnon was first elected to the Legislative Council on 22 May 1956 and he retired in 1986. Frankly, I do not know whether a record of 30 years' service in this House is better described as enviable or, in the light of our own experience, unimaginable. The least that can be said, however, is that it was remarkable and in Graham MacKinnon's case not only for its length but also for its sustained energy and effectiveness. From 1965 to 1979 Mr MacKinnon held a wide range of ministerial portfolios and he was the Leader of the Government in the Legislative Council from 1977 to 1980. He was a member of the Standing Committee on Government Agencies in 1985-86.

Both before and during his time in the Council Graham MacKinnon was very active in other forms of public service and this included military service in the Second World War. He enlisted in the Australian Imperial Force in 1940, served in Malaya and Singapore, was a prisoner of war of the Japanese for three years, and was discharged in 1946.

I first met Graham MacKinnon in the 1980-83 Parliament when he was on the Government side but no longer on the front bench. I often had the thought as a member of the Opposition that that suited us very well because when he spoke even from the back bench it was always in such an authoritative and knowledgeable way. When he was in Opposition between 1983 and his retirement in 1986 he remained a very forceful and effective member, and that was the case whether he was representing his constituents, his party, or, failing either of those, himself. That last instance was not at all unusual. He often had matters to put to this House which went beyond his ordinary constituency or party interests and on all of those occasions it was impressive to note the wealth of experience he brought to bear. He combined that with a personal manner which gained him many friends and the respect of colleagues, whether political allies or otherwise. On behalf of Government members and personally, I extend to the family of the late Graham MacKinnon our sympathy in their sorrow and in the sad loss they have suffered.

**HON GEORGE CASH** (North Metropolitan - Leader of the Opposition) [3.38 pm]: I second the motion moved by Hon J.M. Berinson. Graham MacKinnon was a member of the Liberal Party in this House for a period of 30 years. In fact, he was a member of the Liberal Party for more than 30 years. He was elected as member for the South-West Province on 7 April 1956 and first took his seat in this Parliament on 22 May 1956. Thirty years later he retired from this Legislative Council.

There is no doubt that the achievements of Graham MacKinnon over that period were very substantial. He was a Minister in a number of Governments, he was shadow Minister in Opposition and, as has been stated, he occupied the position of Leader of the Government in this House, which is the highest position in respect of Government service. Graham MacKinnon was first appointed to the Ministry as an honorary Minister assisting the Minister for Health and Fisheries and Fauna in the Brand Government on 16 March 1965. On 17 August he was appointed as Minister with responsibility for those portfolios. In addition to those responsibilities on 10 December 1977 Graham MacKinnon gained the Environmental Protection portfolio, for which he was a very effective Minister. In the Court Ministry he was appointed Minister for Education, Cultural Affairs, and Recreation on 8 April 1974. On 10 March 1977 Graham was appointed Minister for Fisheries and Wildlife, Tourism, Conservation and the Environment, and Leader of the Government in the Legislative Council. In August 1978, Graham MacKinnon was appointed Minister for Works, Water Supplies, and Tourism, and again Leader of the Government in the Legislative Council. Graham was also the Minister in charge and Chairman of the Sesquicentennial Celebrations during 1978 and 1979. He retired from ministerial office on 5 March 1980.

Outside of his parliamentary duties, Graham MacKinnon will be well remembered and regarded as a former State President of the Scout Association of Australia during the years 1974-86. He was an influential person in the scout movement, and was awarded the Silver Kangaroo by the scout movement in 1986. Among his many other interests, he was a member of the South Bunbury Football Club, the Bunbury Repertory Club and the Bunbury Rotary Club, and he was also patron of numerous sporting and community organisations in the south west. He was unquestionably a tough leader, an effective parliamentary tactician and an achiever in the Legislative Council. We offer our sincere condolences to Graham's wife Mary and to his sons Craig and Scott on his recent passing.

**HON D.J. WORDSWORTH** (Agricultural) [3.41 pm]: It was my great pleasure to share an office with Graham MacKinnon when I first came into this Parliament. I do not think the public realise the frustration that a person feels when he suddenly goes from holding an active position as a Minister to becoming a backbencher. Graham was like a caged lion because he had been a successful Minister for some time and he suddenly found himself in the same office as a new member, and in what he felt was not a sufficiently important role. Graham MacKinnon played an important part in my early political education. There is no doubt that he came into this Parliament when Parliaments were completely different from what they are now. Backbenchers took a more serious view of parliamentary procedure, and people did not move, speak or act unless they were sure that they were 100 per cent correct. In those days, Bills were followed clause by clause by at least half a dozen backbenchers, who expected the Minister responsible to know the meaning of every clause.

While perhaps I thought I was under pressure as a Minister with lawyers Berinson, Olney and Dowding, I do not think it was nearly as bad as the pressure that was experienced in those days. However, the way that Graham MacKinnon had been brought up was that he breathed and talked politics; it was his whole life. I do not know where that started, but I have an idea that it started in Changi Prison, where people of different nationalities who were locked up together and had expertise in various fields passed the time of day by giving lectures. Graham recalled that he learnt about the American Constitution and others like it from people whom one would hardly expect to know about that subject yet who were able to lecture on it with great knowledge. Graham got his schooling in politics in those days.

Graham was one of the most successful Ministers that I know. He was certainly the most well recognised by the public of all the Ministers in the David Brand Ministry, perhaps because he was always willing to go on air and to be seen, and perhaps also because he was lucky enough to have portfolios which enabled him to go on the air and explain to the public various issues. I remember that he was Minister for Fisheries and Wildlife at a time when the lobster industry had to be controlled. It was not easy, knowing the temper of some

fishermen, to suddenly have to curtail their activities, but Graham always regarded that as one of his successes. Health was another of his successes. He was the Minister who introduced fluoride into our drinking water. That was a contentious and hotly debated move at the time, and members will probably recall that John Tonkin was opposed to it.

Graham MacKinnon was not a newcomer to vindictiveness in politics. I recall that at one stage he had to curtail the activities of a religious group which was taking control of its members both financially and physically. I remember that Graham's wife even received a wreath from that organisation. However, Graham was never frightened to take on the tasks that had to be taken on.

One of Graham's most important roles was to impose clearing controls in the south west. That was probably the most important environmental action ever to be taken in Australia. The farmers were not used to being told what to do with their land. They believed that once they had freehold title to the land, they were entitled to do what they liked with the land. The farmers were very frustrated when they were suddenly told that they could not clear and earn a living from the land, and Graham had the difficult job of selling that idea to them.

Graham MacKinnon was Leader of the Government in the Legislative Council, and I was privileged to be his deputy for some years. Graham was a great tactician and debater, and set a high standard during his time in this place. It was his pride and joy that he was responsible for overseeing Western Australia's 150th celebrations, which were a great success. They were highlighted by the Miss World competition. Graham had to go to South America -

Hon Max Evans: Acapulco.

Hon D.J. WORDSWORTH: Yes, to persuade the Miss World organisation to hold its 1979 event in Western Australia as part of our 150th celebrations.

I pass on my condolences to Graham's wife Mary and to his sons Scott and Craig. Graham was very close to his wife, and members may recall that, among other things, they were ballroom dancing champions in their day, long before the Australian Broadcasting Corporation made such a feature on its evening programs of ballroom dancing. I join other members in supporting the motion.

HON MAX EVANS (North Metropolitan) [3.48 pm]: I join other members in supporting this motion. I first knew Graham MacKinnon in my scouting days when he was the District Commissioner of Scouting at Bunbury. I regarded Graham not only as the best district commissioner in Western Australia but also as the best district commissioner in Australia. We used to compile statistics of the available boys who were caught up in the scout movement, and the number in Bunbury used to be the highest in the whole of Australia. That did not just happen; it happened because Graham put his heart and soul into the scout movement. He put all his efforts into the scout camps in the district and made a point of being there to support the scout leader and the boys. He made a terrific impact on scouting in that area for a long time. He gave up his duties as district commissioner only when his ministerial duties kept him in Perth for so much of the time that he found it was not possible to go to Bunbury, and he handed over the reins to Phil Owens, who did a marvellous job. As mentioned earlier by Hon George Cash, Graham MacKinnon became the State President of the Scout Association and took a great interest in the development of the scout movement. He was not a person who just came to the annual general meetings. Graham MacKinnon made things happen. The scouting movement is very grateful for that. In the bicentennial year it was advantageous having Graham in that ministerial portfolio because this State was running a scouting jamboree and Graham was able to help to put on such a successful event. Next year we will have the first jamboree in Western Australia since that time. The scouting movement was very grateful for Graham's contribution.

Mention has been made of Graham's time in Changi Prison in Singapore. That imprisonment had a bad effect on the pigmentation of his skin. We made special dispensation for Graham to wear long sleeved shirts and long trousers well before the wearing of the more common uniform for scouting. Graham could not bear excessive sunlight as a result of the impact of his time spent in Changi Prison.

A few days after Graham died I was talking to members of the Scout Association of Australia. They told me that as late as the end of June Graham and Mary attended the association rooms to make a donation. Mary was not very well and could not get out of the

car. Graham went inside to make a donation and to ask about recent activities. He always had a great personal interest. During the late 1960s, I travelled to Bunbury with Graham. When I met Mary, I wondered where I had met this fine lady previously. Subsequently, the Mary Shaw school of dancing came to mind. I recall that dancing school in Murray Street during my last days at Scotch College. We used to nick out to attend dancing classes. That was 20 years ago.

Hon J.M. Berinson: They always wondered where you had gone.

Hon MAX EVANS: Graham and Mary were a great pair. They made a terrific contribution to youth in Bunbury, Mary with her acting and dancing classes and Graham with the scouting movement. The world is a lot better off as a result of the contribution they made to the young people in Western Australia. I send my condolences to Mary, Scott and Craig.

**HON P.H. LOCKYER** (Mining and Pastoral) [3.52 pm]: I wish to be associated with the comments by Government and other members on this condolence motion. Like Hon David Wordsworth, I shared an office with Graham MacKinnon for nine years. I arrived in Parliament the day Graham was sacked as leader of the Liberal Party in the upper House. The second blow to him was that he found he was not included in the Court Ministry. As Hon David Wordsworth said, Graham was frustrated. He was more than a little disappointed, and he took those feelings to his grave. Graham was totally unforgiving of the people involved in those events.

I always found Graham MacKinnon to be one of the straightest shooters and best blokes in this Parliament. Without doubt, he was the best debater I have ever heard. He was capable of absolutely flattening people, as Hon Sam Piantadosi well remembers. Graham had a love/hate relationship with Hon Sam Piantadosi dating back to their water supply days. Graham never missed an opportunity, although Hon Sam Piantadosi gave as good as he received at times. I think they declared a draw in the end.

I went to see Graham only three or four days before his death. The family gave me the privilege of being one of the pall bearers at his funeral. When I visited Graham in hospital, during the conversation I asked whether I could get anything for him. He said, "Yes, a bottle of whisky; and we'll drink it." As I went to the door he said, "By the way, make sure that it's Black Label. Where I'm going I'll probably not get any more of that." For the benefit of the member who serves the electorate in which I bought the whisky, it was the most expensive whisky I have ever bought. It was almost \$50.

It is very sad for the Parliament when we lose people of the calibre of Graham MacKinnon. He was a totally dedicated parliamentary performer. Parliament was his life. He was good at it, although he felt in latter years that he was not being used to the maximum. Probably he was not. Unfortunately, politics being what they are, one cannot always get what one wants. We could have made more use of Graham than we did. Not only was he a good parliamentary performer he was also a good bloke. He was a good family man. He loved his children. He never stopped talking about Scott and Craig.

In his retirement years he was a great lover of fishing and spent much time in the north of the State. He was always a popular figure around the place. We often saw him at Parliament House and I will miss him. I join with members in passing to Mary, Scott and Craig our condolences. Members who attended Graham's funeral will recall the eulogy delivered by Reg Withers as one of the best eulogies ever. Reg Withers said that Graham was a wonderful person but that he was also cantankerous, unbending, and many other things. He was also a good bloke and a good friend. I will miss him just as everyone else will miss him.

**HON GRAHAM EDWARDS** (North Metropolitan - Minister for Police) [3.55 pm]: I wish to convey my condolences to Graham MacKinnon's wife, Mary, and to his family. I had the opportunity to spend some time with Graham MacKinnon, with Hon P.H. Lockyer and Hon Sam Piantadosi, serving on a committee. On a couple of occasions I shared a couple of bottles of whisky with Graham. I cannot think of any better way to get to know a person than to sit down and have a solid drink with him.

I agree with Hon Phil Lockyer. Without doubt Graham MacKinnon was the best debater I have heard in Parliament, from the other side of the House. Graham was always a straight man. He would debate very hard in this Chamber but the moment he went outside he forgot about the debate and became sociable and friendly.

Graham was a prisoner of war in Changi Prison. As an ex-serviceman, I always found his attitude to his former captors interesting. He always held some very strong views about the war, about the way it ended, and about the treatment of himself and his fellow prisoners. He was very well regarded by his ex-service colleagues. I attended a memorial service one day where Graham MacKinnon was a guest speaker. Just as he spoke very well in this place, he spoke in a very forthright manner on that occasion. Graham MacKinnon added dignity to this Chamber. I regret his passing.

**HON BARRY HOUSE** (South West) [3.57 pm]: Graham MacKinnon was a member for the South-West Province for 30 years. He retired in 1986. He shared representation of the province with Hon Vic Ferry for many years. Needless to say, in my early days of involvement with the Liberal Party both Graham and Vic made a great impact on me and on many other people associated with the party. It was my pleasure in 1987 to be the last person elected on the old boundaries. Currently we operate under a different set of electoral boundaries. Hon Doug Wenn and I were the last members to be elected under the old South-West Province boundaries.

I quoted both Graham MacKinnon and Vic Ferry in my maiden speech a few years ago. Graham had a great influence on me and on many other people in the area. Graham was greatly respected and admired in the Bunbury area particularly and the wider south west. He was recognised for his great intellect, his retentive memory, his power of oratory and particularly for his political astuteness which was demonstrated many times. His association with the Liberal Party goes back many years. It is regrettable that Graham MacKinnon's death coincides in recent days with the death of two other stalwarts of the Liberal Party: Mrs Maidment and Mrs Ginbey.

Graham MacKinnon made a great contribution to Western Australia as a Minister and as a member for the South-West Province; to Bunbury and to the south west in particular. He had associations with many individuals and organisations and with a different variety of people in Bunbury. He made a great impact on many young people, as we heard earlier. Hon Graham MacKinnon will be remembered fondly and with admiration and respect by the people of Western Australia, particularly the people of the south west, whom he served so well for so many years. I extend my sympathy to the MacKinnon family on their sad loss.

**HON DOUG WENN** (South West) [4.00 pm]: If one looks at the political history of the south west it could be said that Graham MacKinnon is the catalyst for my being in this place. After cyclone Alby struck Bunbury and the south west region a number of groups were organised to protest about the provision of compensation for the flooding and loss of property - thankfully no lives were lost. A number of public meetings were held and Graham MacKinnon, as the Minister responsible, was adamant that the Government would not provide any part of that compensation. He stirred up a lot of people in the east Bunbury area, and I was one of them. To the regret of my family I entered the political arena. I did not see Graham in action in this place, but I have heard nothing but praise from other members. He had setbacks but was able to come back and commit his life to this place. Graham MacKinnon is recognised by environmentalists in the south west as the man responsible for the System 6 program, which is looked upon favourably by environmentalists. The only problem is that copies of it are difficult to obtain. Only recently a member of the public in the south west region suggested I look for a copy of the System 6 program for some information. He pointed out that it was the best source of information on the heritage areas in the south west. That report was commissioned by Graham MacKinnon.

Graham and Mary MacKinnon were well recognised in the south west region; Graham for his political role, and Mary for her involvement in the world of ballroom dancing. Even though I was not a student of Mary's, having learnt from Norriss', she is recognised as having been a very good teacher and will be remembered even though she now lives in Perth.

I looked upon Graham's world of politics with awe before I became involved. After Graham retired an opportunity arose for me to enter politics. Anyone who stood against Graham had very little chance because of his personal support and following in the south west region, which was well recognised. It was only after Graham retired that I thought I would have a chance after having got close to victory in the previous election. I can still recall the day after the recount at the Bunbury courthouse where, with my supporters, I was waiting for the clerk to count down and open the door. I will never forget the look of sadness in the eyes of

Graham MacKinnon upon seeing that the Liberal Party had lost to the Labor Party the seat that he had held dear to his heart for 30 years. I have gone down in history as the first Labor member to pick up that seat, which was the South-West Province. My wife Eileen and I offer our sincere condolences and best wishes to Mary, Craig and Scott. Graham's death is a sad loss not only to the parliamentary system but also to the people of the south west.

**HON SAM PIANTADOSI** (North Metropolitan) [4.05 pm]: With other members in this place I pay tribute to the late Graham MacKinnon. As Hon Philip Lockyer mentioned earlier, Graham and I had a love/hate relationship, but I respected Graham as a person even though he kept reminding me of our differences and some of my antics when I was secretary of the water supply union. As Hon Graham Edwards has mentioned, we toured the Eastern States as members of a Select Committee. One could almost say that Hon Phil Lockyer had orchestrated a situation where he and Hon Graham Edwards were otherwise engaged, which left Hon Graham MacKinnon and me to spend the day together. We had a vehicle and we took off to the Dandenongs. During the trip we went back over the history of the previous six or seven years. At the end of that, and after having lunch together, we agreed to disagree and we had found some mutual respect for each other.

Even though Graham felt he had been dealt with rather harshly by me on some matters, I always knew that when he was Minister for Water Supplies I could go to him and seek his advice on an issue. He would pass on some advice; he would always say, "For what it is worth, this is what I suggest." He was always ready to lend a hand and I am proud to have known him. It would have been of mutual satisfaction had we met under different circumstances, but the battle lines had been drawn. Many of his opponents recognised that he was fair in his dealings. I admit now that on a few occasions he attacked me rather strongly, but when issues were raised he made his point. He then gave one the assurance that while he had not forgiven one, he would not be vindictive. I join other members in expressing my condolences to his family. Theirs is a sad loss and one that will be irreplaceable.

**HON FRED McKENZIE** (East Metropolitan) [4.07 pm]: When I first came into this House the late Hon Graham MacKinnon was the Leader of the House. He was certainly a tough leader, but a very good one. Later, as members of a Select Committee inquiring into the racing and trotting industries, we travelled to Victoria. It is on such committees that one gets to understand people. I was born a socialist, I have always been a socialist, and I will probably die a socialist. Graham MacKinnon had a different philosophical outlook on life. He was no less a person than I because of his views, and I am sure he held the same view of me; we understood one another perfectly.

I will relate to the House some of the things I can remember about Graham. I can remember his telling me that in the whole of his political career he was only ever frightened on one occasion. It was not in front of a group of trade unionists, but a group of farmers. Graham was the Minister responsible for a policy prohibiting the clearing of land which had arisen because of land degradation resulting from salt encroachment in the water systems. He was quite determined that the policy should be put in place. Of course, we were not as wise in those days. He told me that the occasion on which he fronted up to a group of farmers was the only occasion in his parliamentary career that he was a bit apprehensive about his future. Nevertheless, he stood up to them. That was the strength of the man. If he had a job to do and he thought it was right, he did it. He always tried to lead.

On another occasion on that trip, after we had been in Government for some time, he referred to the changes that had taken place. He said that the Labor Party amazed him. He said that we were not only satisfied with stealing the former Government's policies - we had to change because we were in Government and had to be more responsible in the way we behaved - but he commented on the clothes we wore.

Hon J.M. Berinson: Don't you mean responsive?

Hon FRED McKENZIE: I would say responsive, but others would regard me as being irresponsible because I wanted to keep to the socialist path. He said, "Look at Arthur Tonkin. He now has a handkerchief in his breast pocket, something that he has never had before." He also commented on the suits that Brian Burke wore; we all remember that he was not the smartest dresser in Opposition. That is the Graham MacKinnon that I remember.

There is a lot I could say that I do not intend saying because of the number of people who want to speak in this debate. That in itself is an indication of the esteem in which Graham MacKinnon was held. I regarded him very highly. His replacement as leader must have been a tremendous blow to him because of his integrity and his leadership qualities. However, those things happen in politics. He sat on the back benches of the House and spoke on all legislation in which he had an interest and used the tremendous experience that he had when doing so. I listened to him and heard the wisdom of what he said. He will be missed by the community generally. I missed him when he left Parliament. I will miss his visits to Parliament because we often exchanged pleasantries and joked about things. For example, following the death of Colin Jamieson, he said to me, "Fred, you must be the only socialist left in the Labor Party." I agreed with him.

We are all the poorer for his passing. To his loved ones, Mary, Craig and Scott, I extend my deepest sympathies for their loss.

**HON W.N. STRETCH** (South West) [4.14 pm]: I also wish to associate myself with the condolence motion for our past colleague, Hon Graham MacKinnon. He was one of the most influential members with whom I have been associated during my time in Parliament. I respected him not so much for his acute skill as a politician, but as a great practitioner of parliamentary procedure and for the role he played as a parliamentarian. That is best indicated by the respect, not always love, that members of the Labor Party and the former Country Party had for him. He had a ruthless determination to push his point of view but tempered that determination with humanity and respect for another person's point of view provided he or she came around to his way of thinking in the end. He was a persuasive debater and, as has been mentioned, a person that took on the tough political issues and pursued them to their end because they were right and not because they were publicly popular or would get a headline. He got plenty of headlines, many of which were very strong attacks on him. However, he had the patience to see issues through because of his long experience with life and with politics from a very early age.

As has been said, he suffered from those very tough years in the Changi prison camp. However, out of all that he brought us wisdom. He said at one stage, for instance, that we should not complain about the food in the parliamentary dining room in his hearing until we had eaten baked rat. That brought home to the younger members the fact that we take many things for granted, and when we grizzle about our hardships we should think of those who have suffered or are suffering.

Hon Fred McKenzie referred to the land clearing meeting of 100 or so very angry farmers at Chowerup, about 20 km from my home, which Graham addressed from a platform. The farmers stood in darkness because the meeting was held in a small hall and only the platform was lit. As Hon Fred McKenzie said, it is a very frightening experience knowing that there are 100 people out there who believe the Minister is taking away their livelihood when he is trying to convince them that they have to make a sacrifice for the public good. Graham pushed that legislation through and it is now regarded across Australia as landmark legislation. Twenty years later, I still meet people who think it was a mistake and that it was a dreadful thing to do. However, most thinking people understand that there was a need to push those courageous changes through this Parliament for the good of our environment.

I express my personal sympathy to Mary. She was a tremendous support to Graham throughout his long and distinguished career, a career which placed great pressure on her, Scott and Craig. This Parliament is a poorer place for the loss of people such as Graham. He was always willing to counsel and help new members. He did not always give us the good news because he called races as he saw them. If he thought people were not pulling their weight he told them. When thinking of Graham I remember the words of George Wallace, the songwriter who said, "He may have been a headache, but he was never a bore." I do not remember an occasion on which Graham MacKinnon bored the House because he was always able to talk about personal reminiscences which had great relevance to the debate. One of the best tributes paid to him was by a former colleague, Hon Robert Hetherington, who said that he was undoubtedly the best Leader of the House that he had ever seen, even though most of the time he disagreed with him. Parliament will miss him.

**THE PRESIDENT** (Hon Clive Griffiths): I also wish to be associated with this motion moved by the Leader of the House. I do not want to go over all of the points made by

members who have spoken before me, but wish to be associated with all of them. Graham MacKinnon was a very skilled politician and tactician. It has been said already that he was an excellent debater; nobody would argue with that. More than that, he was a real grass roots representative of the people. He was a very compassionate person although he camouflaged it so that it was difficult to recognise at times. I remember that, when I first came into the Parliament, he shared his experience and knowledge with others as was mentioned by Hon Sam Piantadosi. He certainly taught me many of the fundamentals of being a member of Parliament. When he left this Parliament, he was the last of the members elected prior to adult franchise and the introduction of compulsory voting.

He was the last of those elected under the voluntary voting system. That is significant, because in 1965, when I came into the Parliament as one of the first group of people elected under the new system, that began a great change in the operations of the Legislative Council. Graham MacKinnon steadfastly stuck to the traditions and customs of this place and was critical of any member who attempted to deviate from them. He was a born parliamentarian - the absolute ultimate parliamentarian! My wife Myrtle and I join with the rest of the members of this House in extending our deep sympathy to his wife Mary and his sons Craig and Scott.

Question passed, members standing.

### CONDOLENCE MOTION

*Bickerton, Arthur William*

**HON J.M. BERINSON** (North Metropolitan - Leader of the House) [4.23 pm]: I move without notice -

That this House expresses its sincere regret at the death of Arthur William Bickerton, a former member of the Legislative Assembly and a former Minister of the State, and places on record its appreciation of his long and devoted public service, and extends its deepest sympathy to the members of his family in their bereavement.

The late Arthur Bickerton was a former member of the Legislative Assembly for the Pilbara and Minister. He died on 18 June 1992 at the age of 72 years.

Arthur Bickerton was born in 1919 in Victoria where he was educated and began his working life. Following the outbreak of war he enlisted in the Australian Imperial Force. He was promoted to the rank of captain prior to his discharge in November 1945.

After his Army service, Arthur Bickerton worked in the mining industry, first in New South Wales and then in Western Australia from 1955 until he was elected as the member of the Legislative Assembly for the Pilbara in 1958. He continued to represent that area until 1974. In the last three years of that period he was Minister for Housing, Fisheries and Fauna and the North-West.

In 1989 Arthur Bickerton wrote a book titled *Meet the People* which was about his political career. He was well known for his good nature and good humour which attracted the friendship of members from both sides of the Parliament.

On behalf of all Government members I extend to the family of the late Arthur Bickerton our sincere sympathy in their sorrow and loss.

**HON GEORGE CASH** (North Metropolitan - Leader of the Opposition) [4.24 pm]: I second the motion moved by the Leader of the House. As has been said, in 1955 Arthur Bickerton moved to Western Australia to work in the tin mines in Shaw River and Moolyella in the Pilbara. It is interesting that it did not take Arthur Bickerton long after moving into the community to become a councillor on the Marble Bar Road Board, to which he was elected a year after arriving in the Pilbara. He served as a member of that board from 1956 to 1958, when he was elected as member for the Pilbara in the Legislative Assembly. As has been said, he served in that capacity until 1974.

It is interesting to read *Hansard* to gain an insight into the characters of former members and the way in which they conducted themselves in the Parliament. Having read some of the speeches and interjections made by Arthur Bickerton, I have no doubt that he was a man of great wit who clearly had a clever repartee. That comes through loud and clear in the



*Hansard* record. As a young member of the Legislative Assembly in the 1980s I met Arthur Bickerton in the corridors when he visited from time to time. His wit was evident when talking to him. He was a man who believed that life was meant to be enjoyed. He enjoyed humour and made sure it was a part of his and other people's lives.

Arthur Bickerton was Chairman of the Public Accounts Committee in 1971, and was appointed Minister for Housing, and Fuel on 12 October that year. On 6 July 1972 he was appointed Minister for Housing, Fisheries and Fauna, and on 30 May 1973 was given the additional portfolio of the North-West. I have no doubt that Arthur Bickerton was a tireless worker for his constituents in the north west and was clearly committed to the development of the Pilbara. He was well known for his love of the Pilbara and saw it as the great export region to support the economy of Western Australia.

As has already been said, in 1989 Arthur Bickerton embarked on a new career as an author, writing the book *Meet the People* which was published by the Fremantle Arts Centre Press in 1989 and which dealt with his memories of his time as a member of Parliament and his life as a politician.

Arthur Bickerton was a keen sports fan and a member of Claremont Football Club. To his daughter Lesleigh, his son Robert and three grandchildren who survive him, I extend the condolences of the Liberal Party on his passing.

**HON T.G. BUTLER** (East Metropolitan) [4.26 pm]: I associate myself with the condolence motion moved and the remarks made by previous speakers about Arthur Bickerton. As they have said, Arthur Bickerton was the member for the Pilbara. He became knowledgeable about, and something of an expert on, the north west, as did members of his family. A number of books and articles were published in their name on the subject.

I knew Arthur Bickerton well for a long time. As Hon George Cash has said, he was a convivial person with a dry humour. He was also the master of the impromptu one liner. A great example of this occurred at a meeting of the State Executive of the Australian Labor Party when Senator Lawrence Wilkinson had the floor and referred to all of the "isms" having at some time or another caused people a great deal of pain. He went on to list "socialism, communism, catholicism" - at which stage Arthur Bickerton chipped in "rheumatism". That was the sort of impromptu wit he had. Arthur was a good bloke to be around and to have a drink or a chat with and I will miss him a lot. Therefore, I add my condolences to the others expressed this afternoon.

**HON FRED McKENZIE** (East Metropolitan) [4.28 pm]: I join with the remarks of others in this condolence motion. It is difficult for most members to participate in condolence motions such as this because most of us were not here when Arthur Bickerton was a member of Parliament. Arthur Bickerton was in this Parliament until 1974. I did not become a member until 1977. I did not know him until after I became a member. People of my era had certainly heard of Arthur Bickerton because in addition to his being a member of Parliament he was also a Minister of the Crown who held several portfolios during the time of the Tonkin Labor Government. He was Minister for Housing, and Fuel, and later took over Fisheries. Prior to that he was the Chairman of the Public Accounts Committee, so he served the Parliament with great distinction.

My memory of Arthur Bickerton is as has been described by many people - he was a man of great wit. After he retired from Parliament he became the Chairman of the Western Australian Greyhound Racing Association, so he had a variety of interests which he continued long after the term of his parliamentary career. Arthur is remembered very affectionately by members who were in the Parliament during that time, but it is difficult for members here to participate in this condolence motion to the same extent as they did in the motion relating to the late Hon Graham MacKinnon, because many members here served with Graham. However, those members who had met Arthur joined in the condolence motion and I wanted to be one of them because, as those who knew him intimately have said, he was a man of great wit and always had a smile on his face. We will certainly miss him. I extend my condolences to his daughter, Lesleigh, his son, Robert, and his grandchildren.

**HON P.H. LOCKYER** (Mining and Pastoral) [4.31 pm]: I wish to contribute to this condolence motion for the late Arthur Bickerton because I knew him well. When I first went to the Pilbara in the early 1970s he was the member for Pilbara. I was associated with a mine

near Marble Bar, where the name Arthur Bickerton is an absolute byword, particularly in that wonderful establishment known as the Ironclad Hotel, where he was known to take a cold drink on a hot day. Arthur worked exceptionally hard as the member for Pilbara and was well liked. He was defeated in 1974 by Brian Sodeman. It was one of those political realities at that time - the swing was on and he lost his seat. He was, and is to this day, highly respected in the north of Western Australia, and well known for his wit. I recall that when Ray O'Connor retired from the Parliament he told this story about Arthur Bickerton: The Legislative Assembly was debating a Bill to castrate Alsatian dogs because they were such pests. Members were making speeches about how these dogs would tear sheep to bits, and Arthur said, "Mr Speaker, I think we are tackling this problem from the wrong end. We should be pulling out their teeth rather than supporting what the Bill is designed to do."

Arthur Bickerton was a regular visitor here on Fridays, the day I call geriatrics' day. It is the day when people such as Hon Fred McKenzie will visit Parliament House after they retire. It seems to be a tradition for a number of retired members to gather in the parliamentary bar for lunch on Fridays. Until Arthur became sick he was a regular visitor there and I know that the little group that visits on Fridays will certainly miss him. He was a decent bloke. Wit seems to be a dying art these days, I am sorry to say. Arthur Bickerton was a true symbol of what a northwester is all about, and I extend my condolences to his family.

**THE PRESIDENT** (Hon Clive Griffiths): I, too, wish to be associated with this condolence motion for the late Arthur Bickerton. Unlike Hon Fred McKenzie, I was a member of Parliament with all these people for whom condolence motions are being moved. I do not know whether there is a message in that.

Arthur Bickerton was a great and humorous person. Hon Tom Butler summed him up well when he said he was a good bloke. I can remember that, on many occasions when members of Parliament went on trips, everybody endeavoured to get into Arthur's company because he was always a happy person and able to see the humorous side of everything. I could tell members many stories about the fantastic times I had with the late Arthur Bickerton. Unfortunately time does not allow me to do that, but I want to say that he had a very realistic attitude to legislation. He was a practical person who understood the practical side of what needed to be done. I was very proud indeed when he launched his book about his life in politics and invited me to share that occasion with him. I extend my deepest sympathy to his daughter, Lesleigh, and son, Robert.

Question passed, members standing.

### CONDOLENCE MOTION

*Rushton, Hon Edgar Cyril*

**HON J.M. BERINSON** (North Metropolitan - Leader of the House) [4.35 pm]: I move without notice -

That this House expresses its sincere regret at the death of Hon Edgar Cyril Rushton, a former member of the Legislative Assembly and a former Deputy Premier of the State, and places on record its appreciation of his long and devoted public service, and extends its deepest sympathy to his widow and members of his family in their bereavement.

The late Hon Cyril Rushton, who was aged 69 at the time of his death, entered Parliament in 1965 as the member of the Legislative Assembly for the seat of Dale. He held that seat continuously for a remarkable period of 23 years and when he resigned from Parliament in February 1988 due to ill health that was a cause of widespread regret. During his period in Parliament Cyril Rushton was a Minister for nine years in the Liberal Government and was Deputy Premier from January 1982 to February 1983. He served on many parliamentary committees and was his party's spokesman on local government when he went into Opposition in 1983.

Whether as a private member, a Minister or Deputy Premier, Cyril Rushton combined an ability to put his views forcefully with a personal approach which was always civil. It earned him many friends. On behalf of Government members in this House I extend to the family of the late Cyril Rushton our sympathy in their sorrow.

**HON GEORGE CASH** (North Metropolitan - Leader of the Opposition) [4.37 pm]: I support the motion moved by the Leader of the House. I had the honour of serving in the Legislative Assembly with Cyril Rushton in the 1980s. Cyril Rushton was elected to the Parliament in 1965 and remained the member for Dale until he retired in 1988. Those members who enjoyed his company as a member of Parliament will remember him as one of nature's gentlemen. He was able to make friends on both sides of the House, he exhibited great kindness to others, and he was unquestionably a man of great wisdom. I will remember him most for the friendship he offered me as a young member of the Legislative Assembly, and also for the way in which he conducted himself in the Parliament.

Cyril was able to speak on any subject at any time, and to speak at great length. In particular he enjoyed speaking about transport, and members will know that he was the Minister for Transport during his long parliamentary career. I recall one occasion in 1986 when the Legislative Assembly sat for the whole day and then proceeded to sit through the night and into the early hours of the next morning. The Liberal members of the Opposition were somewhat weary and wondered just how long the Government, under then Premier Brian Burke, would continue sitting. We thought that if we kept talking the Premier would cave in eventually, but it was just not happening. About 8.30 in the morning Cyril Rushton, who had been paired the previous night, came in as fresh as a daisy, ready to do battle with the Government and carry our banner for the rest of the day. As he walked into the Legislative Assembly, the then Premier, Brian Burke, looked up, and knowing that Cyril Rushton had the ability to talk forever on any subject, he threw up his hands and said, "It's all over; we give in. Cyril Rushton has arrived and we are not prepared to allow him to take over the debate as the lead speaker for the Opposition." If he had been allowed to speak on that occasion, Cyril Rushton would have enjoyed the task and could have spoken for as long as the Parliament sat.

As I said earlier, Cyril Rushton had the ability to develop friendships on both sides of the House. He had a great ability as a political campaigner. I was honoured when he walked and doorknocked with me in Mt Lawley, Dianella and Yokine in 1984. At that time I was a potential member of the Legislative Assembly and in campaigning I learnt a great deal about him, and he learnt something about me. He imparted much of the knowledge he had acquired over the years, and one important piece of advice he gave was that members of Parliament must persist in what they do and must keep going back to the community to ask for views on various matters. He said that members must understand the way the community feels on issues. Undoubtedly, he was an amazing campaigner.

To his wife Jean, his children and his grandchildren, the Liberal Party offers its sincere condolences on his passing.

**HON D.J. WORDSWORTH** (Agricultural) [4.42 pm]: It is a sad day when two condolence motions are moved for former Cabinet colleagues. I have great admiration for Hon Cyril Rushton. When I first came into the Parliament the Liberal Party was in Opposition and Cyril Rushton was its tactician and filibusterer in the Legislative Assembly. He was the member who kept the party together and gave us the impetus to get into Government. Once in Government, Cyril Rushton was appointed Minister for Local Government, a job he did very well. He made a point of visiting every local government in the State, which was a major task. This was appreciated by those in local government because Cyril Rushton understood and spoke their language. He was a great communicator.

At a later stage during the Court Government, following a Cabinet reshuffle, he took over as Minister for Transport in the portfolio I held before him. If I had made mistakes in that portfolio - as I am sure I did - he was the last person to draw attention to them. He carried on the policies which were drawn up during my time in that portfolio, although no doubt he may have quietly introduced some changes.

Members may recall at that stage that the South West Australian Transport Study - SWATS - was considering deregulation of the transport system and took over the common carrier responsibility from Westrail. I had the task, with many others, of drawing up that policy by which Westrail became profitable over a period of 15 years. Although I conducted the public consultation and introduction of this policy, Cyril had the difficult task of continuing the program once the public realised the difficulties it entailed. Nevertheless, as has been said, he was a great mixer and could talk with people of all politics and walks of life. Great credit

must be given to Cyril Rushton for the manner in which he carried out his responsibilities, as he was always fair in his decision making.

As the Minister for Urban Development and Town Planning he had a difficult task, but Cyril could be relied upon to be steadfast in his policies; he would not be drawn aside because of personal, or any other, interests. His passing is a great and sad loss, and I join in expressing the condolence of this House to his widow Jean - who was a great friend during those years in Government - and to his family.

**HON N.F. MOORE** (Mining and Pastoral) [4.46 pm]: I am fortunate to have known Hon Cyril Rushton well for the past 15 years. I first met him during the 1977 election, my first election campaign, when he was a Minister in the Court Government. However, I got to know him better when I was Cabinet Secretary to the Court Government, wherein I saw how he could manipulate the Cabinet system to achieve what he wanted on many issues.

Cyril Rushton was a kind, generous and compassionate person - a real gentleman. He was dedicated to the Liberal Party, his job and his leader. He would never do anything that would cause dissension or unhappiness in his team. As a great team man he never sought to promote himself as an individual within the team, and it was due to the admiration and respect felt for him within the Liberal Party that Cyril Rushton became deputy leader of the party, and, of course, later Deputy Premier. Cyril was a very worthy Deputy Premier of Western Australia during the 12 months he held that office.

I do not recall ever seeing Cyril Rushton angry. He put his point of view strongly. He may have been pensive on occasions, but he never became angry. He was prepared to accept other points of view. On occasions he would lose an argument, and he accepted this in the right spirit. He was prepared to discuss his views and consult people to determine a consensus point of view, which he would then promote.

As Hon David Wordsworth has indicated, Cyril was Minister for Local Government for a period in the Court Government. Cyril Rushton was the best Minister for Local Government I have seen during my time in Parliament. He had a great ability to relate to people within local government, and he travelled the State meeting local councillors to discuss issues which were important to them. In a conciliatory manner, and through consultation, he would invariably smooth out the troubled waters and reach a consensus view, leaving a situation resolved. He reminded me of a mother hen: He kept the brood together within the point of view Cyril supported.

I am saddened at the loss of Cyril Rushton. I knew him well as a member of Parliament. I extend my condolences to his wife Jean and his family on this sad occasion.

**HON KAY HALLAHAN** (East Metropolitan - Minister for Education) [4.49 pm]: I express my sympathy to Jean and Cyril Rushton's family on their sad loss. Members may appreciate that my upper House electorate contained Cyril Rushton's lower House electorate, and he was described in the electorate as an old style village pump member of Parliament. He certainly travelled extensively around his electorate. As a result of his friendly disposition and his long association with the area, he seemed to know everyone in it. He always extended a friendly hand to everyone, including me.

I have seen other people met by him very warmly and pleasantly. As previous members have said, I never saw an angry or hostile expression coming from him. However, I believe he was a very effective member of the Parliament. I was not in the other place and I do not know how he performed his role as a Cabinet Minister. As a member of the Opposition I suppose I was somewhat critical of him. Nevertheless, in a personal sense, I believe he represented his area well and many people in the Dale electorate will be very sad at his loss. Even though he had retired, he kept contact with many of the organisations and people in adjacent electorates as well as his own. I express my personal sympathy to Jean and the family.

**HON PETER FOSS** (East Metropolitan) [4.52 pm]: I join in the condolences expressed by this House. I first met Cyril Rushton when I was a practitioner and he was the Minister for Town Planning. In those days appeals to the Minister were frequently held and were usually presented to the Minister personally. Cyril Rushton was without doubt the most courteous person I met when dealing with those appeals. I also had dealings with him on many other town planning matters. As was mentioned, he always tried to arrive at a satisfactory solution

for everybody. He had a round rug in his Oakleigh Building office - the colours would not be considered fashionable these days - which he regarded as a tool for getting people to agree on matters. He would make people sit around the edge of the rug in their chairs. Somehow that lent itself more to the idea of people getting together on a problem rather than confronting one another. I recall that many a meeting with the Minister for Town Planning led to a satisfactory result all around because he was prepared to take the time to get the parties to agree.

Obviously I did not serve in the Parliament at the same time as he. However, I became close to him after I became a member of Parliament because he was a member for the same area that I represent and, together with his wife Jean, he remained very active in the electorate after his retirement. He offered a great deal of support to Hon Derrick Tomlinson and me. One of the difficulties we faced in our electorate was that we were both new to the Parliament. The ability to rely on someone like Cyril for guidance and help was extremely important to us. We will very much miss his guidance and enthusiastic support. I know that Jean will be suffering from the loss of Cyril and I convey my sympathy to her and her family.

**HON W.N. STRETCH** (South West) [4.54 pm]: I wish to be associated with this motion. Like other members, I regard Cyril as one of our great parliamentarians and, indeed, a great Liberal. He brought great dedication to both forums and he was always courteous. At rare times he was angry, but he never lost his temper; there is a difference. He was able to direct his displeasure with such issues into very effective action. As Hon Peter Foss said, he did that in a positive manner which, in the long term, endeared him to people, even those who disagreed with him.

I agree with a previous speaker who said that Cyril Rushton was one of the State's most effective Ministers for Local Government. I think that this is due to the fact that he was not only a great speaker - as has been said, he could talk at great length if need be - but also he was a very interested and empathetic listener. We find in this job that as we get older, people are more interested in members of Parliament listening to them than in members' expressing their views.

Cyril Rushton set a great example to his colleagues of the time and to us younger members. Like Graham MacKinnon, he was always ready to help new members of this Parliament irrespective of whether they were on his side of politics. He always had an encouraging word and courteous helping hand when they were required. We often saw Cyril and Jean around the House at functions; it was a great pleasure to see them. We will miss them both a great deal, although I hope Jean will continue to keep in touch with members of Parliament. As I said, they were great servants of the people, the Parliament and the Liberal Party. I thank Jean for that and wish her well at this sad time. I will also greatly miss Cyril's contributions and visits to our Parliament.

**HON B.L. JONES** (South West) [4.56 pm]: I too wish to be associated with this condolence motion. Cyril was the member for Dale which formed part of my original seat of Lower West Province. I knew him for some years before coming into Parliament because, like many members, I came through the same avenue as he, local government. In our case it was via the Armadale City Council where he was a past president. Cyril often used to call in to the council and was invited to official functions. As a member of the council I therefore met him on many occasions. My impression was that he was very popular and well known throughout the district.

I would like to share with members this small anecdote about his sense of humour. The Armadale City Council was considered a conservative council at the time that I was elected to it; and he therefore probably took it for granted that I was of the same ilk. He did not know my political leanings. When Cyril was seeking re-election for the seat of Dale I was handing out how-to-vote cards on the booths and, apparently, my badge had blown upside down so that he could not see which party I represented. It was a very hot day and, as was typical of him, he had brought a supply of cold drinks for the people who were helping out at the polling booths. He knew that I was on the council and he came over and asked how I was and whether I would like a cold drink. He made quite a fuss of me and thanked me for being there. I asked him if he had voted yet, and he said no and that he was shortly going to. I then gave him a how-to-vote card. He turned it over and saw I was handing out pamphlets for his

opposition. He took it in very good spirit and offered me a drink anyway. That summed up the man; he was very well liked and had a sense of humour. I, too, would like to convey my condolences to Jean and her family in their sad loss.

**HON DERRICK TOMLINSON** (East Metropolitan) [4.58 pm]: I wish to associate myself with this condolence motion. Hon Peter Foss has spoken already of the support Cyril Rushton, as one of the much loved elders of the Liberal Party, gave to us when we were newly elected members to this place. My fond memories of Cyril extend much further than that. I recall when I was a wet behind the ears candidate for the seat of Perth for the House of Representatives. I attended a Liberal campaign meeting held to instruct new candidates on how to present themselves in the electorate. As a wet behind the ears candidate I was somewhat intimidated by the presence of some senior parliamentarians whom I held in considerable awe at the time. Cyril Rushton approached me with his usual very broad grin and the twinkle he always had in his eyes. He shook my hand and, with considerable warmth and friendliness, he very quietly advised me how to handle myself as a parliamentarian.

He retired before I was elected to this place but, as Hon Peter Foss said, he was always available to give us quiet tips in the same warm, friendly manner. My special regard and affection for Cyril relates to the falling out I had with members of the Parliamentary Liberal Party about this time last year. Members would recognise that incident, if not having experienced it certainly having observed it, to be most unfortunate. At that stage Cyril Rushton gave me a great deal of personal support and I am deeply in his debt and in the debt of his wife, Jean.

**THE PRESIDENT** (Hon Clive Griffiths): I also want to be associated with this condolence motion. I was elected to this place two months before Cyril Rushton. He was elected at a by-election which was held after the 1965 election because of the resignation of one of the Ministers in the Brand Government. I still remember that when Cyril stood for preselection he had 18 opponents. Nevertheless, Cyril won preselection and then won the seat. I had a great deal to do with him during the term of the Tonkin Government because he was the Opposition spokesman for local government in the Legislative Assembly and I was the Opposition spokesman for local government in this House. We worked very closely together. As has already been expressed, he was a great member of Parliament.

I join with other members of the House in expressing to Jean and the family our deepest condolences.

Question passed, members standing.

**THE PRESIDENT:** For the record I advise members, as is the usual procedure, that I will have a record of the condolence motions made and sent to the families of the three members.

[Questions without notice taken.]

### STATEMENT - BY THE DEPUTY PRESIDENT

*Aboriginal Legal Service - Writ of Summons Served on Clerk of the Legislative Council*

**THE DEPUTY PRESIDENT** (Hon Garry Kelly): Honourable members, the President has received a letter as follows -

Dear Mr President,

On Monday, August 10 1992 a writ of summons issued by the Aboriginal Legal Service was served on me in my capacity as Clerk of the Legislative Council.

This action is a direct result of an order of the House, made against the Aboriginal Legal Service, being served by an officer of the House on June 10 1992 on the ALS.

Essentially, the ALS is seeking a declaration from the Supreme Court that the House has no power to make the order that it did primarily on the ground that because the ALS is wholly funded by the Commonwealth it is immune from State scrutiny.

I do not believe that I should defend this action without a clear indication from the House, whose servant I am, as to how it believes I should act. Accordingly, I would be grateful if you would draw this matter to the House's attention at an early opportunity so that it can deal with the matter.

Meantime, I have requested the Crown Solicitor to enter a formal appearance on my behalf in answer to the summons.

Yours sincerely

L B Marquet  
Clerk of the Legislative Council  
August 19, 1992

## **MINISTERIAL STATEMENT - BY THE ATTORNEY GENERAL**

### *Aboriginal Legal Service - Court Action against State Government*

**HON J.M. BERINSON** (North Metropolitan - Attorney General) [5.36 pm] - by leave: The Aboriginal Legal Service has commenced court action naming the State of Western Australia as first defendant and the Clerk of this House, Mr Laurence Marquet, as second defendant. The writ and statement of claim was dated and served on my office on 5 August 1992. As is usual, the State of Western Australia will be represented in the action by the Crown Solicitor and, as the Deputy President has indicated, a decision remains to be made on the way in which the Clerk is to be represented.

I should first indicate the State's position in this matter. Members will recall that the Government opposed Hon Eric Charlton's motion to have the ALS provide detailed information on its operations, including its administration and funding, by or on 25 August 1992. The motion was nonetheless carried by 13 votes to 12. The Government's position was that the request for such extensive information and documentation would impose burdens on the ALS which were unfair, unreasonable and oppressive. While that remains the view of the Government the fact remains that an order has been made by the Parliament.

In its statement of claim the ALS is arguing that because it receives most of its funding from the Commonwealth through the Aboriginal and Torres Strait Islander Commission, a House of the Western Australian Parliament does not have the power to order the provision of information on its operations. That view calls into question the traditional understanding of the powers of this Parliament. If it were accepted, it could lead to a significant erosion of the State's constitutional powers. For this reason, the State Government will oppose this court action by the Aboriginal Legal Service.

The issue of this writ has raised a question as to the appropriate legal representation of the Clerk and it is important that this be addressed quickly.

## **MOTION - SELECT COMMITTEE ON ABORIGINAL LEGAL SERVICE WRIT OF SUMMONS**

### *Appointment*

**HON J.M. BERINSON** (North Metropolitan - Attorney General) [5.38 pm]: I move without notice -

That -

- (a) A Select Committee of five members be appointed to consider and recommend to the House what order it might or should make relating to the manner in which the Clerk defends the writ of summons served on him on 10 August 1992 by the Aboriginal Legal Service;
- (b) the committee have power to send for persons, papers and records;
- (c) a quorum be the chairman and any two members; and
- (d) the committee report by or on Wednesday, 2 September 1992.

I indicate to the House that given its agreement to this motion I would then propose to move that the committee comprise Mr President as chairman, the Chairman of Committees, Hon George Cash, Hon E.J. Charlton and Hon J.M. Berinson.

**HON GEORGE CASH** (North Metropolitan - Leader of the Opposition) [5.39 pm]: I second the motion. As stated, in part, on 2 June 1992 this House ordered that certain documents be produced by the Aboriginal Legal Service. My understanding is that to date

the Aboriginal Legal Service has complied with the order inasmuch as it has provided certain documentation which covers an amount of \$2 750 which was the result of a grant from the Aboriginal Affairs Authority. It is acknowledged that the authority is a State authority, and it appears from the statement that you read to the House, Mr Deputy President (Hon Garry Kelly), and from the ministerial statement by the Attorney General that the claim by the ALS is that the order made by this House is beyond the power of this House. A writ of summons had been issued against the Crown Solicitor and Mr Laurie Marquet, the Clerk of the Legislative Council as second defendant. In supporting the motion for the appointment of a Select Committee to determine what action should be taken in this matter, I make the observation that just because the Aboriginal Legal Service claims it is being funded in the main by the Commonwealth is not sufficient reason to sustain a claim by the ALS that this House is not empowered to ensure that the resolution, which was carried by the House on 2 June, is fulfilled.

The DEPUTY PRESIDENT: Order! I draw the attention of the prospective member for South Perth to the provisions of Standing Order No 79.

Hon GEORGE CASH: The mere fact that an incorporated body in Western Australia receives funding from some source other than the State - in this case the Commonwealth, but it would not matter if it were Colonel Gaddafi - is not sufficient reason for that incorporated body to say that the matters are beyond the inquiry of this House. On the advice that has been tendered to me -

The DEPUTY PRESIDENT: Order! The Leader of the Opposition is now canvassing matters that would more properly be dealt with by the Select Committee which the motion is trying to establish. Could the member please confine his remarks to whether we should set up a Select Committee.

Hon GEORGE CASH: I will confine my remarks as you request, Mr Deputy President. This Parliament has passed a resolution requiring the tabling of certain documents; that has not been complied with. A writ has now been issued by the Aboriginal Legal Service, and the Government has moved to support the defence of that writ. I support the establishment of a Select Committee in order that the matter can be progressed.

HON E.J. CHARLTON (Agricultural) [5.42 pm]: I support the setting up of the Select Committee requested.

Hon Tom Stephens: If you had had more sense in the first place we would not be in this strife.

The DEPUTY PRESIDENT: Order!

Hon E.J. CHARLTON: The comment by Hon Tom Stephens indicates the type of individual he is and highlights why I took the action in the first place and why I will continue to pursue it vigorously.

Hon John Halden: What does that mean?

Hon E.J. CHARLTON: The Attorney General, in his ministerial statement, said that the Government, while not supporting my original motion, would defend the writ taken out by the Aboriginal Legal Service. I am thankful that the Government has the good sense to take that action.

In this motion the Attorney General raised the question of the appropriate legal representation for the Clerk of the Legislative Council, and it is important that matter be addressed quickly. The motion has two pertinent points: First, the type of legal representation made available and, second, a call for a quick deliberation on the matter. It is imperative that the Select Committee report by 2 September.

I have confined my remarks to why the Select Committee should be set up; however, I have a great deal of information on the activities of the Aboriginal Legal Service about which I wish to advise the House, but I will reserve those comments for another time.

HON PETER FOSS (East Metropolitan) [5.45 pm]: I am very pleased to see that the Attorney General has recognised that there are two issues: Firstly, the motion that was moved and passed by this House, which is now a fact; secondly, the action that is now being taken by the Aboriginal Legal Service. I am very concerned that a writ is being served on an



officer of this Parliament, not coincidentally but purely because he is an officer of this Parliament. It strikes me that, first, there must be a strong question whether that is a contempt of this Parliament and, second, whether the Supreme Court has any jurisdiction whatsoever to entertain this action. I am certain that the motion as moved by the Attorney General does not deal with this question at all. The motion seems to assume the appropriate action to be taken, and that all the Select Committee is to be permitted to do is to recommend what order it might or should make relating to the manner in which the Clerk should defend the writ of summons served on him. I do not know whether, when the motion was moved, it was envisaged that it should also contemplate whether this House should indicate that the matter is not justiciable by the Supreme Court. The matter should not be dealt with by a court, but the court should come down and explain why it is contemplating why such a writ should go forth. Some fairly important matters should be looked at. Accordingly, I will move an amendment to the motion that has been moved by the Attorney General.

*Amendment to Motion*

Hon PETER FOSS: I move -

To add at the end of paragraph (a) the words -

and whether the action constitutes a contempt of the Parliament and is outside the jurisdiction of the court.

I am not seeking to preempt the position of the Select Committee on whether that is the correct procedure to take. I am seeking to leave it open to the committee to recommend on that point as well; that is, whether it is appropriate merely to go to the Supreme Court to defend the action or whether we should look at the constitutional basis of the issue of the writ, particularly where it is a writ directed to an officer of this House.

**HON J.M. BERINSON** (North Metropolitan - Attorney General) [5.49 pm]: I am not at all sure that the committee will be well placed to deal with a question of the quite separate nature that Hon Peter Foss has raised, particularly given the intention to limit its time for reporting to 2 September. I have not considered this question or had advice on it, but it is clear that to go down that path would raise issues calling for the best available and most comprehensive advice possible.

We would risk putting ourselves in an absurd position if we clashed with the Supreme Court on an issue as serious as the one outlined in the amendment without giving ourselves proper and adequate time and facilities for consideration. I am not suggesting by that that the question raised by Mr Foss is not one that should reasonably be given some consideration; I am saying that this is not the appropriate way to do it. For that reason, I suggest that we not accept the amendment but that Mr Foss raise this matter separately, either later today or later this week, and allow that further time for some prior consultation between the parties as to the way we should go. As was indicated in the Clerk's letter to the President, an appearance has been entered already to the writ, so it is not as though the question of legal representation for further steps involves any issue of principle. If there is an issue of principle involved - I will not attempt to comment on that - that issue has really been overtaken by the entry of an appearance already.

In summary, and admittedly on only the moment's consideration that has been available to me, given the way the question arose, I suggest to the House that it not support this amendment but that it pass the motion in its original form and leave it to Mr Foss to raise the question in a substantive way separately later in the week should he wish to do so.

**HON GEORGE CASH** (North Metropolitan - Leader of the Opposition) [5.54 pm]: The amendment moved by Hon Peter Foss is of significant importance and touches on the very matter proposed to be dealt with in the motion of the Attorney General. The Attorney General said that he would prefer the matter to be dealt with separately, firstly so that he could obtain advice on the consequences of the amendment and, secondly, so that we can proceed with haste in respect of the matters raised in his original motion. Because of the importance of this issue, I suggest that, given the time, the Attorney General adjourn the debate and seek advice over the dinner break so that we can further debate the issue at 7.30 pm. Until such advice is obtained, it is imperative that both matters be dealt with at the same time. If there is a need to expedite the matters moved by the Attorney General in his original motion, I am sure that an interim report with recommended action will be returned to

this House. The matters raised by Hon Peter Foss impinge on the writ that has been issued and I am sure that, if we obtain that advice, we will be in a better position to support the amendment.

Debate adjourned until a later stage of the sitting, on motion by Hon Fred McKenzie.

[Continued on p 3684.]

### **BILLS (30) - ASSENT**

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

1. Pay-roll Tax Amendment Bill
2. Pay-roll Tax Assessment Amendment Bill (No 2)
3. Valuation of Land Amendment Bill
4. Royal Commission into Commercial Activities of Government Bill 1991
5. Sheep Lice Eradication Fund Amendment Bill
6. Acts Amendment and Repeal (Betting) Bill
7. Declarations and Attestations Amendment Bill 1990
8. Road Traffic Amendment Bill
9. Acts Amendment (Confiscation of Criminal Profits) Bill
10. Acts Amendment (Game Birds Protection and Land Management) Bill
11. Fire Brigades Superannuation Amendment Bill
12. Land Amendment (Transmission of Interests) Bill
13. Acts Amendment (Sexual Offences) Bill
14. Guardianship and Administration Amendment Bill
15. Education Amendment Bill
16. Public and Bank Holidays Amendment Bill
17. Supply Bill
18. Treasurer's Advance Authorization Bill
19. Land Tax Relief Bill
20. Western Australian Treasury Corporation Bill 1991
21. Financial Institutions (Taxing) Bill
22. Government Employees Superannuation Amendment Bill
23. Industrial Lands Development Authority Amendment Bill
24. Western Australian Financial Institutions Authority Bill
25. Financial Institutions (Western Australia) Bill
26. Rates and Charges (Rebates and Deferrals) Bill
27. Lotteries Commission Amendment Bill
28. Retirement Villages Bill 1991
29. Nurses Bill 1991
30. Western Australian Land Authority Bill 1991

*Sitting suspended from 6.03 to 7.30 pm*

### **STANDING COMMITTEE ON LEGISLATION**

*Crime (Serious and Repeat Offenders) Sentencing Act and Criminal Law Amendment Act - Report Tabling*

**HON GARRY KELLY** (South Metropolitan) [7.34 pm]: On 8 July I presented the report on the Crime (Serious and Repeat Offenders) Sentencing Act and the Criminal Law

Amendment Act, and in accordance with Standing Order No 366 I now table the report. I move -

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

Question put and passed.

[See paper No 333.]

Hon GARRY KELLY: I seek leave to incorporate in *Hansard* a statement I made at a Press conference on 8 July highlighting key features of the report to that conference.

Hon George Cash: How many pages is it?

Hon GARRY KELLY: Four and a bit.

The PRESIDENT: Order! The honourable member seeks leave to incorporate in *Hansard* the transcript of a Press statement he has made.

Hon GARRY KELLY: It is a transcript of a statement I made to a Press conference when releasing the report on 8 July.

The PRESIDENT: I wonder what we are doing. However, the honourable member should not let me influence what he is doing. Is leave granted?

Hon George Cash: Before leave is granted, could the honourable member read the document into the record? That would save leave being refused, as it is important to people here to hear what is in the document.

The PRESIDENT: Is leave granted?

Hon George Cash: No.

Leave denied.

### STANDING COMMITTEE ON LEGISLATION

#### *Legal Practitioners Amendment (Disciplinary and Miscellaneous Provisions) Bill - Report Tabling*

HON GARRY KELLY (South Metropolitan) [7.37 pm]: I present the report of the Standing Committee on Legislation on the Legal Practitioners Amendment (Disciplinary and Miscellaneous Provisions) Bill. I move -

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

Question put and passed.

[See paper No 334.]

### STANDING COMMITTEE ON GOVERNMENT AGENCIES

#### *Annual Report 1991 Tabling*

HON N.F. MOORE (Mining and Pastoral) [7.39 pm]: I present the annual report of the Standing Committee on Government Agencies, and move -

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

Question put and passed.

[See paper No 335.]

### STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS AND STATUTES REVISION

#### *Nevill, Hon Mark, Resignation - Halden, Hon John, Appointment*

THE PRESIDENT (Hon Clive Griffiths): I have received a letter from Hon Mark Nevill dated 20 August in which he has, pursuant to Standing Order No 340, resigned his membership of the Standing Committee on Constitutional Affairs and Statutes Revision. In accordance with Standing Order No 341(a) the House must appoint a replacement member within six sitting days.

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

That Hon John Halden be appointed to fill the vacancy created by the resignation of Hon Mark Nevill.

**STATEMENT - BY THE PRESIDENT***GWN Film Footage of Spring Sitting Opening Approval*

**THE PRESIDENT** (Hon Clive Griffiths): Honourable members, Golden West Network Pty Ltd has sought my approval for it to obtain some film footage of the House, and in particular of country members, tomorrow. In accordance with my custom I give members notice that, in the event of my receiving no overwhelming objection, I intend to allow GWN to come in at the opening of tomorrow's sitting to take that film footage.

**HON D.J. WORDSWORTH** (Agricultural) [7.46 pm]: I am somewhat surprised at that request, as the Dowerin Field Day, a major country event, happens to be on tomorrow.

The PRESIDENT: Nothing surprises the President.

**MOTION - SELECT COMMITTEE ON ABORIGINAL LEGAL SERVICE****WRIT OF SUMMONS***Appointment**Amendment to Motion*

Debate resumed from an earlier stage of the sitting.

**HON PETER FOSS** (East Metropolitan) [7.47 pm]: I seek leave of the House to withdraw the second part of my amendment - namely, the words "and is outside the jurisdiction of the court" - because the question of whether the court has jurisdiction over the Clerk is one of the very questions that arises as to whether there has been a contempt of the House. Therefore I believe that the question arises in the first part of my amendment - the direction to the Select Committee to consider whether there has been a contempt of the House. It may very well be beyond the competence of the committee within a short period to give a definitive answer to the second part of the question, but I believe it can traverse that question while considering the question of contempt. It is unnecessary to have that second part, and it may unduly complicate the matter.

Leave granted.

The PRESIDENT: The question now is that the words proposed to be added be added.

**HON J.M. BERINSON** (North Metropolitan - Attorney General) [7.48 pm]: I seek leave to speak again on this matter. I explain, owing to your absence at an earlier stage of the debate, Mr President, that I have already spoken on the amendment but it was suggested that I take the opportunity of the dinner suspension to make certain inquiries.

Leave granted.

**Hon J.M. BERINSON:** I took up the suggestion made by the Leader of the Opposition earlier in the sitting that we delay further consideration of the motion to allow an opportunity for me to take advice over the dinner suspension. In the event, I indicate to members that it was not possible in that time to consider the hugely complex issues involved in any satisfactory way. Therefore, I wish to again urge the House to follow the course I originally suggested; namely, to reject this amendment and to leave it to Hon Peter Foss, if he wishes, to pursue the aspects he has in mind by way of a later substantive motion.

I do not wish to cover the old ground again, but I must stress to the House that the amendment raises extremely complex constitutional issues and the potential for a virtual tug of war between this House and the Supreme Court, as each decides what the other can do in respect of itself. Although that would no doubt be a fascinating exercise in its own way, the least that might be said is that it would be undesirable to rush into that kind of morass, for a number of reasons. Firstly, it could well prove to be unnecessary for any practical purpose if the arguments the State will put to the court in any event succeed. Secondly, Hon Peter Foss has not provided any basis for a committee to decide the contempt question other than to assert that it might have been committed. Surely the least that is required is some chapter and verse regarding how contempt might arise in the circumstances with which we are dealing. More than that, he should explain who precisely might be guilty of such contempt.

I thought I heard Hon Peter Foss suggest that the Supreme Court itself might be in contempt for even allowing the writ to be issued. As I find that concept a little hard to grasp, the least

one could expect is a little elaboration of it. Before Mr Foss moved his amendment, I intended to urge the House against any resolution which would send to our committee the latter part of the member's question relating to the jurisdiction of the court. I am pleased that Mr Foss has removed the reference to that by way of his later amendment, but I want to at least put on the record that I do not support his reasons for the further amendment. As I understood his argument, the second part was not needed -

Hon Peter Foss: I will put it back in again.

Hon J.M. BERINSON: - as it was satisfactorily covered by the part of the amendment which remains. My own objection to the latter part of the original amendment would be on quite different grounds; namely, that on the face of it it would seem to look to a committee of this House, and eventually through that report to the House itself, as being an institution which could make binding determinations on the jurisdiction of the court. I need not take that problem any further because, for one reason or another, it is not before the House.

This manner of dealing with an issue as serious as this is surely shown to be unsatisfactory by the need of the honourable member to amend his own amendment.

Hon Peter Foss: Come off it! I did it to accommodate you.

Hon J.M. BERINSON: The member's whole proposition was too hastily suggested, and nothing would be lost, and presumably something would be gained, if he really has an argument, if he supported himself by producing the same avenue of inquiry by way of a later substantive motion.

I conclude in much the same way as I have tried to indicate to the House on a number of occasions; that is, that Mr Foss' amendment has the capacity to engage this House in an interminable dispute on constitutional issues, which might be fascinating in their own way -

Hon P.G. Pendal: He is catching you out, as he has done on every occasion. That is what he is here for. We are all here to make you earn your living.

Hon J.M. BERINSON: I would not be earning my living in the game of ping pong which could well develop between the court and the Parliament, and which would go deeply into the relationship between the two on an issue which is very precise. That issue is the Aboriginal Legal Service writ, and it could be resolved in a much simpler way. Nevertheless, in spite of the fact that it could be solved in a simpler way, I have said that I have no argument against this contempt question being pursued. I have an argument with the attempt to resolve it by next Tuesday, and, in particular, to resolve it without any basis at all being provided by Mr Foss in the course of his moving his amendment.

Hon George Cash: It would be possible to put in an interim report by 2 September referring to those problems, if it was thought to be appropriate.

Hon J.M. BERINSON: It would be possible to constitute the same or a different committee for these purposes, and to approach the matter in an orderly way. It would be possible for Mr Foss to give some consideration to the implications of what he has suggested. I am sure he is convinced that it is an enormously important issue if only because he thought of it. I am not denying that it raises important issues; it raises extremely important issues. However, we have a much more limited question to consider immediately; that is, the writ and the response or the non-response - which is another alternative the committee may consider - to it. Whatever we do must be done on proper consideration and not on the basis of an instant inspiration of Mr Foss' regarding avenues which go well beyond the scope of the present action.

The motion I have put to the House allows it, by way of a committee, to give immediate consideration in good time to an immediate question which must be resolved. If other issues have to be resolved, they can be dealt with in turn in an orderly way on the basis of proper consideration and not an attempt to resolve an enormously difficult question within a period of about six days. Undoubtedly, various committee members would be available to consider the matter for one or two days at most.

**HON E.J. CHARLTON (Agricultural) [7.58 pm]:** I support the amendment in its present form. It is critically important that the committee has an opportunity to take into account the matter at hand. As the Leader of the House has intimated, the committee will report in a

week's time, and the whole centre of this matter is the action by the Aboriginal Legal Service. The ALS has raised this question itself by taking this action. We have been advised of that action and the fact that we must decide how the Parliament will respond, and that was debated in respect of the formation of the committee. Undoubtedly the action of the ALS is designed to stall action in respect of the decision made by the Parliament last session. That is one of the reasons that the Aboriginal Legal Service is taking this action. It is therefore obvious to me that in determining the representation which the Clerk should have made available to him, the proposed Select Committee should also consider the question of contempt.

If it were not for that original action by the ALS we would not be debating whether a Select Committee should examine the representation. I therefore welcome the recommendation by Hon Peter Foss that the committee consider whether the action constitutes a contempt of the Parliament. Otherwise we would simply be wasting our time in this Parliament, considering that this Chamber made a decision that certain documents should be made available.

The Attorney General commented earlier that the Government did not support the original motion because of the lack of resources, the lack of time and the cost to the ALS which would make it difficult for the ALS to respond to that parliamentary request. It is almost unbelievable that it now has the time, the resources, the personnel and obviously the finance to take a path which could lead it to the High Court of Australia. It makes one wonder what is the real basis of the ALS.

#### *Division*

Amendment put and a division taken with the following result -

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Ayes (15)		
Hon J.N. Caldwell	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon George Cash	Hon Murray Montgomery	Hon D.J. Wordsworth
Hon E.J. Charlton	Hon N.F. Moore	Hon W.N. Stretch
Hon Reg Davies	Hon Muriel Patterson	(Teller)
Hon Max Evans	Hon P.G. Pandal	
Hon Peter Foss	Hon R.G. Pike	
Noes (14)		
Hon J.M. Berinson	Hon John Halden	Hon Sam Piantadosi
Hon T.G. Butler	Hon Tom Helm	Hon Tom Stephens
Hon Kim Chance	Hon B.L. Jones	Hon Bob Thomas
Hon Cheryl Davenport	Hon Garry Kelly	Hon Fred McKenzie
Hon Graham Edwards	Hon Mark Nevill	(Teller)

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#### *Pairs*

Hon Margaret McAleer  
Hon Barry House

Hon Kay Hallahan  
Hon Doug Wenn

Amendment thus passed.

Motion, as amended, put and passed.

### **SELECT COMMITTEE ON ABORIGINAL LEGAL SERVICE WRIT OF SUMMONS**

#### *Appointment*

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

That the committee comprise Mr President as Chairman, the Chairman of Committees, Hon George Cash (Leader of the Opposition), Hon Eric Charlton and Hon J.M. Berinson (Attorney General).

**LEGAL PRACTITIONERS AMENDMENT (DISCIPLINARY AND MISCELLANEOUS PROVISIONS) BILL***Second Reading*

Debate resumed from 3 June.

**HON PETER FOSS** (East Metropolitan) [8.06 pm]: The Liberal Party supports this Bill. It is rather fortunate that a report on what is partly contained in this Bill was recently tabled by Hon Garry Kelly, Chairman of the Standing Committee on Legislation. I will comment on both that report and the provisions of this Bill which go slightly further than the green copy of the Bill which was referred to the Standing Committee on Legislation.

The basic form of the Bill is to make some changes to the disciplinary provisions for members of the legal profession. It is true that over time a problem has arisen concerning how the Barristers Board handles its various hats. The board has a number of functions: It must determine who is to be admitted to the profession, the standards which apply and what will be the basis on which a person is entered to the profession; investigate complaints made against barristers; prosecute members of the profession whom it believes may have committed some form of impropriety; and judge the complaints.

It seems strange that in the legal profession the usual practice of having independents judging these matters is being breached and that the same person investigates, prosecutes and decides complaints against members of the profession. The board has divided these functions within the board so that members of the board do not carry out all three functions at the one time. Someone will be briefed to do the prosecution, others will be involved in investigating the complaints and others will be involved in hearing those complaints. De facto within their organisation, board members have divided those various functions. This Bill recognises the de facto situation by creating a number of different entities as opposed to having the one entity. Interestingly enough, some of the people on these various entities will nonetheless be drawn in in the same manner as they are currently.

This Bill creates a complaints committee and a disciplinary tribunal and it renames what is presently called the Barristers Board as the Legal Practice Board. Barristers Board is a funny name because in the Western Australian profession lawyers have been both barristers and solicitors and to have called a board by one of those names created an anomaly. Lawyers in Western Australia have not only been barristers and solicitors, but also proctors and attorneys.

Another measure of this Bill is to remove a long mouthful of descriptions by no longer calling the legal profession barristers, solicitors, proctors and attorneys, but barristers and solicitors. The Legal Practice Board - the current Barristers Board - will deal with setting the standards of practice, the admission to practice and so forth, while the complaints committee will deal with complaints and the disciplinary tribunal with discipline.

Another change to the legislation is that the complaints committee and the disciplinary tribunal will have on them members of the public. This is a very good move because it has always been a concern of people making complaints about legal practitioners that legal practitioners are looking after themselves and are sympathetic to one another. My experience of observing how lawyers behave is that they are the least sympathetic people one can come across when it comes to the problems of other lawyers. Lawyers are all too ready to accuse each other of improper behaviour and are quite severe in judging the conduct of others in the profession. However, the public do not share that view.

Hon Max Evans: They have to get rid of the opposition.

Hon PETER FOSS: That is right. If it is of concern to members of the public that lawyers are looking after their own it is to the benefit of the legal profession to have members of the public on the complaints committee and the disciplinary tribunal so that justice is not only done but is seen to be done. I welcome this change. It will be good for the public to have some form of window into what is happening with regard to the discipline of lawyers.

This legislation will provide for the position of law complaints officer, who will have a role to play in the whole procedure of dealing with complaints against lawyers. The Bill attempts to promote conciliation and mediation of complaints against lawyers, and that is a very good idea. It is an idea which has been followed in the courts when trying to settle disputes and is

far preferable to a head-on collision. The Bill places a heavy emphasis on the role of the law complaints officer and the complaints committee in conciliation and mediation. The Legislation Committee noted that for some reason the Bill does not include an appeal provision against a decision of the complaints committee. The complaints committee will have the power to fine a practitioner up to \$500, to reprimand the practitioner, to order that the practitioner seek and implement advice from the board or from another person in relation to the management and conduct of his practice, and to order the practitioner to reduce his fees and pay any part of the expenses incurred by the complainants or the complaints committee. The financial penalties are not severe, but there is no right of appeal. The Legislation Committee recommended a right of appeal, which the Opposition endorses.

Another of the Legislation Committee's recommendations which has been endorsed by the Opposition concerns a matter raised with the committee; that is, that the procedures between the complaints committee and the disciplinary tribunal should not necessarily be bound to observe the rules of evidence. Most disciplinary tribunals in other professions do not observe the rules of evidence. I am pleased to advise the House that when this matter was raised by me with the Law Society of Western Australia it was well received by it and it considered the Legislation Committee's recommendation appropriate. The official representatives of the Law Society who appeared before the committee welcomed the idea, although they said it should be open to the committee and the tribunal, where they thought appropriate, to apply strict rules of evidence. Of course, that would be open for them to do so under the amendment proposed by the Legislation Committee. The important thing is that they will not be bound by the rules of evidence and that is important for a number of reasons. For example, in a domestic tribunal such as this it is important that people not be bound by forms and procedures. The speed with which these things happen is important and people must have the ability to accept many things on the basis of their knowledge of what happens in the profession. It is appropriate that the strict rules of evidence be not adhered to. A reason this should be the case is that the hearings of some disciplinary matters have been extremely protracted. We were told of one hearing which had been held over three hearing weeks and still was not completed. This was due partly to the technical rules of evidence being applied and all sorts of things which were obvious were insisted on being proved in the strictest possible manner, and that does not enhance a speedy resolution of a domestic matter. That does not detract from the fact that a person's livelihood is at stake and where there is a vital fact it may be appropriate for the tribunal to request that fact be strictly proved. Many of the changes in this Bill are procedural rather than central to the issue of the dispute and it is highly appropriate, under those circumstances, that they do not observe the strict rules of evidence.

Another problem is that the tribunals are staffed by volunteers, people who are not paid for the work they do. With the composition of the Barristers Board it is likely that people sitting on it will be senior members of the profession, probably Queen's Counsel. These people charge several thousands of dollars a day for their time in court and they are spending time sitting on the Barristers Board at considerable cost to them by providing their services free of charge. The requirement to have an available pool of senior people to sit on these hearings really justifies the current composition of the Barristers Board. One of the questions I asked and which should continue to be asked is: Why are QCs automatically members of the Barristers Board? It is because the profession has always had more people go into the non-litigious part of law than the litigious part. In order to become a QC it is usual for the person to leave his practice in a firm and go to the Independent Bar before being appointed a QC. Those members of the profession are very remote from the major part of the legal profession and it is hard to understand why that part of the profession should be over-represented on the Barristers Board. One answer is perhaps that they are not over-represented because many of the Queen's Counsel appointed do not contribute to the Barristers Board. As in many organisations when volunteers are called upon, only a few people regard themselves as obliged to contribute and it is left to very few senior counsel to contribute most of the time.

Also, as a result of the Queen's Counsel being on the Barristers Board there is a tendency for the elected members of the Barristers Board to be senior members of the profession. The Law Society does not have quite the same leaning towards senior members of the profession; it tends to comprise people of fewer years' admission, and they tend to be from all parts of the profession whereas members of the Barristers Board tend to be from large and middle



sized firms. That is partly because the time demands are so great, not just for the disciplinary provisions but also for the other meetings involved, that it would be difficult for a single practitioner to give the time to the Barristers Board. All of those things pose problems for a profession governing itself because it is important for the various people in such a profession to be properly represented on it.

I must still raise the question of why with this change of emphasis we shall have the situation where the Chairman of the Disciplinary Tribunal will be appointed by the Attorney General, that the Attorney General will continue to appoint the Chairman of the Barristers Board or, as it will be known, the Legal Practice Board. It is inappropriate that the board which deals with the admission to practice and the standards of legal practice and which consists of representatives of Queen's Counsel and senior members of the profession should be considered incapable of appointing its own chairman. The Bill provides that the chairman of the board shall be appointed by the Attorney General from among the members of the board and the board may appoint one of its members to be the deputy chairman. Why not have both appointed by the board? After all, they are fairly responsible people. In my opinion lawyers as a whole are fairly responsible people, but we know that members of the Barristers Board are the most responsible members of a fairly responsible profession. The board consists of senior members of the profession elected by the profession, and also of Queen's Counsel appointed by the Government. I would have thought that said for itself they were the quality of people who should be given the opportunity to appoint their own chairman and govern their own profession. It is extraordinary that we are not making this change to the legislation, particularly because it is proposed to delete the words "in the absence of the Attorney-General". Historically the Chairman of the Barristers Board was the most senior of the silks, the Attorney General, the leader of the profession. With the proposed change we should also amend the legislation allowing the proposed Legal Practice Board to appoint its own Chairman and Deputy Chairman. I am happy for the Attorney General to continue to appoint the Chairman of the Disciplinary Tribunal, but I do not think it is appropriate any longer for him to appoint the Chairman of the Legal Practice Board.

Another matter raised in the submissions to the committee, and which was adopted by the committee, is that the ethics rules of the Law Society have no foundation in law. It has always been the case that the Law Society has pronounced on ethics, and some years ago it produced a formal publication of a code of ethics for the Law Society, but it has done so purely by agreement by members of the Council and the Law Society. The real test as to whether a person has been guilty of unprofessional conduct is whether in the view of a right thinking member of the profession he has been guilty of unprofessional conduct. I believe that should continue to be the test. The Barristers Board has taken the code of ethics published by the Law Society as an indication of the thoughts of right thinking members of the legal profession, and has generally speaking accepted that the code of ethics constitutes at least the minimum of the matters a breach of which could constitute unprofessional conduct. That is proper and sensible, but a person making a submission to the committee said it was unsatisfactory as far as the public is concerned because they could not argue it as effectively since a practitioner may say that he did not agree with the opinions of the Law Society. It was felt that it would be much better when dealing with the public if the Law Society were given statutory power to bring down such a code of ethics, and that could be the basis upon which a claim for unprofessional conduct could be laid. The committee has accepted that and recommended that there be such a code of ethics. It was discussed with the representatives of the Law Society who accepted it as a good idea on the proviso that it is not exhaustive as to what is unprofessional conduct. A further suggestion was that because a number of the members of the profession practise purely as barristers these days, certain extra rules of ethics would apply to them and the Bar Association should have an opportunity to bring down ethics rules for them also.

Another matter that concerned me, the Opposition and the committee was that the basic provision in the Bill for the conduct of proceedings by the Disciplinary Tribunal is that proceedings shall be in private. I have often made my position on this quite clear, and it is a fairly basic principle that proceedings should not be private but should be public. Proposed section 31C states that subject to this section any inquiry or hearing under this part shall not be held in public. Proposed subsection (2) states the circumstances under which any proceedings shall be conducted in public. We accept that there should be such a distinction

and that some will be suitable to be held in public and some will not, but we believe the basic premise should be that they will be held in public unless it is determined that they shall be closed to the public. It is a matter of a different starting point. The net result will be similar in either case but the starting point should be different.

The next point is that the hearings will be public but the Bill provides that the tribunal may order that there shall be no publication of the evidence. The recommendation of the committee is that the suppression of the publication should be a standard procedure unless otherwise allowed, but in the event of an adverse finding against a practitioner a report should be published to the effect of that finding. This is done in practically all other States. Members of the profession who are admitted in other States as well as in Western Australia receive this horrifying insert in their magazines from other law societies from time to time which is a publication setting out the findings of the various disciplinary tribunals in other States with regard to practitioners who have been disciplined. That sets out all the facts and findings, and is quite horrifying to read. However, most practitioners seem to read it, I think because it is so horrifying. It is important that any adverse finding be made public. The committee recommended, and the Opposition endorses, that in those circumstances the name of the practitioner, the nature of the offence, the reasons for making that finding, and such other facts as they believe would be useful but, on the other hand, not prejudicial, be published. When I say "publish", I mean in the same way that a judgment is published. It is not being suggested that someone should have to publish it in the same way that it is published by the law societies in the Eastern States, where a pamphlet is prepared and sent to every practitioner. In this context, "publish" means purely to make it public and available to those people who may wish to take the matter further. The problem, of course, is that sometimes people's dissatisfaction is with the finding that there is not anything wrong, but I do not believe that that dissatisfaction should be overcome by publishing the details with regard to a person against whom a complaint has been dismissed.

Clause 30(2) of Part 4 of the Bill, which deals with miscellaneous matters, seeks to abolish the definition of "practitioner" in the principal Act, which refers to a barrister, solicitor, attorney and proctor of the Supreme Court of Western Australia. I remember that when I was admitted to the Bar, I became a barrister, solicitor, proctor and attorney of the Supreme Court. The origins of each of those legal practices are quite old. A solicitor is one of the more modern legal practitioners in the panoply of legal practitioners. An attorney is a much older name for a lawyer, and was used before solicitors came on the scene. Proctors were the people who practised in the ecclesiastical courts in England. Those courts dealt with probate, divorce and Admiralty. If one looks at the papers relating to Admiralty, divorce or probate matters, in the earlier part of this century one can see that people described themselves as being proctors for a particular person. Those courts also followed a different form of procedure. They tended to use a petition and answer to commence proceedings, and that led to a different style of court case. Until 1975, when the Admiralty rules were brought into the Western Australian Supreme Court, Admiralty cases were conducted under the Colonial Courts of Admiralty Act and the Colonial Vice Admiralty Court's rules. The petition that was filed in the Admiralty Court was quite a long document, rather like a divorce petition, which set out in lovely style the story of what had occurred. Many of the distinctions that used to come out of the old courts, such as the ecclesiastical way of pleading in probate, divorce and Admiralty matters, have been abolished by changing the rules of the Supreme Court. It is probably no longer appropriate that we keep those names of proctor and attorney when the terms that are ordinarily used in Western Australia are barrister and solicitor.

Although I support the pragmatism of the amendment, it is sad that we are losing a bit of history, because when we lose a bit of history, we often lose with it an appreciation of why the law is as it is, and with that we lose some understanding of the effectiveness of the law. Therefore, while I do not believe that we should keep things in the Act purely for historical reasons, I hope that people will appreciate how that worked.

Clause 31 deals with practice certificates. The section of the Act which deals with practice certificates is very peculiar because it deals essentially with the rule making powers of the Barristers Board. Over time, bits and pieces have been added to those rule making powers to deal with practice certificates. Section 6 of the Act will now go even further with the addition of proposed subsection (3), which states that "Subject to section 62A, a practice certificate is required to be held by every practitioner engaged in the practice of law in

Western Australia, whether or not as an employee." That is interesting, because I do not believe that previously people were required to hold a practice certificate as an employee. I do not know whether this is merely a revenue raising exercise to get a few more practice certificate charges. A lot of people maintain their practice certificate so that they can appear in court, but I am not sure whether the effect of this amendment will be that a person who is practising law as an employee but is not appearing in court will now be obliged to have a practice certificate. The words "Subject to section 62A" preserve the situation for Crown lawyers, who do not require a practice certificate.

The amendments to section 10 of the Act deal with articulated clerks. Section 10 as presently drafted is good, but the amendments will straighten out a number of matters. Proposed section 10(3) states that "A practitioner who is the Crown Solicitor of the State, the Director of Legal Aid, or is authorised to act in the name of the Australian Government Solicitor, may take, have and retain an articulated clerk." In the United States of America, one of the usual fields of employment for graduates of law schools is to work in the Congress. In Australia, graduates often work as an associate of a judge of the Supreme Court, and as a result of their working for a year as an associate of a judge of the Supreme Court, they are given six months off the time that they have to practise as an articulated clerk. I am not sure how that is done. I believe that there is room for people to work in the law within this Parliament. We should follow the situation in the United States, where young graduates are encouraged to work in the Congress. That enables them to learn an enormous amount about the law. Every member of Parliament would recognise the amount that one can learn in the Parliament about the workings of the law and of legislation and about the way in which legislation can be successful or unsuccessful. The opportunity to work in this Parliament would be good grounding for those whose job it will be later in life to deal with the law. I am not suggesting that a person should spend the whole of his period as an articulated clerk working in the Parliament, but there is a role for such people in this Parliament.

One of the problems we have is the paucity of legal practitioners in the Parliament who can supervise and advise those people. That may be overcome by ensuring that we have a certificated practitioner on our staff who will be able to supervise their work. It will be of great benefit to the Parliament to have young, intelligent and keen people to help it in much of its work. We suffer greatly from a lack of resources. It will also be extremely valuable to the experience of those law school graduates, and may address some of the problems that will arise when large numbers of graduates cannot be placed into articulated clerk positions.

Clause 37 of the Bill refers to a matter which I have raised previously with the Attorney General. I was told then that we could deal with the matter the next time it came up, rather than in the context of the particular Act which we were debating at the time. However, the matter has come up, and it still has not been dealt with. Clause 37 seeks to insert a new section 34A to deal with the question of applying trust moneys for the payment of costs, and states that a practitioner is not entitled to debit his trust account for costs until such time as he has served upon the person whose money it is a bill of costs and notice in writing of his intention to apply the trust moneys towards the payment of costs and disbursements. It goes on to say that each is signed by the practitioner; so, not only now do lawyers have to sign their invoices but also they must sign the statements to go with them to say that the money given to the lawyers in order to pay the bill will be applied towards paying the bill. It is ludicrous that the Legal Practitioners Act should require that lawyers' invoices need to be signed by one of the lawyers. It has been interpreted to mean that it requires a partner of the firm to sign it. What other profession, industry, or business states that one's bill does not have to be paid if it has not been signed? What is to be gained by signing a bill? I had hoped that this measure would deal with bills being signed by practitioners. It should have been dealt with in this miscellaneous provisions Bill. It is remiss that it is not contained in this legislation. What is worse, it is only perpetuated by, once again, asking not only for a signed bill of costs to be sent before they can debit the money they receive on account but also for another statement to be sent with it which also must be signed. Perhaps the envelope and the stamp should be signed also. How many things need to be signed before people believe that a lawyer would like to charge for his services?

In this day and age we should not refer to these documents as bills of cost. We should be using modern terminology because people become confused when we say we are sending a bill of costs. They think it is an invoice, so we should use the term invoice throughout the

Act. This measure is unwieldy anyway. We should have a situation where a practitioner has served upon a person an invoice and a notice in writing. That is all we should have. To have everything signed by a practitioner is ludicrous. To have the matter turn up again after I had raised it with the Attorney General on the last occasion, and coming back in an aggravated form, seems to indicate that sometimes what we say in this place is not listened to very carefully.

The remainder of the provisions seem to be fairly straightforward. I understand we have no problems with them and that they will be accepted. The amendment to section 68A is sensible. It has always been thought to be interpreted that when a person wants to tax a bill of costs - in other words, when a person wants his invoice mediated - the problem is that sometimes the person who is paying the bill is not the one to whom the bill was sent. As an example, it may be that under the terms of agreement between A and B the costs of a solicitor are to be paid by B. If the only person able to challenge the bill is A he will not bother to do so because he will know that the bill is to be paid by B anyway. The question is whether B is able to have the bill taxed or mediated by the Master of the Supreme Court.

It has always been argued that the reference words "party charged" included such a person who had agreed to pay the fees, but that is now being clarified. The words "person or" have been inserted before the words "party charged"; and the following has been added -

to -

- (i) a person who has paid the bill to which the charge relates;
- (ii) any other person who is authorised to administer the estate or affairs of any such person who is deceased or incapable; or
- (iii) a person liable to pay or to reimburse another for costs in a bill,

It has been made clear in the Act now that the person who ends up paying the bill, whether the client or not, is able to have the bill taxed.

Many people do not seem to be aware, firstly, that lawyers are one of the few people in respect of whom there are limits on the fees that they can charge and, secondly, that by a summary process people can go to court if they think they are being overcharged and ask the court to go over the bill and say how much should be allowed. A new provision in this legislation states that any overpayments are to be returned.

Generally speaking, the amendments to be made by the Bill are good ones. How the disciplinary provisions will work in practice remains to be seen. We must remain open to further changes in the disciplinary provisions if these do not work, because it has not been without some discussion whether this is the appropriate way to go. For instance, what is the appropriate role of the Law Society? Should it be seen as having a watchdog role or merely representing the interests of its members? The role of the various elements of the Barristers Board has been referred to; that is, whether they should be totally separate or whether members of the Legal Practice Board should be eligible to sit on the complaints committee and the disciplinary tribunal but not at the same time. Whether those matters should be split up has been a matter of concern.

The important point is that what has happened to date should be regularised, that the various aspects of the role of the Barristers Board should be clearly separated, and that there should be some changes in the constitution of the complaints committee and the disciplinary tribunal to allow public input. We should keep a close watch on how this operates to see whether it meets the requirements of the profession for it to be able to act fairly and quickly against its members and meets the requirements of the public to feel that their complaints are being properly dealt with. If it turns out in practice that it has not worked we should not feel bound by this move. We should look closely again at amending it. With those reservations, I am happy to support the Bill.

**HON J.N. CALDWELL** (Agricultural) [8.49 pm]: Hon Peter Foss spoke not only on behalf of the Liberal Party but also on behalf of the National Party because he is the best qualified person on this side of the House to talk on legislation such as the Legal Practitioners Amendment (Disciplinary and Miscellaneous Provisions) Bill. It would have been rather difficult for me to put a point of view that was not in keeping with that presented by Hon Peter Foss, especially with his experience of the legal profession.

Hon Sam Piantadosi: You are underestimating your own ability.

Hon J.N. CALDWELL: Although I was a member of the Standing Committee I was not present at one meeting, so I would like to ask Hon Peter Foss - I know he is bubbling over with enthusiasm to inform me - why the committee decided to use as the heading for new clause 25, "Code of Ethics". In many areas the rules are called the code of conduct and I am sure Hon Peter Foss will let me know why the committee decided to call them the code of ethics. The definition of code of conduct is used in the retirement villages legislation and in legislation for cigarette advertising in New South Wales. The operation of the code of conduct in the New South Wales' legislation was such that many people thought it was not adhered to strictly. I support the Bill.

HON J.M. BERINSON (North Metropolitan - Attorney General) [8.53 pm]: I thank the speakers who have supported the motion, and I believe that any substantial comment on particular matters raised can best be left to the Committee stage. As Hon Peter Foss has indicated, it is only today that the report of the Standing Committee on Legislation has been presented, and he referred briefly to a number of proposed recommendations to the Bill arising from that committee's consideration. I understand that at least one other amendment has been circulated today, although I have not seen it, and I am currently having further amendments drafted in response to matters which have been raised or again raised for consideration at a rather late stage of proceedings. Hon Peter Foss may be interested to know that one of the areas where an amendment has been considered is in respect of the application of trust accounts to invoices. I cannot say with any real certainty that the points we are looking at go to the question of the number of signatures involved, but since he has called me to task so sternly for my having overlooked earlier comments by him, which I am sure were very memorable at the time -

Hon Peter Foss: You responded at the time.

Hon J.M. BERINSON: I am sure my response was memorable too; it is just that I have forgotten it. I do not want to get into a competition about which of our respective statements is the more memorable to whom, but I would like to say, especially as this area of the Bill is currently subject to a late review and possible amendment, that I will have the question of signatures looked at again.

Hon Peter Foss: In respect of the bill as well?

Hon J.M. BERINSON: Yes; and as I am planning to ask for that to be done tomorrow morning there should be a reasonable prospect that I will remember to do so. Hon Peter Foss, towards the end of his comments, referred to the need to be ready to make further amendments, not to this Bill but to the process which is provided by it, should experience with the new system require that. That goes without saying and is a position which we have to face up to in many situations where changes to systems are made.

Hon Peter Foss: I said that I do not think that in Western Australia the profession necessarily thinks it has the solution.

Hon J.M. BERINSON: I think that is reasonable, but Hon Peter Foss acknowledged, and certainly the profession does, that there really had been exhaustive efforts to arrive at an appropriate framework. As many members will know, that started off with the Clarkson Committee report, it was the subject of further comprehensive consideration by another ad hoc committee, and then subject to further and detailed examination by a wide range of people both within the profession and outside of it. I am confident that this Bill does represent a useful reform of the system which it seeks to replace, but it would be a bit unrealistic to claim perfection, and certainly I am sure that the Government will be open to further review of the matter if experience indicates that that is required. This legislation has been in the works for a long time and it is due to be finalised once and for all. I will be doing my best to ensure that all amendments are circulated no later than Thursday this week with a view to continuing the Committee discussion next week. I will discuss with members of the Standing Committee on Legislation precisely what their intention is in relation to proceeding with the amendments that are included in the body of their report. I assume that either they will move those amendments as individuals or we may reach a point where I can move them myself after I have had the opportunity to read them, which I have not as yet had. I thank members for their support and I look forward to similar constructive discussion as we come to put this Bill through its remaining stages.

Question put and passed.

Bill read a second time.

## STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS AND STATUTES REVISION

*Meeting Cancellation, 26 August*

**HON R.G. PIKE** (North Metropolitan) [9.00 pm] - by leave: Tonight, Hon John Halden replaced Hon Mark Nevill on the Standing Committee on Constitutional Affairs and Statutes Revision. The witness to be examined tomorrow when the committee meets at 9.00 am is alleged to be the author of a document relating to a Minister in this place. However, it would be unfair for the new member - I have told him this - to be catapulted into a detailed examination of that witness on matters of some seriousness and not have the time to prepare for the examination of that witness. It would be also unfair because the committee will be finalising 16 reports dealing with petitions to this House. The committee meeting tomorrow has therefore been cancelled and witnesses advised.

## CRIMINAL LAW AMENDMENT BILL (No 2)

*Second Reading*

Debate resumed from 4 June.

**HON PETER FOSS** (East Metropolitan) [9.02 pm]: The Liberal Party supports this Bill. It is another amendment to criminal law, but principally to the Criminal Code as was recommended in the Murray report. However, in view of our experience on previous occasions with amendments to the Criminal Code, the Liberal Party would like this Bill to be referred to the Standing Committee on Legislation. Amending the Criminal Code can be somewhat hazardous at times because it is possible, when rearranging provisions when minor amendments are intended, for unintentional amendments to be made. I am reminded of a previous amendment Bill which was considered by the Legislation Committee. Admittedly, it was considerably more complex than this, but one offence, extortion when the threat was to cause economic harm, disappeared completely. That is one of the more common forms of extortion. The Committee stage of this House is not the place to examine word by word amendments of this type to the Criminal Code. The Parliamentary Counsel is best able to assist us in the Legislation Committee. In fact, this is just the sort of legislation that the Legislation Committee is best able to handle.

Concern has been expressed about how far the legislation goes in relation to the new offence of causing bodily harm to somebody by infecting him or her with an infectious disease. It has been suggested that sneezing on somebody or giving him or her the measles could constitute an offence. I do not believe that that is within the purview of the provisions of the Bill, but we should look at it. A very important amendment is contained in the amendment to section 19A of the Criminal Code. It relates to the appropriateness of short term prison sentences of six months or less. It has been suggested that the courts, instead of giving a sentence of that length almost as a matter of course, should give "written reasons why no other form of punishment or disposition available to the court in the case was appropriate". Instead of the court saying why it thought prison was appropriate, it would have to say why other forms of punishment were not appropriate. That is a good emphasis and is consistent with the expressions of appropriate ways to deal with imprisonment. It is curious that we have reached this stage because, in the very same Bill, there are extensive amendments to delete from the Criminal Code all references to the penalty of imprisonment with hard labour and to whipping as a public punishment. I will deal more with that later. Other provisions relate to the way in which sentences are to be imposed and they are good. They are mainly mechanical provisions relating to multiple sentences. Although they need to be examined, generally they are reasonable.

Part 6 of the Bill refers to the abolition of punishments of whipping and hard labour. This has effect both in the Police Act and in the Criminal Code. The schedules to the Bill reveal how often those punishments were provided for and it is interesting to see how attitudes to punishment have changed over time. For some time, the motivation for punishment was quite extraordinary. Towards the end of the eighteenth century, many of the punishments

imposed were directed towards inflicting pain and making a public exhibition of the person. They were not directed towards rehabilitation or at retribution. They were almost a form of public expiation for the sorts of things that had been done. Hanging, drawing and quartering was quite barbaric, but was almost a ritual form of getting rid of the crime. It was only when capital punishment and imprisonment were brought in that we started looking more closely at the reasons for imposing punishment. Some places regard imprisonment as a barbaric alternative. Many people believed that it was more humane to brand somebody as a thief, or maim him or hang him rather than lock him up. That was partly due to the fact that prisons were pretty revolting places at that time and they were considered a long and lingering punishment. It was considered necessary for the effects of punishment to be fairly immediate and to be obvious to everybody that a punishment had been inflicted. It is rather like disciplining our children; they should be disciplined soon after the event so that it is over and done with quickly.

It was a desire to get away from the barbarity of the types of punishment of those times that caused a move towards the concept of imprisonment. We are now going through a further step of recognising that prison is a fairly barbarous form of punishment and not one to be resorted to unless the offence involved is considered to be sufficiently severe that the public must be protected by sending the person to prison. If a person is put away for six months it has obviously not been decided that the person is such a danger to the public that he or she has to be removed from public circulation. If it is believed that a person should not be removed from public circulation, what is a more appropriate form of punishment that will have a reasonable effect upon the person involved?

It is quite clear that a prison sentence of six months or less will have no real effect on a person except possibly to turn him into a person permanently brutalised by that experience. It is a good move to say to people, "You should not lightly imprison people for small crimes," because by imposing a short term of imprisonment the person imposing the sentence is saying that he or she does not see the crime as being at the far end of the spectrum of misbehaviour. In that case, why not see as a prime responsibility an obligation to find some other form of punishment that is appropriate in the circumstances? That is not to say that the person doing the sentencing will not come to the conclusion that six months' imprisonment is the way to go, as there may be no alternative available.

Locking a person away is obviously not done to protect the community in some cases, but is a straight and simple punishment and not an attempt at rehabilitation. If an alternative punishment cannot be found it should be reported publicly why certain things are being done.

The Opposition is pleased to support this move as it believes that in the long run it is considerably cheaper for the State of Western Australia than imprisonment, which is an extremely expensive way of punishing people. The alternatives are cheaper and more productive for the community. If they result in people being better citizens and better able to adjust their behaviour in future that will also result in money saving. I see that move as a sensible one when dealing with offenders in this State. I am pleased to support the Bill on behalf of the Opposition.

**HON J.M. BERINSON** (North Metropolitan - Attorney General) [9.13 pm]: I thank Hon Peter Foss for his support of the Bill on behalf of the Opposition. I understand that he intends to move that the Bill be referred to the Standing Committee on Legislation. In advance of that motion, I point out that the Government will accept such a move in view of the detailed consideration the committee will be able to give the Bill. There is therefore no point in further debate at this stage. However, I make the special plea to the Legislation Committee that it expedite its consideration of this legislation as best it can. I am pleased that having presented the reports it presented to the House today the committee's backlog of work is effectively eliminated. I am conscious of the amount of work that was necessary to achieve that end. Important improvements to the Act and the system are involved in this Bill, and I am anxious that it proceed through this House in sufficient time to ensure that the Legislative Assembly can consider and pass it during this session. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*Referral to Standing Committee on Legislation*

On motion by Hon Peter Foss, resolved -

That the Bill be referred to the Standing Committee on Legislation.

**ADJOURNMENT OF THE HOUSE - ORDINARY**

**HON J.M. BERINSON** (North Metropolitan - Leader of the House) [9.16 pm]: I move -

That the House do now adjourn.

*Adjournment Debate - Hamersley Iron Dispute - "Hamersley Sues its Workers" Leaflet*

**HON TOM HELM** (Mining and Pastoral) [9.17 pm]: I draw the attention of members to a matter which arose on the weekend before last when Hamersley Iron had an open day at its minesite in Dampier. During that open day some trade unionists presented visitors to the site with a leaflet of which I have a copy. I bring this matter to the attention of the House because all members are aware of the Hamersley Iron dispute which caused headlines a few weeks ago. The suggestion was made that that dispute was over and that people were happy to have writs hanging over their heads to the tune of about \$75 million. The leaflet of which I speak is headed "Hamersley Sues its Workers" and states -

After the end of a 2 week strike in June, H.I. served writs on 11 of it's employees and their union for \$75 million plus 17% interest until H.I. get all their claimed lost profits.

These workers have families, H.I. will take everything they own including their homes.

In 1987 H.I. said to it's workers "To survive its essential that we achieve improved efficiency of employees and equipment."

It's 2,596 wages workers with their unions negotiated new improvements. H.I. has achieved a 25% increase in productivity since 1987.

For five years H.I. workers and their unions have willingly assisted positive progress and now get a kick in the teeth.

The leaflet continues later -

Now! H.I. says on media "We have had it up to here." This is an unjustified excuse to adopt new right extreme policies, intimidate the workforce and break their unions. The same unions that willingly helped to get Marandoo off the ground, that sent delegates to Canberra to assist H.I. reduce it's fringe benefits tax.

After Mudgenberry, Dollar Sweets, Robe, the pilots, APPM, we will not allow them to win.

Its open day for you

Its open season on H.I.

This huge \$7.8 billion corporation is suing 11 of it's workers for their life savings.

And their brochure today says they are "the world's best" and hope you have an enjoyable day.

On the other side of the leaflet it states under the heading "Record tonnes shipped" -

32.5 million tonne shipped in 1983

39.0 million tonne shipped in 1985

35.0 million tonne shipped in 1986

40.92 million tonne shipped in 1990

50.59 million tonne shipped in 1991

The article continues later -

The wages workforce is now 2,020. More than 500 jobs gone.

And later again -



This August W.A.I.O.C.C. News states 1991 was the best year yet industrially for the WA iron ore industry.

It then mentions the profits of the company as follows -

July's 'Mining Monthly' states "C.R.A.'s profit powerhouse for the past few years has been H.I.. Able to post earnings of more than \$400 million a year."

"C.R.A. has achieved a 17% productivity increase with H.I. operations leading the way with lower labour costs and greater production rates." Next year they expect to exceed \$500 million.

Tony Finucane, H.I.'s public relations man said at the May 92 W.A.I.O.C.C. "Australia's economy has slowed to the deepest recession for 60 years."

"During this period the WA iron ore industry has enjoyed strong demand for its product in most market sectors and this led to a record performance in 1991."

Further commenting that "All up it was an excellent year for the WA iron ore industry with record production exceeding 10 million tonnes of exports."

The Potter Warburg study claimed that H.I.'s cash cost per tonne of ore at \$9.30 compared with Robe River \$5.30, BHP-Utah \$15.50. The profit margins per tonne are H.I. \$18.80, Robe \$12.20, BHP \$14.80.

The people who distributed this leaflet to visitors at the Hamersley Iron open day have been threatened with the sack - after the work force and the unions have delivered that kind of profit and productivity in every aspect, particularly from 1987 when the new award was signed. These people who dare to criticise the company and its attitudes, who dare to have an opinion about the company, are being sued for \$75 million. No worker could possibly come up with \$75 million, although if Hamersley Iron were dinkum and did not just use this as a threat it could sue each of its workers for \$38 000 and it might go some way towards collecting that amount of money.

The House must take note of this issue. Hamersley Iron has been praising its workers. They are the best producers and miners, and the most productive work force, in the world, yet still it is not enough. When the matter of Marandoo was raised in this place and we passed the Aboriginal Heritage (Marandoo) Bill to enable work to proceed at Marandoo the work force, to a man, supported Hamersley Iron in its attempt to get the agreement on track. The company wanted to be able to exploit the Marandoo iron ore deposit, so its employees supported the company to a man, and a woman; nonetheless, as soon as people dared to raise their heads and say something contentious about the company, these writs were issued. These are the bully boy tactics used by Robe River Iron Associates, which some people in this place are supporting. They are the Robe River tactics of the New Right, which say that people cannot demonstrate what they feel or say what is on their minds but must give total and complete loyalty to the company or be sued for \$75 million. Is this a sniff of the Hewson Fightback package? Is it an indication of how things will be if, God forbid, the Liberal Party ever comes to power, either in this State or federally?

Hamersley Iron is suing for \$75 million just so that people will toe the line, because even their best is not good enough. If it is not done quietly it cannot happen at all. This House should be aware of what is going on at Hamersley Iron. The ordinary workers are being sued for \$75 million if they dare to dissent, yet the elected conveners on that site - the people whom the work force put in place to represent them - are being denied the ability to represent the people who elected them by the mere fact of these writs. Hamersley Iron has been asked to remove those Supreme Court writs and allow a return to normalcy, but it will not do so.

*Adjournment Debate - Corrective Services, Department of - Building Management  
Section - Answer to Question Explanation*

**HON J.M. BERINSON** (North Metropolitan - Attorney General) [9.24 pm]: I do not intend to comment on any matter raised in the debate but I seek your indulgence, Mr President, on a matter which has just come to attention as a result of the greens being distributed. I wish to correct any misunderstanding which may have arisen from a question asked this afternoon. Members will recall that the Leader of the Opposition asked me a series of questions relating to the building management section of the Department of Corrective Services. At one stage, according to the *Hansard* greens, I replied to one of his

questions by saying -

I have taken the opportunity of the few minutes since the Leader of the Opposition first raised this matter to check with the department, and I have not received any written reports either of a preliminary or interim nature.

My answer did not say so, but I was addressing myself there to the question of any written reports arising from the review of the building management section of the department. I had referred to the review on a number of occasions, but a separate question arises as to whether I had a written memo provided to me at the time I had the first oral report. At the time I answered this question I had not had any advice on that and I am still not in a position to say so. I will check that overnight, but I did not want to leave this on the basis that I could be taken to have said definitely that there were no written reports of the original meeting, although I do not believe there were.

Question put and passed.

*House adjourned at 9.26 pm*

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**QUESTIONS ON NOTICE**

**POLICE DEPARTMENT - DRIVERS LICENCES AND VEHICLE LICENCES**

*Australia Post Agents - Collection of Fees Consideration*

279. Hon GEORGE CASH to the Minister for Police:

- (1) What fee is payable by the Police Department to the post offices for the collection of motor drivers and motor vehicle licence fees?
- (2) Will the Minister consider allowing post office agents to collect motor drivers and motor vehicle licence fees thus providing a much needed service to areas in the metropolitan area not conveniently served by official post offices?
- (3) If the Minister aware that Australia Post has indicated that it is in favour of post office agents collecting motor drivers and motor vehicle licence fees?
- (4) Is the Minister aware that other State Government instrumentalities such as State Energy Commission, Water Authority of Western Australia, Homeswest and the Department of Fisheries all have contracts with post office agents in the metropolitan area to collect fees on their behalf?
- (5) Is the Minister aware that most post office agents are open on Saturday mornings and are available at other times outside the usual business hours worked by both Government departments and official post offices and are therefore able to provide an additional service to the community in collecting Government fees?

Hon GRAHAM EDWARDS replied:

- (1) This information is confidential between Police Licensing and Services and Australia Post.
- (2) I am advised that under the current arrangement Australia Post provide 73 metropolitan outlets and Police Licensing and Services provide 10. When combined with the mailing service available, it is considered that extension of the agency system is not justified when balanced against cost factors. However, these matters are subject to continuous review and should the situation change I would be prepared to reconsider this decision.
- (3) Yes.
- (4) No.
- (5) Yes.

**HOMESWEST - ORGANOCHLORINES REPORT**

*Treatment of Building Construction Requirements*

299. Hon REG DAVIES to the Leader of the House representing the Minister for Housing:

I refer to statements by the Minister reported on page 22 in *The West Australian* of 29 January 1992 and ask -

- (1) Has the Minister received the report into Homeswest's use of organochlorine pesticides that he urgently requested in January?
- (2) If not, why not?
- (3) If yes, will he release the report for public information?
- (4) If not, why not?
- (5) What are the required stages in pre-treating with organochlorine pesticides for a building under construction?
- (6) Does Homeswest ensure that pre-treatment of Homeswest buildings, under construction, is undertaken strictly according to the requirements specified in (5) above?
- (7) If not, why not?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply -

- (1) I have received a number of reports since 29 January 1992, the latest of which was on 2 June 1992. Advice on the use of organochlorins in construction was also sought from the Minister for Planning and the Minister for Health.
- (2) Not applicable.
- (3) The information received was for my advice and would appear to have been extracted from a number of public documents.
- (4) Not applicable.
- (5) Organochlorin treatment on building construction is in accordance with Australian Standard 2057-1986.
- (6) Yes.
- (7) Not applicable.

#### POLICE ACT - SECTION 50

##### *Names of Persons not Charged with Offences - Records Requirement*

322. Hon DERRICK TOMLINSON to the Minister for Police:

- (1) Are the names of persons taken under section 50 of the Police Act 1892, but who are not subsequently charged with an offence, recorded on any files, central or otherwise?
- (2) If yes, what is the reason for names of people who have not committed offences being recorded?
- (3) How long are such names held in such records?
- (4) If no, what is the point of taking names under section 50 of the Act?

Hon GRAHAM EDWARDS replied:

(1)-(4)

Police, as any other citizens, are at liberty to ask any person for his or her name and address. In addition, police are empowered in certain circumstances to require of any individual his or her name or address or both under penalty for non-compliance. Police officers are instructed that the power to demand name and address is exercisable only where there is a reasonable suspicion that the person of whom the demand is made has committed an offence or is a witness to the commission of an offence. There are any number of circumstances in which it may be deemed necessary to record a person's name including for the compilation of a field report for intelligence purposes where appropriate. As it is difficult to supply a specific answer to a very general question, if the member has a specific concern I invite him to make his position known to me and I will endeavour to have it addressed.

#### TRANSPERTH - TRAINS AND BUSES

##### *Non-payment of Fares Statistics*

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

- (1) How many people are estimated to be travelling on Perth trains and buses without paying the fares due?
- (2) How are these figures arrived at?
- (3) When was the last survey conducted to determine the extent of the problem of people travelling on Transperth vehicles without paying?
- (4) What was the result of this survey?
- (5) What was the sample used in this survey?

- (6) What measures does the Government intend to take to -
- (a) accurately measure the number of people not paying fares in the future; and
  - (b) overcome the problem?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1)-(5)

Trains:

Detailed records have been maintained for 44 weeks of regular ticket checks from July 1991 to May 1992. In that time -

Passengers checked - 187 000 (2.4 per cent of total)

Infringement Notices issued - 32

Cautions issued - 744

Fare evasion - 0.4 per cent.

On the current patronage levels of approximately 36 000 per day, this represents less than 150 incidents per day. Checking is performed by inspectors and passenger service assistants on trains and at barrier checks on stations.

Buses:

Detailed records are not maintained. Opportunities for fare evasion on buses are limited by the fact that the bus operator controls access to the bus. In addition, a group of 20 bus inspectors inspect tickets across the whole bus network as part of their daily duties. Approximately 1 000 passengers per week are checked this way - 0.1 per cent of the total. Fare evasion on buses is estimated to be no more than on trains.

- (6) The common experience of public transport authorities internationally is for fare evasion levels to range as high as five per cent or more. The existing processes of checking are therefore considered adequate.

#### BUILDING MANAGEMENT AUTHORITY - SWANBOURNE HOSPITAL AND MONTGOMERY HALL COMPLEX

##### *Original Plans*

344. Hon P.G. PENDAL to the Minister for Education representing the Minister for Construction:

- (1) Does the Building Management Authority still have the original plans for the Swanbourne Hospital and Montgomery Hall complex?
- (2) If so, will the Minister please table them?

Hon KAY HALLAHAN replied:

The Minister for Construction has provided the following reply -

- (1) The Building Management Authority does have the original plans for the former Swanbourne Hospital complex including Montgomery Hall.
- (2) There are a large number of drawings for the complex. Most are in a fragile condition. It is therefore suggested that the drawings be made available at the BMA for inspection. Reduced copies of some of the drawings are tabled. [See paper No 336.]

#### MONTGOMERY HALL - LAND ADJACENT

##### *Tenders Result - Sale*

345. Hon P.G. PENDAL to the Minister for Education representing the Minister for Construction:

With reference to the closure on 26 March of tenders for the St John's Wood land comprising 5 800 square metres adjacent to Montgomery Hall -

- (1) What was the result of the tender?
- (2) Has all the land been disposed of, and if so, for how much?
- (3) If this land is sold will there be land available for parking for any future refurbishment and use of the hall?
- (4) If the land has not been sold will the Minister withdraw it from sale?

Hon KAY HALLAHAN replied:

The Minister for Construction has provided the following reply -

With reference to tenders for land adjacent to Montgomery Hall, LandCorp advises as follows -

- (1) No acceptable tenders were received.
- (2) LandCorp is negotiating the sale of the entire site.
- (3) The Montgomery Hall complex site comprises some 2.6 ha which includes adequate parking facilities to the north, west and south of the existing buildings.
- (4) No.

**GOVERNMENT EMPLOYEES HOUSING AUTHORITY - TEACHERS, RURAL  
APPOINTMENTS**  
*Single and Married Rentals*

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

- (1) Is it correct that a single teacher on taking up a country appointment is, if available, provided with a fully furnished unit by the Government Employees Housing Authority?
- (2) Will the Minister confirm that in the event of a single teacher marrying, the rent on the GEHA unit is doubled and the furniture removed?
- (3) If yes to (2), why?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply -

- (1) All GEHA accommodation is fully furnished where it is provided on a shared basis between two or more individual employees. In the south of the State GEHA provides unfurnished accommodation to non share situations such as families, couples or individuals occupying accommodation by themselves and not being prepared to share.
- (2)-(3) Where two individuals share accommodation or are prepared to share with another individual, the rental payable to GEHA for the accommodation is divided equally between the parties. Families or couples pay the full rent for the accommodation they occupy.

**BRIDGES - MITCHELL FREEWAY-PERTH CITY TRAIN STATION PROPOSAL**

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

Will the Minister confirm that the following bridges/off ramps have been proposed for erection between the Mitchell Freeway and the Perth city train station at the -

- (a) Wellington Street off-ramp;
- (b) Fitzgerald Street bus bridge (stage 1);
- (c) bus bridge (stage 2); and
- (d) pedestrian way from Milligan Street to the Entertainment Centre/bus depot?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (a) The metropolitan region scheme allows for on and off ramps at Wellington Street. The current rail project and associated freeway construction do not include these works.
- (b) The proposal has been blocked by the Fitzgerald Street Bus Bridge Act 1991. Review of alternative access to the Wellington Street Bus Station is being undertaken.
- (c) There is no proposal for a bus bridge stage 2.
- (d) Yes, in conjunction with the Perth City Council.

**HOMESWEST - EAST PERTH REDEVELOPMENT PROJECT**  
*Land Purchase for Public Housing*

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

Has Homeswest acquired any land within the precincts of the East Perth redevelopment project for public housing and, if so, will the Minister nominate the areas?

Hon J.M. BERINSON replied:

Reply provided by the Minister for Housing -

Yes, 3.65 hectares bounded by Jewell Street, Brown Street, Trafalgar Road and Haig Park. A map showing this has been tabled. [See paper No 332.]

**RAILWAYS - PERTH-JOONDALUP**  
*Fare Structure Decision*

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

- (1) Has any decision been taken on the fare structure for the Perth-Joondalup rail line?
- (2) If yes, what will the fares be?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1)-(2)

The fare structure for the Perth-Joondalup rail service will be the same as the zonal fare structure that applies to other services operated by Transperth in the metropolitan region.

**RAILWAYS - PERTH-JOONDALUP**  
*Weekly Tickets for Train and Bus Transport*

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

- (1) Will train commuters on the Perth-Joondalup line be able to purchase weekly tickets to cover both train and bus transport?
- (2) If yes, where will commuters be able to purchase such tickets?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Multi-rider tickets - 10 rides - will be available as on all existing services.
- (2) Multi-rider tickets can be purchased from over 360 Newspower newsagencies throughout the metropolitan area and from Transperth information offices.

## HERITAGE - COSSACK AND ROEBOURNE TOWNS POLICY

362. Hon P.G. PENDAL to the Minister for Education representing the Minister for Heritage:

- (1) Does the Government have a heritage policy in regard to the towns of Cossack and Roebourne?
- (2) If so, will the Minister table the details?

Hon KAY HALLAHAN replied:

Reply provided by the Minister for Heritage -

(1)-(2)

The Heritage Council is preparing a conservation and management plan for the historic town of Cossack. This is a two year project, of which the first year has been completed. A copy of the interim conservation and management plan for Cossack is tabled for members' information. It should be noted that this document has not at this stage been endorsed by the Government, although it has been accepted by the Heritage Council as the basis for proceeding with the second stage of the project.

The Government does not have a policy document for the town of Roebourne, but a conservation and management plan is in preparation for the key group of buildings which comprise the law and order precinct: The gaol, courthouse, warders' quarters, police barracks and police station.

The Government is also involved, through the Department of Planning and Urban Development, in a townscape project in the town of Roebourne. The Heritage Council will provide input into the heritage aspects of that project, ensuring that heritage conservation is an integral part of planning policy for the town. [See paper No 337.]

## ROTTNEST ISLAND - ABORIGINAL GRAVE SITES INVESTIGATIONS

365. Hon P.G. PENDAL to the Minister for Police representing the Minister for Tourism:

- (1) Has investigatory work been carried out recently on the Aboriginal grave site on Rottneest Island?
- (2) At the same time, was any examination conducted into the possibility of a second, similar grave site on the island?
- (3) Who carried out these investigations?
- (4) What were the results/conclusions of the investigatory team?

Hon GRAHAM EDWARDS replied:

The Minister for Tourism has provided the following response -

(1)-(2)

Yes.

- (3) The work was carried out on the basis of a contract between the Aboriginal Sites Department of the Western Australian Museum and the Department of Exploration Geophysics at Curtin University subcontracting Ground Radar Australia Pty Ltd - previously Waveform Pty Ltd.

- (4) The results/conclusions are not available at this time.

## SPEED LIMITS - BOATS, SWAN AND CANNING RIVERS

*Surveillance Methods*

367. Hon P.G. PENDAL to the Minister for Police representing the Minister for Transport:

- (1) What speed limits are allowed for boats using the Swan and Canning Rivers?
- (2) What surveillance methods are used to monitor boats exceeding the allowable speed limits?



- (3) Do radar style checks operate?
- (4) If not, can consideration be given to their use?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Various speed limits apply on both rivers ranging from eight knots down to five and four knots in the upper reaches of both rivers. The actual limits of the speed restriction areas are depicted on the Department of Marine and Harbours chart "Swan & Canning River Guide".
- (2)-(3) There are a number of methods used, which include observations by department officers, pacing by way of using a patrol vessel and by using a radar apparatus which is similar to the method used by the police to identify speeding motor vehicles. The Department of Marine and Harbours is also considering the use of the new laser gun currently in use by the police.
- (4) Not applicable.

**ROADS - KWINANA FREEWAY EXTENSIONS**

*Berrigan Drive Intersection Traffic Lights; Forrest Road-Yangebup Road; Thomas Road; Mandurah*

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

- (1) Why were traffic lights placed at the Berrigan Drive intersection on the southern extension of the Kwinana Freeway?
- (2) Are these traffic lights a permanent fixture or will they be removed as the freeway is extended?
- (3) If not, why are they not to be replaced by an overhead bridge, or some other system to allow a continuous free traffic flow?
- (4) When will western extensions to the Forrest Road/Yangebup Road be completed to provide ready access to the intersection where the freeway currently ends?
- (5) When will the freeway be extended to Thomas Road?
- (6) When will the freeway be extended to Mandurah?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) The Kwinana Freeway extension southwards from Farrington Road has been designed to be built in stages which are compatible with the ultimate design for a freeway standard road between Berrigan Drive, South Lakes and Thomas Road, Kwinana. This approach is based on funding considerations, the relatively low traffic volumes on the intersecting roads and the high cost of grade-separated interchanges. The first stage of construction therefore includes at-grade traffic light controlled intersections from Berrigan Drive southwards.
- (2) No. They will be replaced when grade separation is required.
- (3) See (1) above.
- (4) This section of road is the responsibility of the Cockburn City Council.
- (5) In early 1995.
- (6) See answer to question 671 asked by your colleague, the member for Mandurah.

**BUILDINGS - LOT 60 SHEFFIELD ROAD, WELSHPOOL**

*Sprinkler System Installation Requirement - Appeal*

378. Hon GEORGE CASH to the Minister for Education representing the Minister for Local Government:

- (1) Did the owner or proposed occupier of lot 60 Sheffield Road, Welshpool, appeal against a condition requiring the installation of a sprinkler system in the building on that site?
- (2) Was the appeal referred to the Building Advisory Committee for advice or an opinion on the merit of the appeal and, if so, when?
- (3) Was the recommendation of the Building Advisory Committee to the Minister for Local Government "that sprinklers should be installed as required in the Building Code of Australia Part E 1.5 and in compliance with Australian Standards 2118-1982"?

Hon KAY HALLAHAN replied:

The Minister for Local Government has provided the following reply -

- (1) Mr P. Hodge, architect, lodged an appeal against a decision of council to refuse a submission as the plans and specifications did not show a sprinkler system in an application to construct a warehouse on Lot 60 Sheffield Road, Welshpool.
- (2) Yes. Friday, 3 April 1992.
- (3) Yes, but the report to me reflected a number of doubts about the particular interpretations relied upon and I thought the appellant should be given the benefit of those doubts especially given the isolated nature of the building.

**NATIONAL RAIL CORPORATION - RAIL UNION DISCUSSIONS***No Adverse Effects*

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

With reference to question on notice 791 of 1991 -

- (1) Has the Minister established in discussions with the relevant rail union that the unions will suffer no adverse effect as a result of the National Rail Corporation takeover?
- (2) If not, in which area is there likely to be adverse effects?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1)-(2) Question on notice 791 of 1991 referred to Westrail employees, not rail unions.

**NATIONAL RAIL CORPORATION AGREEMENT - STATE STEERING COMMITTEE***Satisfactory Information and Advice*

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

I refer to previous questions asked in respect of the National Rail Corporation Agreement and ask -

- (1) Has the State steering committee been provided with adequate details to satisfy its previously expressed concerns in respect of the National Rail Corporation Agreement and the likely social, financial and economic impact on the Western Australian community?
- (2) Has the State steering committee suggested that the signing of the National Rail Corporation Agreement be delayed pending the provision of further information?

- (3) If the State steering committee is not yet fully satisfied with the National Rail Corporation Agreement, which areas require further elucidation and what action is proposed in respect of these matters?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) The State steering committee is aware of the various provisions included in the National Rail Corporation Agreement that protect the State's financial interests.
- (2) The National Rail Corporation Agreement was signed by the Premier in July 1991.
- (3) Not applicable.

**NATIONAL RAIL CORPORATION - NATIONAL RAIL CORPORATION  
AGREEMENT BILL**  
*Overriding State Authority Provisions*

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

I refer to question on notice 1018 of 1991 and also to a recent meeting between the National Rail Corporation steering committee and the relevant rail unions in which the latter were informed the National Rail Corporation was not concerned with reports that the National Rail Corporation Agreement Bill may not be passed by the State Parliament and that, irrespective of the passage of the Bill, the National Rail Corporation would continue to progress its operations into Western Australia.

- (1) In view of this situation will the Minister confirm the answer given to question on notice 1018?
- (2) Is the Minister aware of any provision in the Commonwealth Constitution which could override the authority of the State Parliament in respect of the ability of the National Rail Corporation to operate in Western Australia against the wishes of the Parliament in Western Australia, and if so, will the Minister advise of such provisions?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Yes.
- (2) No.

**NATIONAL RAIL CORPORATION - UNION SUPPORT DISCUSSIONS**

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

I refer to question on notice 1040 of which notice was given on 16 October 1991 and ask -

- (1) What discussions have occurred between the relevant unions and the National Rail Corporation management and the relevant unions and the Government in respect of obtaining union support for the National Rail Corporation?
- (2) Have all of the relevant unions indicated their support for the proposal?
- (3) If not, which unions have expressed concern and in which specific area is the subject of such concern?
- (4) Does the Minister propose that the National Rail Corporation Agreement be finalised prior to all outstanding industrial issues being resolved, and if so, can the Minister assure the Parliament that there will not be interruptions to the flow of rail traffic to and from Western Australia if negotiations with the relevant unions are not successfully concluded?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Discussions have been ongoing since the formation of the National Rail Corporation. Unions in this State have been represented through their Federal officials as well as representation from the Australian Council of Trade Unions. At the State level, unions are represented on the State steering committee by their full time officials. All decisions arising from this committee have therefore involved union participation.
- (2) Through their respective Federal officials, all unions have supported the proposal.
- (3) Not applicable.
- (4) A process to resolve the industrial relations issues is in place. As of 28 May 1992, many of the issues causing the unions concern have been resolved and action is in place to deal with those outstanding. Given the above processes that are in place, and to honour the Premier's commitment to the National Rail Corporation Agreement, the necessary enabling legislation will be progressed. I have no reason to believe that the industrial relations processes currently in place will not lead to a successful conclusion so the latter portion of the question has no application.

#### NATIONAL RAIL CORPORATION - STANDARD COSTS

##### *Answer to Question 1040 (5) - Union Negotiations*

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

I refer to question on notice 1040(5) of which notice was given on 16 October 1991, and ask -

- (1) Why was such an answer provided when page 13 of the agreement defines and identifies standard costs?
- (2) As the definition and identification of standard costs has been known for some time, what further negotiations have been held with the relevant unions on this matter?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1)-(2)

Page 3 of the agreement provides a definition of National Rail Corporation standard costs, but does not quantify those costs. Quantification of National Rail Corporation standard costs is to be done as part of the National Rail Corporation's corporate planning process.

#### NATIONAL RAIL CORPORATION - FREIGHT RATES

##### *Competitors Costs Reduction - Minister's Facts*

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

I refer to question on notice 1041 of 1991 and ask -

Given that the Government has expressed general support for the Federal Government's federalisation plan, which involves uniform licensing of heavy vehicles across Australia, and given that such a proposition may increase road freight rates, what facts were given to the Minister to conclude that the National Rail Corporation's competitors costs will be reduced?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

The historical trend in real road freight rates has been downwards. This general trend is expected to continue in the future. As registration charges make up only a small proportion of heavy vehicle operating costs, any increase in these charges is unlikely to significantly alter the general downward trend in real road freight rates.

#### NATIONAL RAIL CORPORATION - FREIGHT RATES

##### *Greater Efficiency Areas and Cost Savings*

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

Given that interstate freight rates currently encompass an operational loss of approximately \$389 million per annum, will the Minister indicate the areas in which greater efficiency can be achieved and the respective cost savings to be achieved by such increased efficiency to demonstrate the previously stated view that freight rates based on a "cost of service" plus commercial profit will at least permit the current freight rates remaining static?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

Attachment 1 of the 21 March 1991 report of the National Rail Corporation Initiative Task Force outlines the potential cost efficiencies which could be achieved by the National Rail Corporation.

#### NATIONAL RAIL CORPORATION - MARKETING DIVISION

##### *Location*

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

- (1) Where is the National Rail Corporation marketing division to be located?
- (2) Is it intended that a branch of the marketing division will be located in Perth?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Information available at this time indicates that the National Rail Corporation will not have a marketing division. Rather, it will have two divisions which will focus on the company's two main customer groupings - Intermodal Freight and Industrial Products, with headquarters in Melbourne.
- (2) It is understood that the National Rail Corporation will have a State manager located in Perth who will be responsible for marketing as well as other functions.

#### NATIONAL RAIL CORPORATION - FREIGHT TRAFFIC

##### *Road Productivity Improvements Faster than Rail Areas - Rail Transit Times Improvement; Rail Share of Interstate Freight Reduction Figures*

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

I refer to the second reading speech of the Minister for Transport in respect of the National Rail Corporation Bill and ask -

- (1) Will the Minister detail areas where road industry has increased its productivity at a faster rate than rail?
- (2) What is the current average rail transit time for goods freighted to Kewdale from Sydney, Melbourne and Adelaide?
- (3) As current interstate timetables provide for an early morning delivery of freight into Perth, is it intended that the management of rail freight systems by the National Rail Corporation will improve transit times, and if so, how and what time savings are envisaged?

- (4) Will the Minister provide figures for the past five years to support the Government's claim that rail's share of interstate freight traffic has been falling?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Both modes continue to improve productivity and the member may wish to refer to reports by the Industry Commission and the Interstate Commission on rail and road transport.
- (2) Rail transits to Western Australia have improved over the past five years with continued development of high speed container trains between Sydney, Melbourne, Adelaide and Perth - Kewdale. In this time, high speed container trains have increased with 11 services currently operating weekly to/from Western Australia. Transit times are -

Sydney - Perth	-	72 hours
Melbourne - Perth	-	60 hours
Adelaide - Perth	-	42 hours

In addition to these services, there are also six general freight trains weekly to Western Australia conveying products such as steel, which operate at slower speeds. This combined with the nature of the task extends the transit times of general freight trains by up to 30 hours.

- (3) Transit times are one element of quality of service which is intended to be a benefit of the National Rail Corporation. It will be the role of National Rail Corporation management to determine where and how improved transit times should be achieved.
- (4) Analysis of market share to Western Australia indicates that rail peaked in 1988-89 at 73 per cent. The current assessment is that rail share of interstate freight is 70 per cent. Road has grown from 19 per cent in 1988 to 28 per cent in 1992.

#### NATIONAL RAIL CORPORATION - TENDERS ON A COMMERCIAL BASIS

##### *Intrastate Rail Service Operations - Government's Position*

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

- (1) Does the National Rail Corporation Heads of Agreement provide that National Rail Corporation may tender on a commercial basis for intrastate movements without invitation?
- (2) What is the Government's position in respect of National Rail Corporation operating intrastate rail services?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) The National Rail Corporation can only provide intrastate rail services where the State concerned has referred to the Commonwealth powers under section 51 of the Australian Constitution concerning the matter of the Commonwealth holding shares in a company engaged in intrastate rail services and if it has the written approval of the State to provide such services.
- (2) The Government has no intention of allowing the National Rail Corporation to operate intrastate rail services in Western Australia.

#### NATIONAL RAIL CORPORATION - RAIL INFRASTRUCTURE EXPENDITURE

##### *Western Australia's Contribution Justification*

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

Given that the Government has stated that during the first decade of the National Rail Corporation's operations expenditure on rail infrastructure is likely to be in the order of \$1.5 billion, what justification can be provided for Western Australia contributing to rail infrastructure works outside Western Australia and in particular in areas that have been neglected by other State rail authorities?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

The Government's decision to contribute funding to the National Rail Corporation signifies its commitment to national reform of the rail industry. In return for these funds, it will receive a shareholding in the company which will entitle it to future financial benefits once the company becomes profitable. The future profitability of the company required that capital expenditure takes place where it will produce the greatest benefits. Western Australia will also benefit indirectly from expenditure on rail infrastructure in the Eastern States. For example, upgrading of track in other States will reduce transit times between Perth and the Eastern States.

**NATIONAL RAIL CORPORATION - DIVIDEND PAYMENTS**  
*Effect on Revenue Return*

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

Given that the Government has previously stated that after three years the National Rail Corporation is expected to provide a return to shareholders through dividend payments, will the Minister advise how this will affect the actual revenue return to the State as the National Rail Corporation Agreement provides that dividend payments can be in the form of the issue of bonus shares?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

The Government has not previously stated that the National Rail Corporation will provide dividends to shareholders after three years.

**NATIONAL RAIL CORPORATION - ARTICLES OF ASSOCIATION**  
**CLAUSES 14 (1), 28 (4) (b)**  
*Disposal of Shares to a Private Company*

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

- (1) Do clauses 14(1) and 28(4)(b) of the articles of association of the National Rail Corporation provide that shares not taken up by members may be disposed of to a private company?
- (2) If so, why was this contemplated?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Yes, but only after the five year establishment period.
- (2) This is standard commercial practice.

**NATIONAL RAIL CORPORATION - INTERSTATE TRAFFIC REVENUE**  
*Western Australia's Share*

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

- (1) What was Western Australia's share of rail revenue from interstate traffic during the financial year 1990-1991?
- (2) What would the revenue have been had the revenue been distributed in

accordance with the proposed National Rail Corporation shareholding?

- (3) What profit would the National Rail Corporation have had to generate for Western Australia to receive a return appropriate to the 1989-1990 contribution of \$14.107 million to avoidable costs as referred to in question on notice 789 of 1991?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Westrail's share of rail revenue from interstate traffic for 1990-91 was \$40.6 million. This market segment was 17.3 per cent of Westrail's total freight earning revenue of \$235.4 million.
- (2) Final shareholdings have yet to be determined. Westrail's net financial position is a consequence of cost savings as well as revenue.
- (3) The financial position of Western Australia is dependent on a number of factors which have yet to be negotiated with the National Rail Corporation. These factors include payments to Westrail for services provided to the National Rail Corporation, payments by Westrail for services provided by National Rail Corporation, valuation of assets transferred to the National Rail Corporation and payments associated with leases and right of access agreements. Clause 5(4)(c) of the National Rail Corporation Agreement Bill 1991 also provides for payments from the National Rail Corporation to compensate Westrail for any financial disadvantage over the establishment period which covers five years from the commencement of operations of the National Rail Corporation.

#### NATIONAL RAIL CORPORATION - CAPITAL EXPENDITURE

*Protection during Establishment Period; Exclusion from Reimbursement - Answer Reconciliation*

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

I refer to question on notice 1037 of 1991 and ask -

How does the Minister reconcile part (2) of the answer in respect of the capital expenditure of the State being protected during the establishment period, when compared with the answer to question on notice 793 of 1991 it is stated "such capital expenditure is excluded from reimbursement"?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

As Western Australia will receive shares in the National Rail Corporation in return for its equity contributions, these contributions will not be included in the calculation of any compensation payments to this State.

#### NATIONAL RAIL CORPORATION - RAIL INFRASTRUCTURE CONTROL

*Westrail Intrastate Freight and Passenger Services Risks - Negotiations*

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

I refer to question on notice 784 of 1991 and ask -

- (1) Can the Minister advise whether passing control of certain assets of Westrail to the National Rail Corporation could represent operational and financial risks to intrastate freight and passenger services?
- (2) Has action been taken to have Westrail negotiate an arrangement which will not disadvantage Western Australia in regard to control of rail infrastructure?

Hon GRAHAM EDWARDS replied:



The Minister for Transport has provided the following response -

- (1) Control of Westrail assets will be transferred to the National Rail Corporation only after satisfactory terms regarding operational and financial arrangements have been negotiated. In addition the shareholders agreement contains provisions which ensure that Western Australia will not suffer any financial disadvantage during the first five years of National Rail Corporation operations.
- (2) Westrail is yet to commence negotiations with the National Rail Corporation with respect to control of rail infrastructure.

**NATIONAL RAIL CORPORATION - FREIGHT RATES**

*Increase in Productivity*

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

I refer to question on notice 787 of 1991 and ask -

Now that the National Rail Corporation has established a draft corporate plan, can the Minister still give the assurance as indicated to the answer in question on notice 787 in respect of freight rates under the National Rail Corporation given that it has been stated that a 45 per cent increase in productivity will be required?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

As a commercial organisation, the National Rail Corporation will need to set its freight rates in accordance with prevailing market conditions. The interstate freight market is highly competitive with both road transport and shipping providing alternatives to rail transport.

**NATIONAL RAIL CORPORATION - INTRASTATE TRAFFIC CONTROL**

*Costs - Answers to Question 790*

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

I refer to question on notice 790 of 1991 and ask -

As the Government is about to seek endorsement of the National Rail Corporation Bill, will the Minister now provide the answers to question on notice 790 on both a short term and long term basis?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

The previous answer is still valid.

**WESTRAIL - GOVERNMENT RAILWAYS AMENDMENT BILL**

*Total West Joint Venture - \$7 million Benefits*

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

I refer to the second reading speech in the Legislative Council in 1982 in respect of the introduction to the Government Railways Amendment Act 1982 which referred to the benefits which would accrue with the formation of the Total West joint venture in which in part it was claimed that Westrail would benefit by approximately \$7 million if the amending Bill was agreed to.

- (1) Did such benefits accrue?
- (2) Is the policy of the Government Railways Amendment Act 1982 at variance or in conflict with the provisions of the National Rail Corporation Agreement Bill?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) The formation of the Total West joint venture allowed Westrail to exit small freight - less than car load - while allowing a continued service to be provided to customers. The benefits to Westrail of no longer carrying smalls traffic have been substantial and are one of the reasons Westrail is now able to record a commercial profit in its restructured financial accounts. The Total West joint venture is trading profitably and paying a dividend to Westrail.
- (2) The policy of the Government Railways Amendment Act 1982 was to enable Westrail to enter into joint ventures, for example Total West, when appropriate - assuming that the question is directed to section 8B and not section 54AA of the Government Railways Act. The policy of the National Rail Corporation Agreement Bill 1991 is to cooperate with the Commonwealth and the States of New South Wales, Victoria and Queensland in the creation of a single national rail freight system. The policies are not in conflict.

**GOVERNMENT EMPLOYEES HOUSING AUTHORITY - HOLMES, MR W.,  
MEEKATHARRA**

*Outstanding Payment for Dividing Fence*

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

- (1) Is it correct that the Government Employees Housing Authority has an amount of \$1 025 outstanding for its share of a dividing fence between a GEHA house and Mr W. Holmes in Meekatharra?
- (2) If so, how long has this amount been outstanding?
- (3) Is it also correct that GEHA wrote to Mr Holmes on 1 April 1992 advising him that payment was being delayed due to funding restrictions?
- (4) If so, when will this account be paid?
- (5) Is it now Government policy to delay payment of its financial obligations?

Hon J.M. BERINSON replied:

Reply provided by the Minister for Housing -

(1)-(5)

Pursuant to the Dividing Fences Act, Government Employees Housing Authority has no legal obligations to meet half of the cost of this fence unless there is prior agreement between GEHA and the adjoining owner.

GEHA first became aware that Mr Holmes had erected a fence on receipt of an account in late February 1992. Following confirmation that the fence had in fact been erected, GEHA agreed to reimburse Mr Holmes for half of the cost of the fence. GEHA was under no legal obligations to do so. Subsequently it was ascertained that the fence in question separates Mr Holmes' property from vacant Crown land and not GEHA property. Under these circumstances, GEHA is not the adjoining owner and not responsible for half the cost of fencing.

**POLICE - QUARANTINE CHECKPOINT, KUNUNURRA**  
*Western Australian and Northern Territory Special Operation*

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

- (1) Was a special operation held in conjunction with the Western Australian and Northern Territory police involving the quarantine checkpoint near Kununurra?
- (2) What other departments were involved?

- (3) How many vehicles were stopped?
- (4) How many changes regarding drugs were laid?
- (5) How many charges regarding firearms were involved?

Hon GRAHAM EDWARDS replied:

- (1) An operation was carried out by Western Australian police officers from 6.00 am on 23 May to 6.00 am on 25 May 1992.
- (2) Australian Customs Service, Department of Conservation and Land Management and Agriculture Protection Board.
- (3) 131 westbound and 145 eastbound.
- (4) Nine.
- (5) Nil.

#### POLICE - EUCLA

##### *Drug Related Offence Charges; Speeding Infringement Notices; Drink Driving Charges*

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

- (1) Since 1 January 1992 to 20 April 1992, how many charges for drug related offences have been laid by police stationed at Eucla or traffic police operating on the Nullarbor Plain between Norseman and Eucla?
- (2) How many infringement notices for speeding were issued in the same period?
- (3) How many drink driving charges were laid for the same period?

Hon GRAHAM EDWARDS replied:

- (1) 115 - includes charges relating to possession of utensils and other items connected to the using of drugs.
- (2) 405.
- (3) Five.

#### CRAYFISH, MARINE - KALBARRI

##### *Boat Anchorage Assistance - Murchison River Sandbar, Dredging Intention*

408. Hon P.H. LOCKYER to Hon Mark Nevill representing the Minister for Fisheries:

- (1) What steps are being taken to assist rock lobster boats to get access to better anchorage at Kalbarri?
- (2) Is it the Government's intention to dredge the sandbar at the mouth of the Murchison River?

Hon MARK NEVILL replied:

- (1) Over the past several years the Government has allocated funds to the Department of Marine and Harbours for annual maintenance dredging of the ocean entrance at Kalbarri.
- (2) Maintenance dredging will be scheduled for late 1992.

#### EDU-BANK - TOWN AND COUNTRY BUILDING SOCIETY SPONSORSHIP

##### *Operation Details - Ministry of Education Staff Lists*

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

- (1) What is the operation of "Edu-Bank" which is sponsored by the Town and Country Building Society?
- (2) Is it correct that all Ministry of Education staff lists have been provided to this organisation?
- (3) Is this normal practice or was permission given by Ministry of Education staff?

Hon KAY HALLAHAN replied:

- (1) Edu-Bank is not a Ministry of Education undertaking. However, through the Edu-Bank initiative of the Town and Country Bank Ltd, they have sponsored senior administrators' professional development in some districts.
- (2) The Town and Country Bank was provided with a magnetic tape listing employees of the ministry and their work locations. This information is regularly published in the form of the Public Service list and the schools and staffing document for all but a small number of ministry employees.
- (3) It is not normal practice to provide this information for commercial purposes, nor was the provision authorised. Town and Country Bank have returned the magnetic tape and have been advised to desist immediately from using the information. A formal inquiry into the matter is being undertaken.

#### HOMESWEST - KALGOORLIE-BOULDER OFFICE

##### *Relief Worker Employment - Government Employee Housing Authority Accommodation*

423. Hon N.F. MOORE to the Leader of the House representing the Minister for Housing:

- (1) Is the Homeswest office in Kalgoorlie-Boulder employing a relief worker at the moment, and if so, what is the length of this appointment?
- (2) Is the worker from Perth or from another agency?
- (3) Is the worker staying in Government Employees Housing Authority or Homeswest accommodation, and if not, why not?
- (4) If the relief worker is employed for a period of three months, is that classified as a short term appointment?
- (5) Does the Government Employees Housing Authority supply short-term accommodation to Government employees and if not, why not?
- (6) Was the necessity to employ someone from another agency caused by the fact that Kalgoorlie-Boulder Homeswest office is understaffed?
- (7) Is the relief staff member being paid a casual rate of pay or his/her normal rate?
- (8) Is the relief officer also being paid a living and accommodation allowance expense of \$635.95 per week during the term of his/her appointment to Kalgoorlie-Boulder?
- (9) If so, can the Minister justify this expense when there is Government Employees Housing Authority accommodation available?

Hon J.M. BERINSON replied:

Reply provided by the Minister for Housing -

- (1) Yes, three relief officers are temporarily employed in Kalgoorlie. One officer has a term of five months, the second four months and the third six weeks.
- (2) Two of the officers are from Homeswest metropolitan offices and the third is relieving from South Hedland office.
- (3) The three officers are responsible for their own accommodation as GEHA accommodation is provided for Government officers posted permanently to the town and they are not eligible for Homeswest accommodation.
- (4) Yes.
- (5) No, GEHA accommodation is for public servants transferring on a permanent basis.
- (6) No, two positions are vacant. One is in the process of being filled and this is expected to be resolved by 31 July 1992. The second position is temporarily vacant as the substantive occupant is undergoing training in the Midland training branch and returns on 28 June 1992. A third

position is vacant as the officer is on maternity leave.

- (7) All three officers are paid the normal rate for the duties performed.
- (8) All relief officers are being paid a living away from home allowance in accordance with award conditions at \$90.85 per day for the first 42 days and \$30.30 per day thereafter.
- (9) Yes, GEHA vacancies are for permanent employees and are being allocated accordingly.

There are officers in Kalgoorlie involved in acting duties and this management procedure, which is common to Homeswest officers throughout the State where temporary vacancies exist, will continue as necessary. The relieving officers in Kalgoorlie are skilled, experienced employees committed to providing a quality service to Homeswest customers.

#### **ABORIGINES - SWAN VALLEY FRINGE DWELLERS, LOCKRIDGE CAMP** *Government Expenditure*

426. Hon DERRICK TOMLINSON to the Minister for Education representing the Minister for Aboriginal Affairs:

What was the actual expenditure of public funds (State and Commonwealth) under categories of capital works, minor works, recurrent costs, grants for special purposes and other outlays each financial year from 1987-88 to the present to establish and maintain the Swan Valley fringe dwellers camp at Lockridge?

Hon KAY HALLAHAN replied:

The Minister for Aboriginal Affairs has provided the following response -

- (a) Details of Commonwealth expenditure are not known.
- (b) State funds expended for each financial year are as follows -

1987-88	8 203.00
1988-89	5 177.00
1989-90	26 357.00
1990-91	479 742.00
1991-92	41 451.00

It is not possible to provide a division of expenditure between capital works, recurrent costs and special purpose payments. Those details should be sought from the relevant Ministers.

#### **RECHABITE HALL, WILLIAM STREET - CURRENT STATUS** *Heritage Act Listing*

434. Hon P.G. PENDAL to the Minister for Education representing the Minister for Heritage:

- (1) What is the current status of the Rechabite Hall in William Street?
- (2) If it is not listed under the State Heritage Act, when will this be completed?
- (3) Have any firm plans been made about the future use of the building?
- (4) Do such plans include the ethnic music association which has shown an interest in the hall?
- (5) Have any estimates been made on the cost of restoring the hall?
- (6) If so, what are the costs involved?

Hon KAY HALLAHAN replied:

Reply provided by the Minister for Heritage -

- (1) Notice of intention to enter the Rechabite Hall in William Street Perth within the Perth Cultural Centre in the Register of Heritage Places was advertised in *The West Australian* on Saturday 30 May 1992.

- (2) The place will be entered in the Register of Heritage Places on an interim basis by notice in the *Government Gazette* on Friday 5 June 1992.
- (3) No.
- (4) The interest of the Ethnic Music Centre in using the Rechabite Hall has been presented to the Government and the submission is being examined presently.
- (5) No.
- (6) Not applicable.

**EDUCATION, MINISTRY OF - MESOTHELIOMA CASE**  
*Teacher's Colleague - Crown Law Officer's Actions*

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

- (1) Is the Minister aware that an officer of the Crown Law Department approached a work colleague of a former Education Ministry teacher, who is now dying of mesothelioma, seeking evidence to use against the teacher, whose case is to be heard in the Supreme Court next week?
- (2) Is the Minister also aware that the Crown Law officer initially misled the teacher's colleague by advising that she was from the Ministry of Education and that the call was in relation to a survey on apprenticeship training?
- (3) Is the Minister also aware that the Crown Law officer eventually advised the teacher's colleague that she was from the Crown Law Department and was seeking evidence in support of the Ministry of Education in the case involving the Asbestos Diseases Society for Russell Wright versus James Hardie and Co Pty Ltd and the Ministry of Education?
- (4) Did the Minister authorise the actions of the Crown Law officer, and if so, why?
- (5) If the Minister did not authorise these actions does she know who did?

Hon KAY HALLAHAN replied:

(1)-(3)

See answer to question without notice 268 on 2 June 1992.

(4) No.

(5) No. The matter was conducted according to normal departmental procedures.

**NATIONAL RAIL CORPORATION - SHARES**  
*Sale and Transfer Approval - Parliament, Not Ministerial Authority Reason*

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

I refer to the proposed National Rail Corporation Agreement and ask: Can the Minister justify why the Parliament should not be the relevant authority which approves of the disposal of shares held by the State in the National Rail Corporation rather than the current proposal which would enable sole ministerial discretion in respect of the sale and transfer of shares in the National Rail Corporation?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

Parliamentary approval is normally not required when the State and its agencies wish to dispose of assets. There do not appear to be any special circumstances which would justify a departure from this practice in the case of the State's shareholding in the National Rail Corporation.

**NATIONAL RAIL CORPORATION - PUBLIC TRANSPORT UNION PROPOSAL**  
*Staff Recruitment*

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

I refer to question on notice 180 of 1992 and ask: Does the proposed Public Transport Union encompass staff recruited by the National Rail Corporation?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -  
Yes.

**NATIONAL RAIL CORPORATION - RAIL UNIONS**  
*Unresolved Dispute Areas*

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

Which areas have been the subject of unresolved dispute between the relevant rail unions and the Government in respect of the National Rail Corporation's operations in Western Australia?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

All industrial relations issues are in the process of being negotiated by the parties with the majority of issues already resolved.

**NATIONAL RAIL CORPORATION - KALGOORLIE AND MERREDIN STAFF  
REDUCTIONS**

*West Kalgoorlie Freight Yard - Local Traffic Personnel Numbers*

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

I refer to question on notice 190 of 1992 and ask -

- (1) If the Minister does not support the order of staff reductions at Kalgoorlie and Merredin, what is an accurate assessment of such reductions?
- (2) How many personnel are employed in the West Kalgoorlie freight yard on local traffic?
- (3) What is the anticipated reduction of staff at Merredin?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) The answer to this question remains the same as for question 190(1) of 1992. A development since that time is that the National Rail Corporation corporate plan has been completed. The enterprise agreement is still being negotiated.
- (2) Staff at West Kalgoorlie freight yard perform both interstate and local freight work in their daily shifts. There are 34 operational staff involved in freight traffic at the West Kalgoorlie freight yard.
- (3) See answer given to question 190 of 1992.

**NATIONAL RAIL CORPORATION - PUBLICLY OWNED CLAIM**  
*Status Clarification - Acting Premier's Letter Implication*

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

I refer to question on notice 178 of 1992 and ask -

- (1) Will the Minister clarify the status of the National Rail Corporation, which the Minister claimed to be publicly owned, when the Agreement Bill provides that the company (National Rail Corporation) is a public authority for any purpose?

- (2) Can the Minister indicate where in the Acting Premier's letter he implied it is fully publicly owned?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) The answer to question on notice 178 is still valid. The agreement Bill provides that the company is not a public authority for any purpose.
- (2) The answer to question on notice 178 stated only that the National Rail Corporation's operation on State tracks was implied in the letter from the Acting Premier.

#### RAILWAYS - SOUTH WEST AREA TRANSIT

*Consultant's Report - Misleading Reason; Release Date; Suppression Judgment*

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

I refer to question on notice 188 of 1992 and ask -

- (1) Why was it considered that the consultant's report on south west area transit "would be misleading if read in isolation"?
- (2) Will this report be released in its entirety when the "comprehensive work now being undertaken" is released, or at all?
- (3) If not, why not?
- (4) On whose judgment was this report suppressed, and what measure is available to say that the judgment of this person(s) is superior to the consultants', who presumably would consider their report was worthy to be read by the public?
- (5) Who were the consultants and how much were they paid for this work?
- (6) What were their terms of reference?
- (7) How is it possible to perform a cost benefit analysis, as has been stated, if "there is no reliable cost estimate" and "reliable estimates of passenger numbers . . . are not yet available"?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) The consultant's report prepared as a result of the Government's February 1992 commitment to provide rail transit from Fremantle to Mandurah, referred to in answering question on notice 188 of 1992, concerned a preliminary land use vision for the south west metropolitan area. This report was intended to provide input to subsequent work being undertaken to identify alternative rail transit routes and technologies which would complement the vision, as well as to estimate passenger numbers and costs.
- (2) A comprehensive information pack of technical reports describing all aspects of, and alternatives for the south west area transit project will be released by early July.
- (3) Not applicable.
- (4) No reports prepared as a result of the Government's February 1992 south west area transit commitment have been suppressed.
- (5) The preliminary land use vision report was produced by Martin Goff & Associates in conjunction with all local governments in the south west metropolitan area, the Department of Urban and Regional Development, Transperth, and the Department of Transport. The consulting fee was \$9 780.
- (6) The main objective given to the consultant was to prepare, in conjunction with the organisations referred to in (5), an ultimate land



use and settlement vision for the south west metropolitan area - primarily focusing on the planning year 2021. A copy of the detailed brief can be made available to the member if required.

- (7) The cost benefit analysis referred to in answering question on notice 188 of 1992 was part of an early feasibility study. The work currently being undertaken is expected to yield more up to date and reliable estimates of costs and passenger numbers.

**NATIONAL RAIL CORPORATION - LOCAL TRAFFIC**

*Non-avoidable Costs*

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

I refer to question on notice 789 of 1991 in which it is suggested that unaffordable costs for intersystem goods traffic approximates \$14 million, given that the National Rail Corporation Agreement requires the NRC to be charged only avoidable costs.

- (1) Is it intended that local traffic will have to be of the non-avoidable costs?  
(2) If not, what is intended in respect of these costs?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) I do not understand the question.  
(2) Not applicable.

**ABORIGINAL HERITAGE - BUNBURY-WELLINGTON REGIONAL PLANNING STUDY**

*Consultants' Names - Consultations with Aboriginals*

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

With reference to the Bunbury-Wellington Regional Planning study, and looking at Aboriginal heritage concerns -

- (1) What was the name or names of the consultants engaged to prepare the study?  
(2) Were any Aboriginals consulted by the consultants?  
(3) If yes, what were their names?  
(4) What portion of the \$250 000 cost would be offset to the cost of the "Aboriginal Heritage Working Paper"?

Hon KAY HALLAHAN replied:

The Minister for Planning has provided the following reply -

- (1) McDonald Hales & Associates - social and organisational research and planning consultants.  
(2) Yes.  
(3) The consultants did not supply a list of their various contacts, however they included some 40 Aboriginal community members from Brunswick, Harvey, Waroona, Collie, Bunbury, Donnybrook, Balingup and Busselton. Aboriginal students from the South West College of TAFE and Edith Cowan University - Bunbury campus - were also consulted, together with contact with the following organisations -

Bunbury Aboriginal Progress Association - BAPA  
Gnuraren

Harvey-Waroona Aboriginal Corporation - HWAC

Collie Aboriginal Advancement Association - CAAA

Southern Aboriginal Corporation - SAC  
ATSIC

(4) \$9 000.

#### URBAN LANDS COUNCIL - FINANCIAL STATEMENTS TABLING

446. Hon MAX EVANS to the Minister for Education representing the Minister for Lands:

- (1) When will the financial statements of the Urban Lands Council to 30 June 1986 be tabled in the House?
- (2) When will the final financial statements of the Urban Lands Council to February 1987 be tabled in the House?
- (3) Why have the financial statements not been tabled by the due date?

Hon KAY HALLAHAN replied:

The Minister for Lands has provided the following reply -

(1)-(3)

The Western Australian Urban Lands Council (Interim) was incorporated into the Landbank of Western Australia in 1985-86. The financial statements for Landbank for the years 1985-86 and 1986-87 were tabled on 11 June and 10 December respectively.

#### ROTTNEST ISLAND - HERITAGE ITEMS

##### *Protection Action*

451. Hon P.G. PENDAL to the Minister for Police representing the Minister for Tourism:

- (1) Is it correct that on Rottnest, a number of historical artifacts of the island, including old board photographs and an original signalling light, are stored in conditions non-conducive to their preservation?
- (2) Will the Minister undertake urgent action to protect these heritage items?

Hon GRAHAM EDWARDS replied:

The Minister for Tourism has provided the following response -

(1)-(2)

The Rottnest Island Authority sent items of military significance to the mainland for storage and cataloguing during 1991. These items are stored on behalf of the authority by the Army and volunteers are researching and listing the items. A signalling light, packed in its own wooden carry box, two framed photographs, and a number of old bottles were stored in a dry locked shed. This shed was recently broken into by person(s) unknown who removed security devices from the inside of locked exterior doors. As a result of this break-in, all items have been removed to safety at Kingstown.

#### ABORIGINES - CANADA CONFERENCE, "MENTAL HEALTH IN INDIGENOUS PEOPLE"

##### *Taxpayers' Expense*

453. Hon MURRAY MONTGOMERY to the Minister for Education representing the Minister for Aboriginal Affairs:

- (1) Did 11 persons recently go at taxpayers' expense to a conference in Canada on "Mental Health in Indigenous People"?
- (2) If yes, what was the cost to taxpayers and how much did the people themselves contribute to the trip?
- (3) Were the people selected for the trip on the ground of their race?

- (4) Were these people also supplied with spending money?
- (5) If yes, why and how much and under what authority?
- (6) How have the taxpayers benefited from the trip?

Hon KAY HALLAHAN replied:

The Minister for Aboriginal Affairs has provided the following response -

- (1) A cross section of the Aboriginal community from the south west were selected by the Southern Aboriginal Corporation - SAC - to attend the conference. Funding was provided by the Commonwealth Department of Housing, Health and Community Services; Aboriginal and Torres Strait Islander Commission and the Aboriginal Affairs Planning Authority.
- (2) Joint departmental contributions totalled \$74 500.
- (3) As members of an Aboriginal organisation - SAC - they were selected on the basis of their community involvement and experience.
- (4) No.
- (5) Not applicable.
- (6) Many individuals and services in this State will benefit from more relevant mental health services being designed and established for Aboriginal people.

**POLICE - JOONDALUP COMPLEX**

*Opening Date; Manpower; 24 Hours Operation*

459. Hon GEORGE CASH to the Minister for Police:

- (1) When is the Joondalup police complex to open?
- (2) How many police and other personnel will be attached to the Joondalup police complex?
- (3) Is the Joondalup police complex to be a 24 hours a day police station?

Hon GRAHAM EDWARDS replied:

- (1) No definite date has been set. This building is yet to be completed and handed over. At least two weeks' work still remains to be done. Further delays may occur due to a current dispute.
- (2) Fifty three comprising of 50 police and three non-police.
- (3) Yes.

**POLICE - TRAFFIC INVESTIGATION SQUAD**

*Manpower - Unlicensed Dealers Squad Appointments*

460. Hon GEORGE CASH to the Minister for Police:

- (1) What is the current staffing level of the police traffic investigation squad?
- (2) What was the staffing level of the police traffic investigation squad in June 1989?
- (3) How many officers attached to the police traffic investigation squad are currently assigned to the investigation and prosecution of unlicensed motor vehicle dealers?
- (4) How many officers attached to the police traffic investigation squad were assigned to the investigation and prosecution of unlicensed motor vehicle dealers in June 1989?
- (5) How many vehicles are permanently allocated to the officers assigned to the investigation and prosecution of unlicensed motor vehicle dealers?
- (6) How many successful prosecutions were there for unlicensed motor vehicle dealings during 1991?

- (7) Given that the Motor Trade Association conservatively estimates that between 300 and 500 vehicles with an average value of \$3000 are sold by unlicensed dealers every week and these figures have been supported by officers assigned to the police unlicensed dealers squad -
- (a) what action is the Government taking to collect the estimated \$1.5 million per annum in unpaid stamp duty; and
  - (b) what action is the Government taking to assess and collect income tax on the estimated \$10 million per annum in profit derived from the sale of these vehicles?

Hon GRAHAM EDWARDS replied:

(1)-(2)

One non-commissioned officer  
Seven constables  
Two civilian clerical staff.

(3)-(4)

Two.

(5) One.

(6) Thirty two.

- (7) (a) Stamp duty is levied whenever a vehicle is transferred from one person to another regardless of who makes the sale.
- (b) Information not available from police resources. Income tax is a Federal matter.

#### QUESTIONS ON NOTICE - Nos 1310, 1311, 1317, 1318

*Answers Date*

461. Hon GEORGE CASH to the Minister for Police:

When may I expect an answer to questions on notice Nos 1310, 1311, 1317 and 1318 of 6 February 1992?

Hon GRAHAM EDWARDS replied:

The answers to the above questions were forwarded to the Leader of the Opposition on 11 March 1992 and are as follows -

Question 1310 -

- (1) Is the Minister aware of the scamcam hightech satellite system which can detect stolen or unregistered motor vehicles and which system was introduced on to New South Wales roads in February 1992?
- (2) Has the tracking system been a success in New South Wales?
- (3) Is it intended that the Western Australian Police Force should acquire scamcam equipment?

Answer -

- (1) I am aware that the New South Wales Road and Traffic Authority is carrying out trials in regard to two monitoring systems, the scamcam and the automatic network travel time system. The scamcam is only dealing with the movement of heavy vehicles and is not in use for monitoring of all vehicles. Neither of these systems currently use satellite, rather they use radio transmission for the transfer of data.
- (2) Inquiries with the New South Wales Police Department and the Road and Traffic Authority have revealed that this system has only recently been implemented, and is still being evaluated and developed.
- (3) The Western Australian Police Department is aware of the system

being trialled in New South Wales and is awaiting results.

Question 1311 -

- (1) Is the Minister aware of considerable concern in the community of the failure of drivers to drive vehicles as close as practicable to the left boundary of a carriageway?
- (2) Will the Minister consider an amendment to the Road Traffic Code to ensure that where a carriageway is a one way carriageway or has two or more marked lanes for vehicles travelling in the same direction that drivers be required to keep to the left where practicable unless overtaking?

Answer -

- (1) Yes.
- (2) Legislation already exists - reg 501 RTC - which requires drivers to keep their vehicles to the left when travelling on a carriageway where there are no marked lanes. This includes one way carriageways where there are no marked lands. Multi laned roads are designed and constructed to cater for high volumes of traffic and as such all lanes need to be utilised to facilitate an effective traffic flow.

Legislation also exists - reg 503(1) RTC - which prohibits drivers from travelling in the right hand lane on a fast lane carriageway unless their speed is within nine kilometres of the posted speed limit. A fast lane carriageway is defined as a dual carriageway where the speed limit is 80 km/h or more and there are two or more marked lanes. I have asked the Traffic Board to further examine this, and advise of a suitable education program that may be initiated through the Road Trauma Trust Fund.

Question 1317 -

- (1) Does the Government support the view that no Aboriginal juvenile should be interrogated by a police officer except in the presence of a parent, other person responsible for the care and the supervision of the child or, in the absence of a parent or such other person, an officer of an agency or organisation charged with responsibility for the care and welfare of Aboriginal juveniles?
- (2) If not, why not?

Answer -

(1)-(2)

Yes. Instruction concerning the interview of all juveniles issued by the Commissioner of Police to police officers directs that, where a child is to be interviewed by a police officer in relation to the commission of an offence, the officer is to ensure where practicable that a parent, guardian, other relative, school teacher, justice of the peace or other independent person to whom the child can turn for advice or support, is present at the interview. Where the officer has exhausted all avenues in attempting to have an independent person present at the interview, then another police officer, senior in rank to the interviewing officer and not connected in any way with the case, should where practicable be present.

Question 1318 -

- (1) Does the Government support the general proposition that -
  - (a) the use of offensive language in circumstances of interventions initiated by the police with Aboriginal persons should not normally be occasion for arrest or charge; and
  - (b) that the police could examine and monitor the use of offensive

language charges preferred against Aboriginal persons?

(2) If not, why not?

Answer -

(1)-(2)

Police routinely exercise discretion with respect to charges for use of offensive language. Offensive language by itself is not normally an occasion for arrest. The incidence of these charges is not monitored in any formal way, as charges for use of offensive language are recorded as "disorderly conduct".

#### PUBLIC SERVICE TRAINING - CLERICAL AND KEYBOARD POSITIONS

464. Hon GEORGE CASH to the Minister for Employment and Training:

In a media statement dated 31 December 1991 the Minister for Education, Employment and Training said that young people contemplating training "will also be able to apply for more than 200 clerical and keyboard positions in the public service" -

(1) Have these 200 positions been made available?

(2) If yes -

(a) where have these positions been made available;

(b) have these positions been advertised; and

(c) how was it possible when the Government has promised to cut staff across the board in Government departments?

Hon KAY HALLAHAN replied:

(1) Three hundred Public Service positions were made available to 1991 school leavers under the State Government's WAVE strategy as a result of voluntary redundancies within the public sector. As at 31 December it was estimated that approximately two-thirds of the positions would be available in the clerical and keyboard areas.

Upon receipt of agency returns on staff accepting voluntary redundancies, however, it was apparent that 120 positions would be available in clerical and keyboard areas, with a further 180 positions in other occupational areas including gardeners, technical assistants, hospital orderlies and other non-clerical areas.

(2) (a) Throughout the Public Service and public sector in metropolitan and country areas.

(b) Yes.

(c) There has been no increase in staff numbers as a consequence of this initiative. The vacancies were created as a consequence of 300 officers accepting voluntary redundancy during the latter part of 1991.

#### TERTIARY ENTRANCE EXAMINATION - GREEK LANGUAGE

466. Hon GEORGE CASH to the Minister for Education:

(1) Is Greek to be included as a Tertiary Entrance Examination subject, and if not, why not?

(2) When will Greek be available as a TEE subject?

Hon KAY HALLAHAN replied:

(1) The inclusion of subjects in the tertiary entrance scoring list is the responsibility of the Secondary Education Authority acting on the advice of the Tertiary Entrance Subject Committee, which consists of representatives of the school sectors and universities. On 10 June the authority rejected a

proposal for Modern Greek to be included as a tertiary entrance subject. The reasons given for this decision were -

The year 11 Modern Greek course was being studied by very small numbers at the Saturday morning language school at Mt Lawley Senior High School, but has now discontinued.

There are no other schools or colleges which have classes of Modern Greek in years 11 or 12.

There is no university course in Modern Greek in WA and there is not a steady demand for this course at TAFE.

The course does not meet the criteria for inclusion of subjects in the Tertiary Entrance Examination/tertiary entrance score list. These include the need for a pool of students large enough to produce reliable scaling and the need for the subject to be taught in a number of schools.

- (2) The Government is currently considering expanding the range of languages supported through the Ministry of Education's LOTE strategic plan. Support for Modern Greek will enhance the likelihood of it obtaining TES status.

#### PASTORAL LEASES - FOREIGN INVESTMENT REVIEW BOARD

##### *Purchase Interest Referral Circumstances - Foreign Equity Maximum Allowance*

467. Hon PETER FOSS to the Minister for Police representing the Minister for Agriculture:

- (1) Under what circumstances is the intended purchase of an interest in a pastoral lease in Western Australia referred to the Foreign Investment Review Board?
- (2) What is the maximum allowable foreign equity that the Pastoral Board will approve in a pastoral lease in Western Australia?
- (3) Is the foreign equity component above this level with respect to any pastoral lease in Western Australia where application for transfer was made to the Pastoral Board?
- (4) If so, what are the names of those pastoral leases, and what is the reason for each of the respective leases having above the maximum allowable foreign equity?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following response -

- (1) Purchases are not referred to the Foreign Investment Review Board. A policy and procedure which covers Australian equity in pastoral leases was introduced by the Government on 2 October 1979. As a condition of sale a purchaser must acknowledge to the Pastoral Board that Australian equity will be at least 50 per cent. Details of company structure and shareholding must be provided by company purchasers.
- (2) 50 per cent unless special circumstances are involved.
- (3) Yes.
- (4) Murchison House Station was purchased prior to introduction of the 50 per cent Australian equity policy.  
Quanbun Downs Station was purchased prior to introduction of the 50 per cent Australian equity policy.  
Jubilee Downs Station - transfer was approved by Cabinet as a special case because the transferee company included some shareholders who already held interests in the contiguous Quanbun Downs Station. It was concluded that the economic level of the total pastoral enterprise would be enhanced by approval of the transaction which involved a 15 per cent Australian interest in Jubilee Downs Station.  
Rosewood Station - This station is located on the Western Australian/Northern Territory border. The majority of the station is

within the Northern Territory. Cabinet recently approved the transfer of the small portion within Western Australia to a foreign owner of the majority of the station located in the Northern Territory.

### QUESTIONS WITHOUT NOTICE

#### CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES DIVISION

##### *Mismanagement Allegations*

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

- (1) Is the Minister aware of any unusual practices conducted by the building services division at the Department of Corrective Services in respect of the tender process?
- (2) Is the Minister aware of contracts being let by the building services division without proper authority?
- (3) Is the Minister further aware of the unauthorised use of the minor works budget to cover increases in major capital works projects?
- (4) Is the Minister aware of the use of local purchase orders by the building services division for contracts which should have been put out to tender under departmental policy?

Hon J.M. BERINSON replied:

(1)-(4)

I can only deal with these matters as a single question by saying that I am aware - I believe I have made a public statement to the effect - that this section of the department is currently subject to a comprehensive review and the report of that review has not yet reached me. So far as I can recall I have not had put to me individual complaints of the nature Hon George Cash referred to. However, the review has been initiated on the basis of concern that a number of the administrative requirements that are involved in his question may not have been fully met in all cases. I believe that any further discussion on these matters can only usefully be pursued when the review has been completed and the report made available to me. I have not had any recent indication as to the timetable, but I think it would involve probably no more than another month.

#### CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES DIVISION

##### *Mismanagement Allegations*

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

Further to my previous question I ask -

- (1) What has been the Minister's involvement in instituting an inquiry into allegations of mismanagement, possible misappropriation of public funds and possible fraud within the building services division of the Department of Corrective Services?
- (2) When was the Minister first made aware of possible impropriety within the building services division of the department?
- (3) How regularly has the Minister been briefed by senior management of the department in respect of the allegations relating to the building services division and other allegations of improper conduct within the department?

Hon J.M. BERINSON replied:

(1)-(3)

Again, relying on memory and subject to correction, I am not aware of any matters having been put to me in terms of misappropriation and fraud such as the Leader of the Opposition used. The best way I can respond to the



member's question about any action taken by me is to say that no action was really needed other than to endorse the action already taken by the executive director of the department when he reported that some concerns had been expressed about the building management division, he had discussed them with the Public Service Commission and he proposed, on the basis of those discussions, to have a full review of the section conducted. Other than in the most general terms I have not had any interim reports. My inquiries have really gone no further than to ensure that the process is going ahead in an orderly way and, as a result of that, I really have no more detail of any complaints about the building management division than I did when the executive director first brought the matter to my attention.

**CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES  
DIVISION**

*Mismanagement Allegations - Director on Leave*

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

- (1) With regard to the Department of Corrective Services' in-house investigation into allegations of the building services division's mismanagement and other matters, will the Minister advise the House why the director of the building services division has been relieved of his duties?
- (2) Is the director of the building services division on leave?
- (3) If so, what is the category of this leave?

Hon J.M. BERINSON replied:

(1)-(3)

I believe the director of that section is on leave, but as to the nature of that process I ask the Leader of the Opposition to put the question on notice because I do not have the details with me.

**CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES  
DIVISION**

*Mismanagement Allegations - Interim Reports Tabling*

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

Will the Minister table the interim reports he has formally and informally received from the Chief Executive Officer of the Department of Corrective Services and other investigators regarding the current inquiries into the department's building services division's mismanagement, misappropriation and potential fraud?

Hon J.M. BERINSON replied:

I regret the use of the terms which the Leader of the Opposition has employed, particularly as I have already indicated that I do not recall any problem having been put to me in those terms.

Hon George Cash: You do not recall, or you have forgotten?

Hon J.M. BERINSON: Let me finish the sentence and the member will have his question answered in advance.

I accept that I did reserve the position that I may not have recalled the terms precisely, but it would be preferable for the Leader of the Opposition to show more restraint in his terminology than he has so far.

It would certainly be inappropriate to table any interim reports, even if I had any. The object of a review is to make sure that all matters are fully considered and when a report is available that it goes satisfactorily to all questions which might arise. I am frankly not sure again whether the executive director of the department first brought this matter to my attention in writing, as well as in the course of a meeting we had involving this and other matters. However, there again, I would not treat any written memo to me of that preliminary nature as appropriate for tabling, and certainly not at a

stage where the review to which I have referred is still in progress.

**CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES  
DIVISION**

*Mismanagement Allegations - Minister's Understanding of Report Preparation*

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

What is the Minister's understanding of the events that led to the report or the various reports being prepared?

Hon J.M. BERINSON replied:

Only one report is being prepared and that arises from some concern by the executive director on the basis that all procedural requirements appropriate to the building management section may not have been fully complied with. I cannot take it beyond that. Nothing has been put to me to suggest positively that they have not been complied with, but suggestions of that nature were obviously made to the executive director and led to his taking immediate action. As I have indicated, that action was taken as soon as the problem came to his notice and it has been taken in association and consultation with the Public Service Commission. For my part I am perfectly satisfied to await the outcome of the review which has been initiated.

**TEACHERS - TRADE UNION TRAINING AUTHORITY**

*Attendance during Teaching Hours*

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

- (1) Is it correct that teachers are permitted to undertake courses conducted by the Trade Union Training Authority during school hours?
- (2) Is it correct that relief staff are engaged to cover the absence of teachers attending those courses?
- (3) If (1) and (2) are correct, how does the Government justify the use of taxpayers' funds to train trade union operatives?

Hon KAY HALLAHAN replied:

(1)-(3)

I ask the member to put that question on notice and I will provide a response.

**SCHOOLS - FIVE YEAR OLDS**

*Full Time Schooling - Postponement Consideration*

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

In view of the overwhelming rejection of the proposal to provide full time education for five year old children - it should more accurately be described as education for four year old children - is the Minister prepared to postpone the implementation of that change to the education system?

Hon KAY HALLAHAN replied:

At the outset I advise Hon Eric Charlton that there has not been an overwhelming rejection of the full time developmental program for five year olds; in fact, there is overwhelming acceptance of the program.

Hon E.J. Charlton: Don't be ridiculous.

Hon KAY HALLAHAN: At one count 114 schools outside the metropolitan area -

Hon E.J. Charlton: Because you are blackmailing them.

The PRESIDENT: Order!

*Withdrawal of Remark*

Hon KAY HALLAHAN: I ask for that comment to be withdrawn. No blackmail is

involved.

Hon E.J. Charlton: I withdraw that comment; and the Minister can accept it some other way.

The PRESIDENT: The honourable member must withdraw it without any strings attached.

Hon E.J. Charlton: I withdraw.

*Questions without Notice Resumed*

Hon KAY HALLAHAN: Hon Eric Charlton indicates a certain level of anxiety about the program, and I do not understand why it is difficult for him to accept the feedback I have received. I am charged with the management of the introduction of a program which is very popular and can be made available to only one-third of students next year.

Hon E.J. Charlton: You spend too much time in your office and not enough time in the community.

Hon KAY HALLAHAN: The member is being quite unreasonable; I have been to many community meetings and at those meetings have met people who have passions similar to those of Hon Eric Charlton and who seek to dominate the other citizens at the meetings. If they succeed and members of the community do not make their wishes clear at the meeting, they queue to see me at the end of the meeting to tell me that they want the program, to thank me for introducing it and to be reassured that the program will be introduced. Members opposite should be in closer touch with the families in their electorates. I know some people do not want it, but I reiterate that this program is voluntary. No compulsion whatsoever is involved. Parents can choose not to send their children to the program for five year olds. At present 95 per cent of that cohort attend the four half-day program which operates for that age group. Parents may decide for themselves whether their children will be involved in the part time or full time programs. It is absolutely at the parents' discretion to decide what is best for their children and no pressure whatsoever is placed on parents. It is a very important program. Research indicates that children benefit from high quality developmental programs.

Hon E.J. Charlton: What about the 8 000 who are not in school at the moment?

Hon KAY HALLAHAN: That is a good point. The member asked why we are not trying to do something about the young people not having success at school today. This program is in part a very important response to that problem. If children have an opportunity to go through the discovery of learning in a fun developmental program before going into the first year of school -

Hon E.J. Charlton interjected.

Hon KAY HALLAHAN: All I can say is that members opposite look like a stupid bunch of out of touch men.

The PRESIDENT: Order!

Hon E.J. Charlton: That should be withdrawn.

The PRESIDENT: Order! I allowed the member to ask that supplementary question even though he was sitting down. I ask the Minister to answer the question relatively quickly because she is not answering the original question and when Hon Eric Charlton interjects and asks another question, she aids him by continuing with her answer.

Hon KAY HALLAHAN: I do not want to aid and abet a member who is not in touch with his electorate. He may be in touch with some of the people in his electorate but it is a fact that if children have this opportunity they are able to go to school prepared for the structured learning program and it is easier for teachers to pick up learning difficulties. The Government has made a commitment to the first steps program, an early literacy program, and

following that children will have a very good foundation for going through the years of compulsory schooling. They will achieve at school and will not want to truant and drop out.

Hon E.J. Charlton: Fairy tales.

Hon KAY HALLAHAN: This is very important. Members should not underestimate its importance for the opportunity it provides to those children or to the people who want it. I accept that some people do not want it and they will not be compelled to accept it. However, the member should not let their noisy opposition cloud his knowledge that other parents in his electorate are in favour of this program.

**CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES  
DIVISION**

*Mismanagement Allegations - Procedural Requirements not Observed*

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

Further to my earlier questions and the Minister's replies with respect to the building services division of the Department of Corrective Services, what were the procedural requirements that the Minister understands may not have been observed?

Hon J.M. BERINSON replied:

I do not have that detail. I have taken the opportunity of the few minutes since the Leader of the Opposition first raised this matter to check with the department, and I have not received any written reports either of a preliminary or interim nature. My advice to Hon George Cash necessarily depends -

Hon George Cash: Are you saying you know nothing about it?

Hon J.M. BERINSON: Of course not.

Hon George Cash: What do you know about it?

Hon J.M. BERINSON: I understand that some concerns have been expressed that administrative requirements were not satisfactorily dealt with in some respect. I will not follow Hon George Cash's bad example -

Hon George Cash: There is plenty of evidence.

Hon Kay Hallahan: Table it!

The PRESIDENT: Order! Is is the first day of the session, for goodness' sake! As I have said on many occasions, question time is the most important period in a day's sitting, and if members do not respect it there is a good possibility that they will lose it. I suggest to the Leader of the Opposition that when he asks a question, he should allow the Minister to answer it, and if he does not like the answer, he can ask him another question when he has finished.

Hon J.M. BERINSON: I have previously deplored the loose and irresponsible use of language by the Leader of the Opposition, and it was particularly unfortunate that he repeated his phrases about misappropriation and fraud after I indicated to him that I could recall nothing that supported the use of that sort of description.

Hon George Cash: I may have something that supports it.

Hon J.M. BERINSON: If he has, then by all means let me know.

Hon Kay Hallahan: He is speechless!

Hon George Cash: I will direct my next question to you to ensure that you table the documents.

The PRESIDENT: Order! There will not be a next question.

Hon J.M. BERINSON: I do not have any documents. I have just said that.

Several members interjected.

The PRESIDENT: Order! I just said to the Leader of the Opposition that he should refrain from interjecting while the Minister is answering the question. I would prefer the Minister to answer the question. I do not think the House wants a dissertation on subjects other than what the question is about.

Hon J.M. BERINSON: May I say, in fairness to the people concerned, that I have no evidence of any wrongdoing in any respect. What I have is an expression of concern by the executive director, to an extent which has led to a review. It would be much fairer to those concerned, and also much more informative to those who are interested, to await the outcome of the review to which I have referred, rather than to attempt to pluck out particular items of concern.

I would like very much to answer the original question, although I am not sure that I recall all the precise details. I think the Leader of the Opposition asked whether any question in respect of tenders was involved in the expression of concern. Yes, that was one aspect.

Hon George Cash: What about local purchase orders up to \$180 000?

Hon J.M. BERINSON: Yes.

Hon George Cash: You are aware of them?

Hon J.M. BERINSON: Yes, local purchase orders too.

The PRESIDENT: Order! I want to hear the answer too. I cannot.

Hon J.M. BERINSON: Questions about local purchase orders were also on the list of matters for review. I have no trouble confirming any of that. All I can say, though, in conclusion is that it is necessary to keep these issues in perspective and for members here to show some responsibility in the way that they approach such matters by not treating references of a most general nature in these areas as either accusations or evidence. I repeat that I have no evidence of wrongdoing. However, the review will go thoroughly into all aspects of the business services division of the Department of Corrective Services, and I have no doubt that the report, when it becomes available, will thoroughly and properly address every issue which has apparently been put to Hon George Cash, and certainly those issues which have come to the attention of the department.

# CORRECTIVE SERVICES, DEPARTMENT OF - BUILDING SERVICES DIVISION

## *Mismanagement Allegations - Select Committee Establishment; Departmental Files Tabling*

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

- (1) Will the Minister support the establishment of a Select Committee of the Legislative Council to investigate allegations of impropriety in the building services division of the Department of Corrective Services?
- (2) Will the Minister table the relevant departmental files which set out staff claims of impropriety within the building services division of the Department of Corrective Services?

Hon J.M. BERINSON replied:

(1)-(2)

I am prepared to move right now for the establishment of a Select Committee to inquire into the lack of commonsense shown by this Leader of the Opposition who, in his desperation to pluck something dramatic from our return to Parliament, starts talking about a Select Committee when an initial, orderly, ordinary run of the mill review of a department is still under way. I could imagine a call for a Select Committee if someone were dissatisfied with the report. I could imagine a call for a Select Committee if someone believed that the review was not initiated immediately. I could imagine a call for a Select Committee in all manner of circumstances. However, I am damned if I

can imagine a call for a Select Committee on this absurd, weak and, to adopt Hon Graham Edwards' phrase, wimpish notion by the Leader of the Opposition that somehow he has got to bignote himself. The answer is no. The very notion of a Select Committee -

Hon George Cash: You know a lot more than you are making out, and you know it.

Several members interjected.

The PRESIDENT: Order! I draw members' attention to the fact that I have called order half a dozen times. The next member who interjects will not have the opportunity of asking another question.

**SPORT AND RECREATION, MINISTRY OF - CAMPS**  
*No Divestment Control Assurance*

320. Hon MURRAY MONTGOMERY to the Minister for Sport and Recreation:

Will the Minister give an unequivocal assurance that his department will not divest itself of any of the camps under its control?

Hon GRAHAM EDWARDS replied:

No, because it may well be that some camps, such as Quararup, of which the member should be aware, may be divested from our control. The member should be aware also of the work that is currently being done in relation to that matter. If the need arises, I intend to investigate fully all options for good management of these camps to ensure that the public continue to get the best use out of them.

**CAMP QUARANUP - MANAGEMENT CHANGE**  
*1 December*

321. Hon MURRAY MONTGOMERY to the Minister for Sport and Recreation:

Has a decision been made or will a decision be made about Camp Quararup and about whether its management will be changed on or before 1 December?

Hon GRAHAM EDWARDS replied:

That will depend upon expressions of interest that I have sought and upon expressions of interest which are currently being assessed. It is a pity that the member who asked the question was not in Albany when I made a recent trip there and gave certain undertakings.

Hon Murray Montgomery: Perhaps you should listen to what your officers are saying.

Hon GRAHAM EDWARDS: To which officers is the member referring?

The PRESIDENT: Order! You cannot have a conversation.

Hon GRAHAM EDWARDS: I am interested to know to which officers the member is referring.

Hon Murray Montgomery: Alan Trainter.

Hon GRAHAM EDWARDS: He is a competent officer and I would be surprised if he was giving the member advice which is different from the advice that I am giving to the House. If the member is suggesting by way of interjection that I am misleading the House, I invite him to take the appropriate action.

**POLICE - CONSTITUENT'S CAR HIRE CASE, MELBOURNE**  
*Records Checked for Traffic Record - Inquiry Request*

322. Hon PETER FOSS to the Minister for Police:

The Minister will recall that I previously asked a question concerning a constituent who, when hiring a car in Melbourne, was told by the hiring people that they had checked and found that the person did not have a traffic record. In view of the recent publicity and some of the widespread allegations regarding the sale of information from Government departments, will the Minister ask the Commissioner of Police to investigate this matter again in

case it is tied in with the much wider dissemination of information?

Hon GRAHAM EDWARDS replied:

I am happy to have another look at the case but I do not want to give an answer publicly that might put the constituent in a situation that I would not prefer. I invite the member to discuss the matter with me, although I am happy to pursue it. It is up to the member.

**CAMP QUARANUP - MANAGEMENT CHANGE**

*1 December*

323. Hon MURRAY MONTGOMERY to the Minister for Sport and Recreation:

I will quote from the interview. It indicates that a question was -

The PRESIDENT: Order! The member is not allowed to make statements. He must ask questions.

Hon MURRAY MONTGOMERY: Is the Minister aware of an interview conducted by an ABC journalist with Mr Alan Trainter during which a question was asked whether Quaranup camp would be transferred and whether the changeover date was 1 December 1992, and where the answer was, "Yes, we are aiming for that date around the end of the year"?

Hon GRAHAM EDWARDS replied:

There is no conflict between what the member read out and what I said earlier. I have made no decision. My answer is the same as the last answer. I have made no decision, neither has the department.

**MEDICAL TREATMENT OF THE DYING - LEGISLATION PRESENTATION  
DATE**

324. Hon DERRICK TOMLINSON to the Attorney General:

Can the Attorney inform the House when the Government expects to present legislation relating to the medical treatment of the dying in the light of the recommendations presented in February 1991 by the Law Reform Commission?

Hon J.M. BERINSON replied:

No decision has been made by the Government which would allow me to provide a timetable of that sort.

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