Legislative Council

Tuesday, 18 September 1990

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

DIRECTOR OF PUBLIC PROSECUTIONS BILL

Instruction to Standing Committee on Legislation - Appointment of Director

HON E.J. CHARLTON (Agricultural) [3.38 pm]: I move -

> That it be an instruction to the Standing Committee on Legislation that it have power, in any reconsideration of the Director of Public Prosecutions Bill 1990, to inquire into and report on the method by which the director shall be appointed.

The method of appointment of the Director of Public Prosecutions has been considered by this House and by the Standing Committee on Legislation for a long period. A decision has to be made. The Opposition believes that this House should authorise the Legislation Committee to make a further determination on this matter; that it should inquire into and report on the method of appointment of the Director of Public Prosecutions. The debate on the Bill has centred on the appropriate manner of his appointment. The committee has met already and resolved many aspects of the position.

A Director of Public Prosecutions is required in this State and we are as one about that. The difference is about how that person should be appointed. We are aware that the Government's position is that the appointment should be made in the usual manner. However, some concern is held about other people having an input and about the term of the appointment. The responsibility for that decision should rest with the Legislation Committee, which should inquire into and report on the method by which it thinks the director should be appointed.

Debate adjourned, on motion by Hon Fred McKenzie.

TOBACCO BILL

Standing Committee on Legislation - Thursday, 27 September, Report Tabling

HON E.J. CHARLTON (Agricultural) [3.41 pm]: I move -

> That the Standing Committee on Legislation report by or on Thursday, 27 September 1990 on the Tobacco Bill 1990.

The passage of the Tobacco Bill has received much inaccurate publicity in recent times. The Government has made a series of public statements placing the onus for the passage of this legislation fairly and squarely in the hands of the Liberal Party and the National Party. Anybody who knows anything about this matter knows that is not the truth of the matter. Without going into a long dissertation, the passage of this legislation commenced more than 12 months ago; the legislation did not reach the Legislative Council until the end of last year. It then made slow passage to reach this House again during the last session. Debate commenced on it in this Chamber a couple of weeks ago.

The Legislation Committee is now considering that Bill and taking submissions from interested parties. This is the way things should have happened a long time ago. The obvious conclusion is that the committee is doing what it ought to be doing. We do not want it to be seen that this Bill is locked into that committee. We will do everything possible to ensure that the committee deals with the Bill efficiently and promptly and gets it back to this Chamber by Thursday, 27 September, so that a final determination can be made to allow it to be implemented and so that the Government cannot say to the 40 bodies involved that it is sorry it cannot give them the money because the Opposition is delaying the Bill.

We wish to ensure the report is tabled in this House no later than 27 September. There is absolutely no reason why the committee should not give this legislation total priority or take evidence from interested parties, many of whom hold severe concerns about where they will be placed as a consequence of its coming into operation. No-one questions the banning of the advertising of cigarettes, but that is not what is being considered now; we are considering

the fact that we want this Bill back before this House as soon as possible and are suggesting 27 September, at which time this House can make its final determination on the Bill, thereby doing something it has been waiting to do for a long time.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [3.45 pm]: I second the motion and support the proposition put by Hon Eric Charlton. There would have been no need for this motion except for the malicious and false statements this Government has made about the carriage of this Bill.

Point of Order

Hon KAY HALLAHAN: I rise on a point of order.

Hon George Cash: There is no point of order.

Hon KAY HALLAHAN: The Leader of the Opposition has checked the language, has he? I ask for withdrawal of the words "malicious" and "misleading" statements. The Government has made no malicious or misleading statements.

The DEPUTY PRESIDENT (Hon J.M. Brown): There is no point of order.

Debate Resumed

Hon GEORGE CASH: I reaffirm that there would have been no need for this motion had it not been for the malicious and false statements put about by the Government in which it alleged that the Opposition was holding up this legislation. That has never been the case and those malicious and false statements have been no more than a point scoring exercise in an attempt to hide the fact -

Hon Kay Hallahan: Try the truth.

Hon GEORGE CASH: - that the Government has seized at least $5 million it had earlier promised -

Hon Kay Hallahan: If you delay it, there will be another $9 million.

Hon GEORGE CASH: - to give sporting bodies in this State. The Minister now confirms that a further delay - and not at the hands of the Opposition - would suit the Government because it would be able to grab another $9 million.

Hon Kay Hallahan: I did not say it would suit the Government if the legislation did not go through.

Hon GEORGE CASH: It is important to recognise the good work done by members of the Legislation Committee. It should be noted that that committee has taken prompt action on the referral of this Bill.

Hon Kay Hallahan: So it should.

Hon GEORGE CASH: It has already started hearing evidence from interested parties and I hope will be able to meet the deadline set by Hon Eric Charlton.

Hon Kay Hallahan: Do you think it can?

Hon GEORGE CASH: It may be that one of the pressures or problems faced by the Legislation Committee, along with other Standing Committees of this House, is that the Government is not providing adequate resources for them. However, that is another story for another day as today we are dealing with the Tobacco Bill and the false and malicious statements this Government has been putting about.

Hon Kay Hallahan: Lies from Mr Cash.

Hon GEORGE CASH: This Government specialises in putting out that sort of malicious propaganda. The sooner it ceases the better off the community will be. It will then understand that this Government attempts to cause a perception in the community that is quite different from the reality of the situation.

Several members interjected.

Hon Kay Hallahan: Rubbish, rubbish, rubbish!

The DEPUTY PRESIDENT: The question is that the - Order! I try to give every member an equal opportunity to speak during debates. All members have the right to stand and

speak, if they wish to. However, it is disgraceful that conversation occurs in this Chamber when I am putting the question. I expect respect from both sides of the House. I will not tolerate the sort of behaviour that has taken place in the early part of this session, and I ask members to note what I have said.

Debate adjourned, on motion by Hon Fred McKenzie.

MOTION - ROAD TRAFFIC (DRIVERS' LICENCES) AMENDMENT REGULATIONS

Disallowance of Regulations

HON E.J. CHARLTON (Agricultural) [3.50 pm]: I move -

> That the *Road Traffic (Drivers' Licences) Amendment Regulations 1990* published in the *Gazette* on 3 August 1990 and tabled on 21 August 1990 be, and are hereby, disallowed.

I will address this motion in particular but it is in tandem with the motion listed as item No 4 on the Notice Paper, relating to the Road Traffic (Infringements) Amendment Regulations (No 4), because they are directly related. A false situation has developed in this State in respect of road safety, and it is time that this Government was shown up publicly for what it is really doing; that is, directing its legislative process towards ways of obtaining extra revenue and penalising certain groups within the community. This applies also to the motion we debated earlier related to the Tobacco Bill, where the Government is seeking to redirect money at the expense of certain groups within the community.

The road traffic regulations with which I am concerned make it illegal, among other things, to exceed the speed limit by between one and 15 kilometres an hour. The penalty is the loss of one demerit point and a fine of $50. That compares with the previous situation where if a person exceeded the speed limit by between one and 10 kilometres an hour the penalty was a fine of $25. This change will turn the traffic police into nothing more than revenue collectors. How can the police enforce a sensible road safety policy when they can turn around and give a person who exceeds the speed limit by one kilometre an hour, or more, an infringement notice? There is no justification for the traffic police to do that because that action will do nothing to improve road safety.

Hon T.G. Butler: How fast do you think people should drive?

Hon E.J. CHARLTON: For those who did not hear that interjection -

Hon George Cash: Don't embarrass him!

Hon T.G. Butler: Don't worry about embarrassing me.

Hon E.J. CHARLTON: That was one of the member's most ridiculous and irresponsible interjections.

Hon T.G. Butler: You are being irresponsible. Tell me how fast you should be able to drive before you attract a penalty?

Hon E.J. CHARLTON: I said in the first place - and obviously the member was not listening - that previously a person only attracted a fine if he exceeded the speed limit by between one and 10 kilometres an hour. These regulations double the fine and also impose the loss of one demerit point. We are not talking only about a person who is doing 111 kilometres an hour in a 110 kilometre zone but also about a person who is doing 31 kilometres an hour in a 30 kilometre zone, or whatever the speed limit may be in a restricted area. The speed limit may be imposed on a temporary basis, and motorists may not even be aware of it. It is all very well to say that is the law and that if a person exceeds the speed limit by one kilometre an hour he should pay the consequences, but all too often I have listened to stupid interjections from members opposite which show that they are totally at odds with the real life situation.

During the weekend a couple of people mentioned to me that they had been apprehended by the traffic police and issued with an infringement notice for an action as paltry as exceeding the speed limit by one kilometre an hour. This regulation has absolutely nothing to do with road safety. The traffic police are simply using the law as a vehicle to collect revenue. No

one is arguing that we do not need to set maximum speed limits for particular circumstances, but for the police to apply the law in this way is nothing more than a revenue raising exercise. That is how the public perceive it. The police and the public should be moving closer together and working together for the good of the community, but they are being driven apart because of stupid regulations such as these.

Were it not for the astuteness of some people in realising what is going on we would not have known that this is what the Government has done. Can members imagine how a motorist feels who is pulled over and told by a traffic policeman that he has exceeded the speed limit by one kilometre and will therefore be fined $50 and lose one demerit point? That is the sort of situation members opposite must reflect on before they make any comments about "the law is the law and we have got to be responsible and implement road safety policy". The Government and the Opposition could do a hundred positive things to improve road safety and save lives, but this is not one of them. We intend to put the matter fairly and squarely back in the hands of the Government. If the Government wants to be sincere and honest about road safety and the control of traffic it should have another look at these regulations and make some changes to them.

I repeat that if we continue in this way not only will that section of the Police Force be turned against the public but also we will be placing almost every other member of the police personnel in the same category. I say that because, when motorists are pulled aside in those circumstances, it is very hard to distinguish whether the patrol officer who is carrying out the law is interpreting the law simply on his own or in line with what I have suggested - that is, from above; and I do not mean high above, I mean people either in the Government or in the Police Department - for some obscure reason, and I suggest it is financial, rather than the real cause.

If we want a responsible Police Force carrying out a very important responsibility for the good of the community we will not support these regulations which currently exist but will disallow them and ask the Government to come up with something better. We have a few suggestions to put which could meet the satisfaction of the community at large and also do something positive about road safety.

Debate adjourned, on motion by Hon Fred McKenzie.

MOTION - ROAD TRAFFIC (INFRINGEMENTS) AMENDMENT REGULATIONS (No 4)

Disallowance of Regulations

HON E.J. CHARLTON (Agricultural) [4.01 pm]: I move -

> That the Road Traffic (Infringements) Amendment Regulations (No 4) 1990 published in the *Gazette* on 3 August 1990 and tabled on 21 August 1990 be, and are hereby, disallowed.

I will be brief, as I said earlier that I would combine both of these disallowance motions because they are closely related. While the first motion dealt with licences and was related to demerit points, this motion relates to dollars and the consequence of those provisions being inserted for the reasons outlined, which we think are totally unacceptable. For that reason we will proceed with our intention to have these regulations disallowed.

Debate adjourned, on motion by Hon Fred McKenzie.

VIDEO TAPES CLASSIFICATION AND CONTROL AMENDMENT BILL

Second Reading

HON KAY HALLAHAN (East Metropolitan - Minister for The Arts) [4.03 pm]: I move -

> That the Bill be now read a second time.

The purpose of this Bill is to facilitate national uniformity on key aspects of videotape classification and to provide increased protection for children.

Over the past 18 or so months, the Commonwealth, the States and the Territories have considered changes to the national scheme for videotape classification following the release of the report of the Joint Select Committee on Video Material and a review of the policies and practices of the Commonwealth Office of Film and Literature Classification, which incorporates the Film Censorship Board and the Films Board of Review. Three of the items provided for in this Bill have national application and have been agreed to by the Standing Committee of Ministers responsible for censorship. The Commonwealth has amended its legislation and other States and the Northern Territory are proceeding with their requirements. An additional amendment which is not related to the national classification scheme but concerns child pornography is an initiative of this Government.

Firstly, the Bill provides for there to be clearer and more informative marking, advertising and consumer advice requirements for all future video releases. The new provisions will require the inclusion of consumer advice on all videotapes above the G classification. More information is to be made available about the content of videos to allow those intending to view them to make more informed choices. There will be advice to inform viewers, and parents in particular, of the stronger elements which warrant a certain classification. Additional information will also be provided about age suitability. The censor will be able to determine the size and form of the markings. The issue of a national determination will allow the inclusion of more detail than is generally found in regulations and will ensure uniformity of advertising and labelling throughout Australia.

Secondly, the requirement to publish classification decisions in the *Commonwealth Gazette* will be removed. The existing legislation in some States, including Western Australia, provides that a decision of the censor takes effect from the date of publication in the *Commonwealth Gazette*. Gazettal is costly and can take up to eight weeks for decisions to be published and therefore become effective.

In addition, gazettal does not provide easily accessible or up to date advice on classifications to the industry or to the general public. The need for gazettal has also caused problems with prosecutions where previously unclassified videotapes are involved. The existing gazettal requirement can sometimes overtake the time limit on proceedings.

By this national amendment, the system will be standardised so that the date of classification will be the date the certificate is signed by the censor. Advice of all classification decisions will in future be available on a Telecom electronic information service. The database of the Film Censorship Board is to be made available to Telecom which will then provide immediate on line access for State and Federal Governments, police, customs, industry and the general public to a permanent, up to date record of all classification decisions.

Thirdly, the censorship board will be able to review a classification decision made by it or by the review board. This will enable the board to react to public concern and to act where there has been a change in community attitudes. The Commonwealth Attorney General will be able to direct the board to review a decision at any time.

Any request from a State Minister responsible for censorship for review of a classification would be automatically referred to the board by the Attorney General. This will ensure that any decision by the board has Australia wide effect and is not restricted to one State or Territory. The censorship board will be able to review a previous decision of its own motion after two years. Any decision resulting from a review can be subject to appeal.

These three amendments are based on changes already made to Commonwealth legislation which has been used by the States as a model. The implementation of these legislative changes has the full support of the video industry and will strengthen the national scheme for videotape classification and control. The changes will also provide considerable improvements and assistance for the public.

Finally, a small but significant amendment, which provides increased protection for children, has been included in the Bill. At present, there is a six month limitation on proceedings involving child pornography. This limitation will be lifted so that prosecutions involving child abuse videotapes may be brought at any time.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

FINANCIAL ADMINISTRATION AND AUDIT AMENDMENT BILL

Second Reading

Debate resumed from 23 August.

HON MAX EVANS (North Metropolitan) [4.08 pm]: I support the Bill but wish to make a few comments in respect of it. The second reading speech made by the Minister for Planning commenced -

> Within the overall framework outlined in the 1986 White Paper "Managing Change in the Public Sector", the Government has made wide-ranging structural adjustments to the public sector. Initiatives have included the introduction of corporate planning throughout the public sector and the planned implementation of program management from 1 July 1990 across Consolidated Revenue Fund Budget dependent agencies.
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> A major initiative, the Financial Administration and Audit Act, which came into operation in July 1986, made substantial improvements to the law relating to financial management, annual reporting within the State public sector and the role of the Auditor General with regard to the audit of departments, statutory authorities and the Treasurer's accounts. This legislation brought Western Australia to the forefront of public sector administration.

That is absolutely true. The research into and development of the Financial Administration and Audit Act, or the FAA Act as it is commonly known, began before this Government came to office. As I understand it, the Act was based on the Queensland legislation and was intended to improve the accounting standards of statutory authorities, particularly with regard to proper accounting and recording of information. The Act included requirements made by the public sector accounting standards board to use accrual accounting.

I compliment the way Auditors General, Mr Bill Rolston and Mr Alan Smith, have worked assiduously to implement all that is included in the FAA Act and to bring this to the notice of Ministers and to the public through the Auditor General's report.

The problems with performance indicators have not been properly addressed in the amendments to the FAA Act. The Auditor General has said that performance indicators are very hard to ascertain. It is difficult to ascertain whether they are the right indicators and whether they really do apply. I attended a seminar two or three years ago conducted by the Royal Australian Institute of Public Administration which discussed this issue. Further research needs to be carried out in order to explain this matter. It is difficult to make a requirement in the FAA Act which refers to performance indicators. The Auditor General must report on these performance indicators. It is very difficult in some departments, such as the Department of Multicultural and Ethnic Affairs, to decide what the performance indicators shall be. It is hard to determine whether figures on how many people learnt English, how many books were purchased and how many people made inquiries of the department are performance indicators. These figures may be indicators of something, but not of performances. Performance indicators are also like statistics, which may or may not give a good answer. When the Auditor General says that it is very hard, for him and his staff, to say whether those indicators are right or wrong -

Hon J.M. Berinson: Is not the beginning of the difficulty with some departments their not having their work amenable to this sort of description?

Hon MAX EVANS: That is the point I am making. The FAA Act requires a report on every single department. I do not know whether there is a regulation to alleviate that requirement. At the moment, the Auditor General simply qualifies the accounts and says that he cannot report on them. That being the case we always understand it, but it needs to be looked at.

Hon J.M. Berinson: Do you not think that might be the only practical way of approaching it? The only alternative would be to appear to exempt certain groups altogether.

Hon MAX EVANS: The Auditor General is saying that he cannot do much about it. However, he is again in a difficult situation. Some performance indicators may not exist. I know some departments are trying to use outside consultants to arrive at good performance indicators. It is one thing to decide to have one type of performance indicator but to include that in a program budget or a management system without too much statistical or arithmetical work would be difficult. After all, it can be a nightmare just to gather performance

indicators. They might not show anything more than what a good chap somebody is. If the performance indicators result in bad figures they might not be used. It is a bit like deaths on the road. If the figures for deaths on the road are too high the statistics may be changed to show the figures of all those people who missed dying on the road. Statistics can be used to create a false figure. That is one aspect that has not been addressed at this stage. It was discussed at the conference two or three years ago and the Auditor General has made his own comments on it. He may like to express his opinion before he retires on 11 October.

Accountability will, to a certain degree, be improved by this Bill. The terminology for the chief executive and accounting officers will be changed. I accept that, because different terminology is used in different departments.

Another thing that has not been addressed is that the Auditor General has made many qualifications. I do not think we have ever had so many qualifications made before. There has been so much reporting on bad accounting procedures and bad ministerial decisions over the past few years. The 1987, 1988 and 1989 accounts are examples of this and there has been very little debate on it. No comment has been made about these procedures. There should be a time of reckoning when the Minister in charge of the State Government Insurance Commission is made accountable for these qualifications. The State Government Insurance Commission unaudited accounts showed a profit of $48 million last year and by the time the Auditor General completed two pages of qualifications to the accounts he knew that that amount had been wiped out; it did not exist. The chairman of the board kept republishing the figure of $48 million profit in Press releases, particularly when people were criticising him. When departments and authorities' accounts are qualified, these figures should be looked at.

This House considered some time ago the matter of petitions that are presented to this House. Petitions are often received and nobody ever knows what happens with them. Members suggested that perhaps there should be a follow-up procedure for petitions. This is minor compared with having the Auditor General refer to departments and authorities which have qualified audit reports. Public companies must have meetings of shareholders, and directors must be accountable to those shareholders. Accountability should exist within departments. The Treasurer is a shareholder in the State Government Insurance Commission and she should be considering that problem and compiling a report. There must be far greater accountability for qualified accounts by the Auditor General in the hope that better accounts will be obtained.

Hon J.M. Berinson: Given that some qualifications would be more substantial than others, would this be the sort of thing that could reasonably be taken up by the Standing Committee on finance on the basis that it would apply itself to pursuing important matters that have been raised or the more important matters that have been raised? I think that would be preferable to imposing a new procedure on every department or authority which has any sort of qualification expressed.

Hon MAX EVANS: That is another way around the problem and it is a good point. It would be useful if the committee could discuss that. In the past people should have been made accountable for what was happening. Many doubts were raised when we read the qualifications released relating to the Government Employees Superannuation Board's sale of properties, and the Office of Government Accommodation's guarantees to pay rents in the Westralia Square property. Many questions were never answered. The Government simply read what the Auditor General had said and no-one was made to account for the matters raised. That should not have occurred. Directors of public companies must face up to shareholders. They may have the proxies to guarantee their re-election but they must face and answer questions by the shareholders. Directors are the trustees of shareholders' money. The Government is the trustee of the taxpayers' money. There has been no accounting for what the Government has done.

The Bill contains secrecy provisions and why certain things can and cannot be carried out. This worries me greatly and I will follow up the issue at a later stage. The Westralia Square contract included a secrecy agreement which stated that the balance of $180 million owing would be interest free. That involved an amount of $90 million payable on 31 December 1989 and $90 million payable on 31 December 1990. This was also revealed in the accounts by the Auditor General. The board could not release that information because the secrecy

provision did not allow it, but the Auditor General revealed it. It was only in the following year that the Government Employees Superannuation Board accounts informed us that the purchaser of those properties had the right to extend the repayment of the debt to 1995 at a very favourable rate of interest. That was not shown in the SGIC accounts. The commission did not tell us that it had turned a current account liability into a long term liability. By switching from one to the other it blew up its whole balance sheet. Had the commission been operating under the jurisdiction of the Corporate Affairs Department, somebody would have been gaoled, but the commission got away with it.

The Auditor General makes statements which are highlighted in this place but which are rarely reported by the Press; I accept that they are not financial journalists and do not understand the situation. It is blatantly dishonest when two public corporations have interests in Westralia Square; one with a 72 per cent interest and the other with a 28 per cent interest. The Government Employees Superannuation Board, which held the 28 per cent interest, tells the facts - that the debt can go to 1995 at a favourable rate of interest of one per cent above the Australian merchant bankers' rate for 90 day bills, which is two per cent below the prime rate of banks. The SGIC did a $180 million deal on the Westralia Square property, but we did not hear that from the commission. We understand that only because the Auditor General forced it to come out. We were told that the commission could not inform us because of secrecy. We are told there are secrecy qualifications under different Acts. We have found one or two errors which have slipped by. How many more errors are there?

In the last couple of weeks we discovered the truth about who made the decisions about the deals to buy Bell shares, BHP shares and city properties. More secrecy agreements will probably come out. I am particularly concerned with Central Park development which has a put option agreement for the Government Employees Superannuation Board to buy back from Warren Anderson. There is no mention of a $5 million fee to buy back Mr Warren Anderson's interest in Central Park for which he paid $57.5 million in the accounts to 30 June 1988. It should have been shown as a contingent liability. This has come out of the papers that the Attorney General kindly tabled in this House on 1 May.

Hon J.M. Berinson: Was that not one of the matters raised by the Auditor General?

Hon MAX EVANS: No, he did not raise this one. The put option came out of those other agreements. The Government Employees Superannuation Board agreed to pay Mr Warren Anderson a $5 million management fee of which $1.5 million was paid up front. At the same time Mr Anderson would give the board a $5 million put option to sell back to the Superannuation Board. This gave Mr Anderson first right of refusal, but it should have been a contingent liability showing that Mr Anderson was owed $3.5 million - the difference between the $5 million fee and the $1.5 million paid up front. The Auditor General is only as good as the information which is given to him. The board has to be honourable and honest and put what is happening up front. A lot is still lacking, not solely through distortion or misrepresentation of facts, and it results from a lack of knowledge of accounting principles and standards.

In the first year of the operation of Exim Corporation the accounts were presented in a fairly normal manner, but in the second year the accounts had two pages of qualifications. The Auditor General and the Exim board had difficulty applying public accounting standards to handle all the funny deals that were done in 1987-88, and as a result qualifications were made to the board's 1988-89 accounts. It was not deliberate distortion but a lack of knowledge. Some of the larger departments need better advisers who have more accounting knowledge. The accounting officers of these departments and statutory authorities must understand the accounting standards and must be fully aware of what is occurring. These officers often sign the accounts without realising what they are signing.

The Auditor General has changed this trend in the last couple of years by reinforcing the importance of the FAA legislation. The Auditor General has a great sense of responsibility and dedication. It is very sad that he will be leaving on 11 October, which is before the completion of his report on the accounts up to 30 June 1990. He came into the job in November 1987. In three years he has done two years' accounts and has broad knowledge and experience. It is a pity he is not staying on to complete this year's accounts as he has so much to offer. I can imagine the problems the Auditor General faced with qualified

accounts. He takes on public boards with qualified accounts and tells them that they have not been doing things properly, that the figures are not right, and that they have taken too many private things upon themselves.

I know of a managing director who went to gaol for two years. It took the auditors two years to sort out the matter, to qualify the accounts, and to get the Corporate Affairs Department alongside, but something did eventually happen. The poor old Auditor General must be distraught when he finds these problems and lists these terrible deals. The managing director who I mentioned lost $350 000 of shareholders' money. Today the fraud squad would not investigate his case because the amount is under $5 million and it would not be worth their looking at. This poor chap spent two years in Karnet - he looked after the gardens very well - for losing $350 000 from a public company. We have seen taxpayers' money being lost, yet the Auditor General - I know this from discussions with him - when dealing with qualified accounts must get legal opinions about what he can say. He has problems in respect of what he can say because of secrecy agreements. Why can information appear in one set of accounts and not in another? It is because of secrecy. Secrecy is a wonderful thing!

We find out more about secrecy in the McCusker report. It is very hard to do a job properly if all the facts are not given. I will quote Hon Kay Hallahan's second reading speech in respect of the Financial Administration and Audit Amendment Bill. She states -

> I should point out that the Government determined not to proceed with the commission's recommendation that the FAA Act be amended to limit the powers of subsidiaries on the basis of Crown Law advice that a statutory authority which establishes a subsidiary for purposes other than those of the statutory authority would be in breach of its powers.

There has been a problem with subsidiaries going back to Western Australia Exim Corporation Limited. It had a lot of subsidiaries without reference to the Trading Concerns Act, which were not audited by the Auditor General. No-one could really look into all the deals there. It has been recognised that there must be better control over subsidiaries. Legislation was passed on this matter last year. She continues -

> The purposes of this Bill are to -
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> 1. give effect to the Burt commission's recommendations in respect of secrecy - that is, contractual confidentiality - and reporting on related bodies;

I do not think that goes far enough. I see the limitations we have and we must look at secrecy. When is secrecy really important? That question arose when the report of the Select Committee on Western Collieries could not be tabled because it referred to the price per tonne of coal being paid by the State Energy Commission to Western Collieries. I accept the need for secrecy in relation to agreements which could give a benefit to someone else if they knew the price being paid. How could the State Government Insurance Commission say that secrecy should be applied to an agreement with Mr Packer and Mr Anderson which gave them special terms; interest free $90 million loan over 18 months and $90 million over two and a half years; with the balance of the purchase price extending to 1995 under other special terms? Surely that cannot be kept secret from the public - unless there is the need to keep secret the fact that the SGIC did such a bad commercial deal. It is so hard to discover all the information on something like that. There are degrees of confidentiality, and some I accept.

In the old days at Kwinana the oil price was always a touchy subject with the Government. I do not believe that Mr Packer and Mr Anderson needed the protection of secrecy about that interest free money.

Hon J.M. Berinson: I can follow the reservations you are expressing, but are you saying that these problems have not been closed off by the combination of legislation passed so far or as appears in this Bill?

Hon MAX EVANS: Yes. I am not certain what will happen in future. The latest accounts I have are to June 1989, and it appears that one statutory authority has said one thing while another statutory authority has not provided the information on the same deal. I understand in one case it was not reported because of the secrecy provisions.

Hon J.M. Berinson: I do not have the details in my head, but my impression is that we have now precluded that sort of agreement from being entered into in the future.

Hon MAX EVANS: That may be the case. I suppose that publication of the details of that particular deal made in June 1988 will depend on whether the amendments to the secrecy provisions, following the Burt Commission on Accountability, are retrospective. I understand that the Auditor General could also bring this matter into the open. The Opposition has discovered more information from various documents. For example, information on the put option was not made public anywhere.

Hon J.M. Berinson: With regard to any future arrangements, are you saying that those possibilities will not be precluded for future deals?

Hon MAX EVANS: The second reading speech referred to certain reservations with regard to secrecy provisions. I have not had time to obtain other opinions on this matter, but this matter should be examined. The Opposition accepts that the legislation has been considered by a number of people in an attempt to improve this area generally. Of course, some of the proposed amendments are merely cosmetic changes while some are major changes, and limitations are placed, for example, on ministerial statements. I am trying to point out that the secrecy surrounding these matters has been responsible to a large extent for what has happened. The Opposition has managed to find out certain information, but it does not know the whole story.

For example, why did the State Government Insurance Commission put money into United Credit Union Limited, which was passed on to Rothwells? I do not know whether the Auditor General was aware of that, or whether an outside auditor dealt with those accounts. There is some doubt about the interpretation of the Act and whether the SGIC was complying with the legislation when it invested that money. A change was made to the regulations to the effect that any matters relating to the commission had only to be referred to the Minister. That changed the rules of the game, but no-one knew about that until six months ago. The second reading speech also refers to -

> . . . the liability assumed by all those who exercise authority to account for the manner in which they have fulfilled the responsibilities entrusted to them.

That emphasises the great need for the Foss legislation, which relates to the liability and accountability of directors for their actions. They must be accountable not only for fraudulent acts, secret commissions, and that kind of thing; they must also be accountable for their use of the funds. In public companies, directors who do not perform well are sacked or the company is taken over. However, with the statutory authorities, deals have been glossed over and that is part of this whole problem. The statutory authorities in this State, particularly the Superannuation Board, have done some very strange deals. That board quite rightly accepted a report from Price Waterhouse that it could quite legally invest its money in a registered trust. The Superannuation Board investment trust could put money in any yahoo company on the second, third or fourth boards. It was told to invest its money wisely, because to that date it had been obtaining only a 16 per cent return on its funds, tax free. It was told to take a risk and to invest on the first or second board, in new companies or in unauthorised trustee investments. It was told it would make a lot of money by taking those risks. By the time I caught up with the situation, those activities had been going on for three years. During that time no audited accounts had been produced, and nothing had been lodged at the Corporate Affairs Department. A total of $49 million had been put through the conduit into the "rough" market.

I received the figures on 1 April, and three months later at the end of June the Superannuation Board investment trust had invested $98 million, less approximately $5 million invested in Halls Head. Nothing was done about this matter and the Superannuation Board was told that it could legally invest in these deals. That board was appointed by this Government and it knew it could invest only in authorised trustee investments. As a result of its unwise investments it lost between $50 million and $75 million.

In October 1982 we were told that the Motor Vehicle Insurance Trust was receiving a poor return of only 15 per cent on its investments. However, Mr Rees has now said that SGIC is receiving the wonderful return of 8.2 per cent. That money could have been left in the

Commonwealth Savings Bank, where it would have earned nine per cent. We are now supposed to applaud the SGIC and say what a wonderful job Mr Rees is doing by achieving a return of 8.2 per cent. How good a job are these people doing? The Government should be jumping up and down about this situation.

Hon Peter Foss: And sack the lot.

Hon MAX EVANS: That organisation had $1 000 million last year and its return was only 8.2 per cent. One could say that it has achieved some capital growth; however, there will be little capital growth in the Westralia Square site until the building is fully leased. To date only half the building has been leased to Government departments. The rents must be much higher unless these departments have a rent free deal and the Government can capitalise the cost on the building. This relates to the whole question of liability. The sooner the Foss legislation is enacted, the sooner people will start to worry about carrying out the jobs they have been given. The directors of the Superannuation Board, the SGIC and others are paid to do a job and they should be accountable for doing that job.

I could go on about the directions by the Minister and the secrecy provisions, but I think I have made my point already. These matters must be carefully scrutinised and the directors must be accountable. Perhaps the Government should have given stronger backing to the Auditor General in the past few years by making Ministers more accountable. Perhaps the Government does make its Ministers accountable. I would get a very warm feeling if I learnt that Ministers were accountable to Cabinet and that they were required to answer questions about the matters raised by the qualified accounts of the Auditor General. I would like to think that Ministers stand in Cabinet, provide explanations for these audited accounts and take responsibility for them, as expected under the Westminster system. Of course, all these people should be accountable to Parliament.

Another aspect that is not mentioned in the legislation is proper and true accounting. The problems that have arisen have resulted from a false picture being painted. The intent of liability and true and proper accounting has not been adhered to.

I refer now to LandCorp. That organisation took over all the properties of the Urban Lands Council, the R & I Bank and others. It took a long time to get the final accounts of the Urban Lands Council for the year it was taken over by the Western Australian Development Corporation. It sold land worth $30 million, which had been held for many years, at a loss of $1 million. In the first six months of operation the WADC sold $17 million worth of land and made a net profit of $5.4 million. That was false accounting; it was a false transfer of profit from the Urban Lands Council to WADC. There is no way that the people at WADC were such geniuses or so lucky that they could make a 33 per cent net profit on the sale of land within six months of taking it over from the Urban Lands Council, unless the WADC got the land as a gift or at cost from the Urban Lands Council.

In the next 12 months the WADC made $17 million profit on $45 million sales, which, from memory, represented a 38 per cent net profit. LandCorp made $22 million net profit in 18 months. It picked up all these assets from Government departments or the Urban Lands Council. That is blatantly dishonest accounting; it is trying to distort the facts so that it is not possible for the public to know what is going on.

This is only one of the things we picked up. With the limited research staff I have, I only pick up one here and there, and for every one I pick up, another nine might be missing. These have been the accounting standards of this Government for years and years. The WADC had a great image, with a third of its profit coming from LandCorp. In one year it made $5.4 million on $10.5 million, which came from land sold at a very favourable price. The next year was better - or worse; depending on from which side one looks at it - a profit of $17.4 million and a total of $22.5 million came from LandCorp. That gave a wonderful image of how well LandCorp had done. The total profit over six and a half years was $75 million. Of that, $22.5 million came from LandCorp as a result of distorting the facts about the transfer of land. These things should have been picked up as a result of changes to the Financial Administration and Audit Act, and by honest and proper accounting standards.

In the United Kingdom, income and expenditure and capital expenditure figures are on the same page of the budget so that one knows the total amount of money going to education or to health. One does not have two books such as the Consolidated Revenue Fund and General

Loan and Capital Works accounts. We should amalgamate those accounts into one consolidated cash book. There is no real reason why they should be kept separate; we are working with straight out cash.

It is amazing that the railways are still part of the Consolidated Revenue Fund. Revenue and expenditure comes under the Consolidated Revenue Fund. Westrail has a revenue of roughly $295 million, and it comes under the Consolidated Revenue Fund. It is like having the R & I Bank there. Why do we not also have the revenue and expenditure of the R & I Bank and SECWA in the Consolidated Revenue Fund? The railways should be separated from CRF as are the R & I Bank and SECWA. Hon Fred McKenzie made a very good speech about the cash book or banking accounts of the railways. That system of accounting had gone on for so long it was an anachronism. It has only just been corrected in recent times.

We must draw a distinction between the current outlays such as wages of teachers and capital outlays for the building of schools. It is not often realised that the General Loan and Capital Works Fund contains a lot of capital expenditure. A lot of capital expenditure goes through the Consolidated Revenue Fund, and it always has. No distinction is drawn; it just seems to depend on how the Government, of whatever colour, wants to balance the books. If there is to be a large surplus, it is put through the Consolidated Revenue Fund. If the surplus is limited, it is put through as a loan fund and the Government borrows on it. That is basically wrong, but it has been going on for years.

That is one of the reasons why Sir Charles Gairdner Hospital is now required to have a balance sheet and profit and loss statement. Sir Charles Gairdner Hospital does not have a balance sheet because when it was built the cost was charged to the Consolidated Revenue Fund. The cost of construction was not capitalised. Today we cannot work out what was the capital expenditure on construction. One rules off the cash book; one does not consolidate or add those figures together to find how much the hospital has cost over a period of time. These matters must be addressed under the Financial Administration and Audit Act. We must have more respectable accounting standards. If we amalgamated the Consolidated Revenue Fund and the General Loan and Capital Works Fund, that would help to achieve respectable standards.

The Financial Administration and Audit Act should contain some requirement for estimates of statutory authorities to be made more public. The ruling has been changed, but it says that the estimates shall be prepared. About three years ago the Auditor General referred to the fact that the State Energy Commission had not prepared proper budgets for some 18 months to two years. It was flying blind without a map. There should be a provision in the Financial Administration and Audit Act which demands that all statutory authorities shall produce budgets, just as departments are required to do. An example would be the Main Roads Department. Its income might be dependent on a grant or something, but its budget could be subject to approval in the Budget. At least we would have some understanding of what is going on. Program budgeting is coming in. How soon will we have four year Budgets? That would be for the term of the Parliament plus one year, and it would make it easier for departments to know what money they will have.

Borrowings by public trading enterprises should require the approval of Parliament; these should be included in a schedule to a special loan Act. A good example was the Western Australian Development Corporation. As a statutory authority under an Act of Parliament it had $15 million capital in the first year, yet it could borrow eight times that without reference to Parliament. It could borrow $120 million without Parliament knowing anything about it. At the end of the day, as the Burt commission report said, if it got into financial trouble, it was the Parliament, the Government or the taxpayer who would have to pick up the difference. It was the same with Exim, which had capital of $7 million and could borrow $56 million without reference to Parliament. There must be greater accountability, and that is why we would like to see legislation giving greater control over the money statutory authorities can borrow. In the past the system has been too lax; these statutory authorities could borrow too much.

I give credit where credit is due. John Horgan did not do this in the Western Australian Development Corporation or Exim. His problem was not borrowing money. His investments were not good at the end and he did not go out, like many others, borrowing huge sums of money to do deals. However, there was the power in both the Statutes for him

to do this. The State Government Insurance Commission could borrow money, but it had to come back to the Treasurer. The Treasurer and Cabinet approved of the State Government Insurance Commission's big share dealings.

Finally, in respect of the Financial Administration and Audit Act, I refer to the sale of assets. We are not going into this deeply enough. How does one handle the sale of assets where the cost comes out of the Consolidated Revenue Fund or out of capital works? We often overlook the fact that if we are to put back into the General Loan and Capital Works Fund the original cost, not the sale price, we will miss the effect of inflation. We can only buy and sell in the same market. If an asset sold for $10 million, and cost $2 million, and we put $2 million into capital works and $8 million into Consolidated Revenue Fund for expenditure on running costs, that would be a big mistake.

I would like to see all sales of properties, assets and businesses of the Government over $50 000 go to the General Loan and Capital Works Fund, and then we can decide what happens. These funds should not go into the Consolidated Revenue Fund. Last year the Budget required $55 million on the sale of assets to go straight into the Consolidated Revenue Fund to pay wages, business debts or whatever it might be.

That is blatantly wrong by any accounting standards. The Financial Administration and Audit Act should be clear on this point. The matter should not be left to the discretion of the Government. The control should be locked into place and decisions can be made afterwards. Profits made from the sale of assets should be retained in the General Loan and Capital Works Fund because of the inflation factor. For instance, with the application of capital gains tax, a person may sell a property and then have 10 or 20 per cent taken from those funds, leaving less money for that person to invest next time. That is wrong.

We have been told that interest earned on the short term investment market will be placed in an appropriate trust account, and it is about time. Years ago $193 million was accumulated over four years, and interest earnings on the short term investment market were not accounted for properly. The Auditor General's statement recognised that. The Bill should provide for proper accounting procedures for short term investments. In the past, money earned one year was spent the following year and when times were good those funds were accumulated. Last year the interest was spent in the year it was earned - that was the reverse action of previous years but they were desperate times.

The Opposition supports the legislation. We recognise the work put into it. I urge the Minister to consider the points raised; many matters need consideration, but this is not the opportune time to move amendments. What is needed is a round table conference.

HON PETER FOSS (East Metropolitan) [4.51 pm]: I do not have quite the same enthusiasm as Hon Max Evans has for the Bill because it suffers from some of the problems the Acts Amendment (Accountability) Act suffered. Honourable members will recall the Burt commission report made a number of suggestions as to the means of improving accountability and the Government stated it would adopt all suggestions contained in that report. The first effort in doing so was the Acts Amendment (Accountability) Act which was interesting for what it left out rather than what it put in. Of particular interest was that that Act contained a definition of subsidiary body. I thought that was good because the Government was picking up the recommendation about extending that provision to subsidiary bodies. I then looked to see where the definition of subsidiary bodies was used. Generally speaking, it was not used. It was a lovely definition up-front but it had virtually no application in the rest of the Act. It is used in sections 62, 66, and 78A of the Act but they are only minor parts of the Financial Administration and Audit Act.

The Financial Administration and Audit Act comes in a number of parts: Part 1 is Preliminary. Part 2 - Financial Administration, deals with the Treasurer's accounts, bank accounts, Supply and appropriation, payment or transfer of moneys, receipt of moneys, investment of public moneys, investment of moneys of statutory authorities and other moneys, financial administration and statutory authorities, right of recoveries, appointments, delegations and instructions, Treasurer's reports, reports of council offices, departments, and statutory authorities' reports.

The particular provisions I refer to deal only with the financial audit of those bodies. It does not deal with the responsibility of those bodies. That has always concerned me because the

problems we had with those minor bodies were not so much the question of accounts - although that was of considerable concern - but the total failure of the grip of the Financial Administration and Audit Act on those subsidiary bodies. Maybe problems exist in doing that and it may require drafting ingenuity to get that bite. That might be taken as a reasonable explanation as to why the Acts Amendment (Accountability) Act 1989, brought in hurriedly after the Burt commission report, did not deal with it. There may not have been enough time. However, one would have thought that by the time this Bill came up the drafting problems would have been overcome, that at long last it would be possible to get some grip on the subsidiary bodies.

However, we find we have another definition; that is, of affiliated bodies. It is a very nice definition and I can admire the drafting prowess evident in it. We have a definition of related bodies - and that is also very neatly drafted; and extensions to the definition of subsidiary bodies. So we have more definitions in the front of the Bill but where are those definitions used? I have searched through the Bill, thinking that a large proportion of the Bill will apply to affiliated or related bodies or that it would pick up subsidiary bodies. One searches through the Bill for where the definitions are used. Somewhat surprisingly one reaches the end of the Bill and finds some small consequential amendments picking up terms such as "affiliated bodies" but the crunch has not happened. The recommendations of the Burt commission have not bitten so far as subsidiary and related or affiliated bodies are concerned. That is inexcusable after the time that has elapsed.

I remind members of what the Burt commission report said by way of specific recommendations regarding accountability. First of all, the report dealt with audit and ministerial responsibility. Under the audit heading, at page 23 of the report, Burt recommended that a Government agency not be constituted either as a partnership or a limited liability company. Also at page 23, it stated that the definitions of subsidiary and related bodies be included under the Financial Administration and Audit Act; that has been done.

The next recommendation at page 23, and at page 103, and in regard to the Western Australian Development Corporation at pages 45 and 46; Exim at page 66, WA Government Holdings Ltd at page 75; Goldbank at pages 93 and 96; and the State Government Insurance Commission at page 103, states that the Financial Administration and Audit Act shall apply to each agency and subsidiary. I do not believe that has yet been carried out.

The fourth recommendation regarding audit was that the Financial Administration and Audit Act should be amended to limit the powers of any subsidiary company to the powers necessary to achieve the objects with which the parent organisation has been charged. It also refers to WADC at page 45 and Exim at page 66. The answer given in the second reading speech was that the advice from Crown Law was that this was unnecessary because if they did behave in such a way as to establish a subsidiary for purposes other than those of a statutory authority, that would be in breach of that power. I agree with Crown Law but I ask the Minister whether action is being taken against the Superannuation Board with respect to the Superannuation Board Trust. If the advice is correct the board has acted in breach of its powers; if it is not correct something should be done to ensure that it is not permitted in future. If a proper examination were made elsewhere we would find similar problems.

The fifth recommendation regarding "audit", at pages 23 and 103, was that the Auditor General be responsible for the audit of all Government agencies, speaking generally. The Western Australian Development Corporation is mentioned at page 45, Exim Corporation at page 66, WA Government Holdings Ltd at page 75, R & I Gold Bank at pages 93 and 96 and the State Government Insurance Commission at page 103.

[Questions without notice taken.]

Hon PETER FOSS: The sixth recommendation of the Burt Commission on Accountability was that the Financial Administration and Audit Act be amended for the Auditor General to be the auditor of each subsidiary or related body. There is a bit of an attempt at this in the present Bill and in section 62 of the Acts Amendment (Accountability) Act, which requires a department which has a subsidiary body to exercise its control so as to ensure that the accountable officer is provided with the information relating to the subsidiary body which the accountable officer needs in order to comply with this section and the Treasurer's Instruction. Section 66 contains a similar provision in relation to statutory authorities. One

problem is that this really does not relate to subsidiary bodies, so it is arguable that there is not much that the department or the statutory authority has to do in order to obtain that information. This Bill contains some amendments in respect of certain authorities. However, it is a fairly limited sort of involvement. So I do not believe that recommendation of the Burt commission has been tackled properly by even this latest amendment.

The eighth recommendation was that comprehensive Treasurer's Instructions be issued regarding subsidiary and related bodies and the parent department or statutory authority. That is at pages 23, 45 and 66 of the report. The recommendation regarding ministerial responsibility as stated at page 25 is that -

> . . . as a general rule, only to be departed from with the approval of Parliament, no Government agency be permitted to conduct operations in a manner or to enter into any agreement which contains a provision which would prohibit that agency or the responsible Minister from providing to Parliament information as to its operations or the contents of that agreement in such manner and to the extent that the Minister thinks fit.

That is also dealt with at pages 45 and 116, and it does appear that that is being worked on.

The tenth recommendation was that the siting of ultimate responsibility be vested in the Minister of the Crown, who in his turn is responsible to the Parliament. That is at pages 38, 66 and 116; in general terms WADC at pages 38 and 46, Exim at page 66 and Gold Bank at page 96. The eleventh recommendation was that administration be vested in the Minister. The twelfth recommendation was that the Minister have authority to give directions, which must be given effect. That is WADC, pages 44 and 46, Exim at page 66 and Gold Bank at page 96. We were told during the Minister's second reading speech that it does not seem to be thought possible for those directions to be brought in as a general term rather than specifically for each particular authority.

I find that extremely difficult to comprehend. It is a reason why the Government should be seriously considering introducing a statutory corporations Bill which should encompass not only the concept of directors' responsibility, to which I referred when I introduced a Bill to that effect in the last session, but also deal with all aspects of responsibility by a statutory corporation. It seems strange that to make a change in this law related to statutory corporations we are prevented from acting because we have to go to each corporation. Just imagine what would happen if under the Companies Code companies were individually incorporated by individual Acts of Parliament and if we wanted to make a change to the companies law we had to amend every single incorporating Act. That would be a ludicrous situation. Why on earth would that be done? It is said that it is ludicrous because we had the experience with the Companies Code, the Companies Act and prior to those various other companies Acts and ordinances. People have become so used to joint stock companies having a general Act pursuant to which all companies are incorporated that we can automatically see the logic of making changes to the company law by simply changing a central Act. However, we do not seem to be able to apply that same logic when discussing statutory corporations. I hope the Standing Committee on Government Agencies deals with that idea in order to establish a general law relating to Government agencies so in future when Government agencies are established they are better able to refer -

Hon N.F. Moore: We are in the process of doing that.

Hon PETER FOSS: I am pleased to hear the chairman of the committee say that the committee is in the process of carrying that out. It is an extremely sensible move.

Hon N.F. Moore: That is when we get an officer to carry that out.

Hon PETER FOSS: I can understand that problem; it is important to have good professional assistance. As the committee works it way through that particular problem it may arrive at more than one kind of statutory authority. That is consistent with what happens in the Companies Code which has no liability companies, limited liability companies, proprietary limited companies and companies limited by guarantee. Each of those companies takes into account the different kinds of corporations that are necessary in commercial life. There is no reason why it would not be possible, if it is thought necessary by the Standing Committee on Government Agencies, to encompass the idea of various kinds of statutory authorities. At least it would mean that a body of law exists.

An important aspect of the Financial Administration and Audit Act, which could be taken a lot further, refers to a body of thinking and law - a general philosophy - as to what is appropriate for Government authorities. That has been lacking in the incorporating Acts up to date. Perhaps the draftspersons who draft the Acts relating to Government authorities have some ideas as to what philosophy they intend to follow. However, it may be that they used the last Bill and drafted from that without considering the philosophy of how these authorities should be started, continued and run. It is important, quite apart from any other matter of convenience, to direct our minds to why Government authorities exist. Why are separate governmental authorities established? What is the philosophy behind the way they are created?

Hon Max Evans referred to an important point in this legislation; that is, what is the responsibility of the State with respect to statutory corporations? The Burt commission report stated that the concept of limited liability is not a sensible one in the context of statutory authorities and that in general terms the Government and the people of Western Australia are liable for the losses and liabilities of a statutory authority whether it is guaranteed or not. There certainly appears to be good law for that where the statutory authority is an agency of the Crown. It is obvious that over a period of time this Parliament has sought to restrict the liabilities the State incurs. Statutes specifically provide that the Treasurer may give guarantees. There are certain restrictions on the actions of the Treasurer to give those guarantees and pledges of the credit of the State. The practice has grown up in Western Australia and the proper statutory interpretation indicates that where guarantee provisions are provided in a Statute relating to the statutory authority, then that exhausts the general availability of the right of recourse to the Crown. It is a contrary statement to the normal rules, where the agent is a Crown agency and there is complete recourse to the Crown.

That is my belief and the legislation of Parliament has established that. However, it has been accepted by the Parliament more by default than by advised decision. That is exactly the sort of decision we should be making. Any corporations Bill should clearly set out the extent to which Western Australia's credit is being pledged by various authorities and the extent to which people dealing with those authorities can rely upon the transactions they enter into in order to satisfy any debts that arise. Why is that important? In the past year or two we have had ample reasons to be extremely cautious about the way we allow statutory authorities to pledge credit of the State. One needs only to look at the immense losses that have been incurred by the State Government Insurance Commission and at the possibility that further losses could be incurred by the SGIC by way of action brought against it by people with whom it has dealt. These people have dealt with a Government agency believing that the full credit of the State stands behind it. It is important that we state exactly what is the authority of such bodies and not expose the State to enormous liabilities.

Also, it is important that we impose on the people involved in these statutory authorities duties that are imposed on directors of companies. This was also stated in the Burt commission report. The Burt commission report made the important point that duties are owed by directors of companies to their shareholders. Those duties are owed because those directors are not dealing with their own money, they are dealing with money that has been given to them by shareholders. It is appropriate that these fiduciary duties exist because they are dealing with other people's money.

The very important point the Burt commission report made was that at least the shareholders of a company can choose whether they should subscribe money to a company. At least it involved a voluntary act on their part. People hand their money over to directors in order to have that money invested. However, in the case of the people of Western Australia and the statutory authorities that exist no such choice is offered. The money that goes to statutory authorities is provided to those authorities by the State. In turn, the money is provided by the taxpayers. The people of Western Australia are involuntary contributors to these enterprises in which the State engages. The reasons for imposing fiduciary duties are even greater than they are with joint stock companies. Although this statement has been made in the Burt commission report no move has been made by the Government to impose proper standards of accountability on the directors of statutory authorities. It is clear from the information that has emerged from the McCusker report, the Burt commission report and the facts that have been exposed, that there has been an absolutely disgraceful breach of duty owed by the

directors of the corporations which were involved in WA Inc. It is clear that the moneys of these instrumentalities were applied towards serving a Government intent on rescuing Rothwells.

The State Government Insurance Commission was not incorporated for the purpose of rescuing Rothwells; nor were the Superannuation Board, the R & I Bank, the Western Australian Development Corporation or the State Energy Commission, yet each of these organisations was used by this Government to fund the rescue. The Ministers have been saying that it was not due to their direction; they have been saying it was due to the boards of these authorities acting on their own behalf. We know that the SEC's involvement with regard to the purchase of the $16 million worth of coal was by way of direction from the Minister; but there is no sign of any other direction having been given to any of those other boards. So why did they do it, and why were they not afraid to do these disgraceful things which they did? Why were they not saying to the Government, which was obviously giving them the nod, the wink and the nudge, "We will not do it. Our duty is to observe the terms of our constituting Acts. We will not spend these huge amounts of money; we will not engage ourselves in this flagrant waste of taxpayers' money." They were not doing it because there is presently no mechanism in our Financial Administration and Audit Act, nor in any other Act, to tie down responsibility for this disgraceful breach of duty. I say it is a disgraceful breach of duty because I do not believe we need an Act to enact that to be a breach of duty. I believe the common law as it stands at the moment is sufficient to tie down those people, and I believe they could be sued by their corporations. The fact that the Government has not sued these directors is a disgrace in itself. The law is there and I believe these people could be sued. I believe they should be sued, and I would hope that, with a change of Government, they would be sued. However, at the moment we do not have a situation where somebody outside Government is able to sue these people for their disgraceful behaviour. I believe the Auditor General should have that power, where the corporation itself does not exercise it. That is missing from the Financial Administration and Audit Act because we do not presently have an Act which allows that form of enforcement.

The provisions in this Bill relating to recovery - and there are provisions for recovery - are meek, mild and insignificant, and do not seem to apply to the statutory authorities to which I have referred. That is a serious omission. It is a serious failure to take up the spirit of the Burt Commission on Accountability report with regard to the greater duty that is placed on people dealing with Government funds, and something must be done about this fairly soon. I am disgusted that the Government is moving so slowly with regard to the Financial Administration and Audit Act to pick up the provisions of the Statutory Corporations (Directors' Liability) Bill. I will be mentioning at a later stage the fact that the Government has failed to carry out its undertaking to put those provisions in the State Government Insurance Commission Act, because the Government gave an undertaking to this Parliament in both Houses that it would do that. The answer I received from the Attorney General, who said the answer was from the Deputy Premier, was that the Government was putting it off because it was looking at the matter generally. I do not accept that and I will raise it in this House at a later stage. The fact is that the Government gave an undertaking, and the Leader of the House signed that undertaking, that that would be introduced into the SGIC Act. It was not subject to the qualification of looking at it generally; in fact, it was specifically separated from looking at it generally. It was an absolute undertaking so far as the SGIC was concerned, and the other undertaking was to deal with it generally as soon as possible. Here is the Financial Administration and Audit Act, yet there is no sign of that undertaking being dealt with here. I believe the first undertaking is being breached enormously and the second is certainly not being well honoured.

I will be raising that in a separate motion at another time, but I would like to know why the Government has not at this stage given some indication as to how it will be picking up those parts of the Burt commission report. To say again that the Government is carrying out the recommendations of the Burt commission report is not adequate, because the Government is putting in words but not turning them into real action in this Bill. It is not enough merely for the Government to say it is putting in a definition of subsidiaries; it is not enough to put in "affiliated and related bodies" if the Government does not do something really concrete with them. It may be difficult, but the Government has had a year now. The hard part is drafting the definitions and I believe they have been well drafted. Nothing has been done in order to

carry out the real requirements of the Burt commission report. Recommendation 13 in my summary of the provisions of that report was that directions be in writing and reproduced in full in the annual report, and again, that has not been carried through to all of the bodies. I believe that could easily be done. Recommendation 14 was to require the agency to furnish reports for, inter alia, parliamentary questions.

I believe there is one further thing which should be done with regard to directions as a general policy; that is, all directions should be tabled in this Parliament within a short period of time of being made. It is all very well to put it in the annual report - and I believe it should be in the annual report because a document should be tabled annually stating the affairs of that corporation - but these annual reports, despite what is being done in the Financial Administration and Audit Act, can be late, and there is no point in having accountability to Parliament when we may find out what has happened some 18 months after the event.

Hon George Cash: So you would have it tabled, similar to a tabled paper?

Hon PETER FOSS: Yes, or tabled regulations.

Hon Garry Kelly: You are not implying disallowance, surely?

Hon PETER FOSS: No, I am not implying that. Firstly, it should be tabled within six sitting days. Secondly, I think we should consider the question of disallowance. I certainly would not want to make a point one way or the other, but I would like the committee to deal with what would be the implications of disallowance. I suspect that it would be inappropriate.

Hon Garry Kelly: It could have been actioned by the time it was tabled.

Hon PETER FOSS: That can happen with regulations as well. Hon Garry Kelly has raised the fact that there are problems, and I do not dispute that. I think it should be examined to see whether there is a way around it, and we should consider whether it should be subject to disallowance; but first things first. It should be subject to the scrutiny of Parliament. There is no point finding out 18 months later. If the Minister has intervened and said, "This is what you are going to do", then we should know about it in here. The important time for us to find out is right after it has happened, not up to 18 months later. It is a very important point which should be maintained in this legislation. I am disappointed in this legislation. It is another of those Bills where the difficulty is not so much with what it does but with what it does not do. It has some lovely drafting and some good ideas but what is missing is disappointing.

As the House is obviously aware, I did a summary of the Burt commission report, and I read some parts of it to members today. I believe it is very important for the Government to report to this House what it has done with regard to the implementation of the Burt commission report. It is time we received from this Government a clear statement of what it has done to implement that report. To the extent that it has been implemented, the Government should clearly state, "This is what we have done." To the extent that the report has not been implemented, a reason should be given, and if the reason is, "We still are not ready to do that", a timetable should be set showing when the Government will do it.

I am quite happy to give my notes on the Burt commission report to the Government to assist it in preparing such a report. I believe this House would be very willing to debate such a report. I think it would be an extremely valuable debate for this Parliament, and one most appropriate to a House of Review, to discuss the real guts of the Burt commission report. Why does it say what it says? Why should we do it, and if the Government is not planning to do it, why not? This is the essence of good parliamentary government and I believe we should be discussing it.

Therefore my suggestion to the Government is: Now is the time for the Government to give its accounting to the people of Western Australia on the Burt commission report. It was a difficult report. It had some excellent things in it, but one thing from which I think it suffered was the fact that it had to be written in some haste. All the detail of the report was excellent, but the way in which it was finally put together was not always as clear to follow as one might desire. The reason I did a summary was that I read the report all through, but it appeared to have bits and pieces popping up here and there. That is understandable - it was prepared extremely quickly. The content is all correct, but to get it into a form which is more easily understood and followed takes a little more time.

Hon J.M. Berinson: If you could let me have a copy of that summary I would like to pursue this suggestion further.

Hon PETER FOSS: Very well. That is what has made the Burt commission report a little difficult to implement. It is necessary for somebody to sit down and do what the report was not able to do because of a lack of time; that is, to distil the recommendations and the philosophies behind them and to put them forward as a plan which this Parliament can look at to see whether the Government has honoured its undertaking to implement the report. I urge the Government to do so, as it would be a worthwhile exercise. If that has failed to be done up to now it is because there has not been the will or the ability to carry it through, because that sort of examination or analysis has not taken place.

Sitting suspended from 6.00 to 7.30 pm

Hon PETER FOSS: During the dinner suspension I took the liberty of giving a copy of the notes I have compiled on the Burt Commission on Accountability report to the Leader of the House so that he may be in a position to consider the points I raised. I suggested doing a careful audit of the report to see to what extent the recommendations have been carried out. It is important that this audit is brought to this House to see whether the recommendations have been implemented so that we can determine whether things should be left out because of practical problems rather than as a matter of default.

Any member who has ordered a copy of the Financial Administration and Audit Act would know that the Act comprises one nice, slim volume and a bundle of amending Acts which would stand 20 millimetres high; these amendments have made small differences to the authorities covered by the FAAA. I suggest to the Leader of the House that it may be possible to split the scheduling provisions of the FAAA into a separate Act. Therefore, when small amendments are made to the schedules, they are amendment Acts which would not be referred to very often. This would result in the principal Act being free of such burden, as this important Act is referred to frequently. The part of the Act which deals with the names of the various authorities to which the Act applies is referred to only occasionally. If this is kept in mind for the future, it would mean that common reference to this document would be considerably easier than it is at the moment.

I have a small amendment which I will be placing on the Notice Paper relating to the ability of the Treasurer to prevent a body from being an affiliated or related body. This is something which can be done by the Treasurer by written notice. If the Treasurer removes a body from the operation of the Act, that notice should go through the normal provisions of the regulations. Anything which would exempt somebody from being subject to the provisions of an Act should be subject to disallowance. This is part of the usual accountability provisions.

Finally, so far as it goes this Bill is a good one; however, the problem is that it does not deal with many matters, and to the extent it deals with affiliated bodies it does not go far enough. The Bill contains provisions but the real crunch of the matter regarding the obtaining of accounts is not dealt with. The Standing Committee on Government Agencies should be urged to consider the provisions relating to a statutory corporations Bill. Accordingly, I support the Bill.

Debate adjourned, on motion by Hon Fred McKenzie.

ROAD TRAFFIC AMENDMENT BILL (No 3)

Second Reading

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [7.36 pm]: I move -

That the Bill be now read a second time.

This Bill provides for a crucial element of the greatest ever offensive on road trauma in Western Australia. It complements the 0.05 blood alcohol level and graduates drivers' licence legislation currently under consideration by the Standing Committee on Legislation. The Bill provides for the establishment of a road trauma trust fund for the purpose of meeting a recommendation of the Traffic Board that there be a "properly funded and well designed and targeted public education campaign on road safety". The fund also meets the calls from

various Opposition members for higher profile public education and awareness programs. The trust will also be used to fund additional school crossing attendants and other road safety initiatives such as bicycle helmet subsidies. The funds for this innovative program will be made available by traffic offenders.

It is proposed that 30 per cent of revenue generated from camera detected offences will be paid into the trust. While the establishment of the trust is new, the part of the legislation relating to camera detection offences is not. The Bill establishes a means to improve efficiency in the handling of infringement notices. Where a traffic offence is detected by a camera, the driver is not stopped immediately and issued with an infringement notice; instead an infringement notice is served on the registered owner of the vehicle involved. In cases in which the owner admits to being the driver at the time of the offence, he may pay the infringement penalty or he may have the matter dealt with by a court. Where the owner disputes that he was the driver at the time of the offence, the owner will have 28 days in which to advise the police and deny responsibility for the offence. Once the owner has made the notification, the infringement notice will be withdrawn and an inquiry will be conducted in the normal way to establish the identity of the driver at the time of the offence.

I emphasise that should proceedings reach the court under this proposal, there will be absolutely no change to the traditional principle that the prosecution bears the burden of proving each element of the offence beyond reasonable doubt. No reversal will occur in the onus of proof and the police will have to prove their case in any dispute. The simple procedural changes in this Bill are estimated by police to have the potential to improve efficiency by saving up to 80 000 hours per month by simply giving those motorists who acknowledge having committed a speeding offence an early opportunity to pay their penalty and it will thereby substantially reduce police inquiry work. The police will retain records for a period in excess of three years to enable any disputed allocation of demerit points to be resolved. This could happen in cases where a person, not being the owner of the vehicle, intercepts the infringement notice and pays it, resulting in an allocation of demerit points against the vehicle owner.

The Bill establishes an effective method of policing speeding offences on medium to high density roads by reforming procedures to permit more efficient use of the Multanova speed camera. It also diverts 30 per cent of revenue raised by camera detected offences to a trust fund administered by the Traffic Board to finance traffic safety initiatives.

Finally, the Bill allows for a review of the operation and effectiveness of the fund within five years of the commencement of this amendment. The review will be carried out by the Traffic Board and will be tabled before each House of Parliament as soon as is practicable after it has been compiled.

I commend the Bill to the House.

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

MINISTERIAL STATEMENT - BY THE ATTORNEY GENERAL

Corporate Affairs Department - Second Board Market and Capital Raising Processes Draft Report

Committee

Resumed from 12 July. The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair.

The DEPUTY CHAIRMAN: The question is -

That the statement be noted.

Hon DERRICK TOMLINSON: In some respects this is an inappropriate time to be considering this report since it is dated March 1990. It was tabled in the House when the Attorney General made a ministerial statement on 12 July, At the time of tabling the report the Attorney General made the point that after it had been subject to consideration by business interests a final report would be prepared and he would make a statement when it became available. Given the time that has elapsed between the preparation of the draft

report, its presentation to this House and now, 18 September, one would assume that the final draft and statement were both imminent and anything said now might be inappropriate in the light of what has already passed.

In another respect, it is appropriate the report be considered now because as I understand it the Attorney General is to meet with the Ministerial Council later this week to consider the Australian Securities Commission legislation and the proposals for the implementation of that commission, hopefully, on 1 January 1991.

Since this report exposes some very real deficiencies in securities legislation and in the regulations affecting the operation of the Australian Stock Exchange and, in fact, some untoward delay on the part of Governments in pursuing people who have perpetrated rorts on the second board, it is appropriate that this Chamber makes a statement to the Attorney General so he may bear in mind its concerns when he meets with the Ministerial Council. There is no doubt that rorts were perpetrated on the second board and they are quite clearly spelt out in the report presented by the Corporate Affairs Department. Such things as the cashboxes and the extent to which they were abused by unscrupulous entrepreneurs, particularly in the period from 1986 to the crash of the Stock Exchange in October 1987, are outlined. The unscrupulous use of expert reports and the deliberate doctoring of those expert reports in the presentation of prospectuses to give a quite incorrect indication of the true viability of the companies, which were floated simply to raise funds for indeterminate purposes, were also outlined in the report. If we are to accept the evidence of this report, insider trading was not adequately pursued, partly because the law was inadequate, partly because the Corporate Affairs Department was inadequately resourced to pursue those prosecutions and partly for the very reason that the Attorney General indicated; that is, because of the lack of direct ministerial responsibility under the cooperative scheme for companies and securities regulation between the Commonwealth and the States.

It is this last matter to which we should be paying attention. The rorts are well documented in the McCusker report; the unscrupulous entrepreneurs who are named in that report and who are already facing prosecution, or who will be facing prosecution as a consequence of it, are well known. The inadequacies of the laws, the need to change those laws and the need to bring in amending legislation are well known. The recommendations are clear and the Corporate Affairs Department has given advice to the Attorney General that these things need to be done.

The inadequacies of the cooperative scheme are well documented and unfortunately they have been well known for at least five years. The Senate of the Commonwealth Parliament returned the question of the relationship of the national companies scheme to the Federal Parliament to the Senate Standing Committee in, as I recall, April 1986. It reported in April 1987 and in its report the inadequacies of the scheme were clearly outlined. The report states -

> First, there is criticism of the way in which the scheme's collegiate decision-making structure disperses Ministers' and officials' responsibility and accountability to Parliament.

There is no direct line of ministerial responsibility in the existing scheme; that is known and accepted. The net result of the lack of a direct line of ministerial responsibility is that neither State nor Commonwealth Ministers may act independently to pursue apparent inadequacies in the existing law. They must meet in concert and agree to proceed. There cannot be a direct or independent action by any Minister under the cooperative scheme. That is an inappropriate way to regulate securities or, in fact, any institution in this nation.

The second body of criticism identified in the report of the Senate Standing Committee focuses upon the distribution of functions between the National Companies and Securities Commission and its State and Territory delegates, and the resulting administrative duplication and general inefficiency. Again, it is one of the enduring problems of a Federal system where there is a joint responsibility by State and Federal Government authorities. The duplication of effort is not a cost efficient way of proceeding and neither is it an effective way of managing or pursuing enforcement of the law.

The third body of criticism contains elements of the first two and addresses itself to the quality of the regulation produced under the scheme. Thus, for instance, the chairman of the

Ministerial Council suggested that the scheme had a tendency to produce lowest common denominator decision making. The net result is that the unscrupulous entrepreneurs, both at the national and the State level, who have exploited both the loopholes in the companies and securities regulations and the population who were at the time more than willing to pursue an easy dollar, have not been vigorously pursued.

We now have the situation where the Commonwealth has acted independently of the States to pursue its own Australian Securities Commission, a national body with a national responsibility for securities regulation. While the arguments for a national securities commission are convincing, the one thing that is apparent in this report on the second board is that a national scheme by itself is inadequate.

We have a dilemma: A balance between the need for a unified national scheme which will enable the vigorous pursuit and enforcement of securities law, and at the same time the need for an independent functionally autonomous securities or enforcement body at the State level. It is a dilemma because in the cooperative scheme the duplication of responsibility between the Commonwealth and the States has produced what the Senate Standing Committee called lowest common denominator decision making, which results in lowest common denominator enforcement of securities regulations.

I suggest to the Attorney General that in his discussions at the Ministerial Council later this week the factor he should pursue most vigorously is that in each of the States, and particularly in Western Australia, there be a functionally autonomous body or a functionally autonomous arm of the NCSC which has independent decision making authority within the national guidelines and has independent resources to pursue enforcement.

Hon J.M. Berinson: When you say "independent" you cannot mean independently of a central body. It would just be inconsistent with the Commonwealth pattern. I would be quite happy to go along with you if I thought it could be achieved, but I think it is entirely the opposite of what the Commonwealth is proposing.

Hon DERRICK TOMLINSON: I know it is entirely the opposite of the Commonwealth's proposal. However, I do not believe that the alternative of a devolution of authority upon the States in a Federal system is unattainable. I think the Attorney General and I have been in conversation with the same bodies of corporate lawyers, accountants and businessmen in this State, who have expressed their concern that decision making in the securities industry will be centralised. For the time being it will be shared between Sydney and Melbourne, but the outlying States, such as Western Australia, will not be able to refer to a State office and get an answer from that State office on matters relating to incorporation and regulation of companies. They are concerned that there will be a constant reference to the centre and, in that constant reference to the centre, inordinate delay and frustration.

The same people have expressed considerable respect for the Corporate Affairs Department in Perth, and the fact that it is efficient and they can get answers relating to their concerns within hours. They compare that, for example, with trying to deal with the Sydney office, when there is a need for information from the Corporate Affairs Department of New South Wales, and where delays of up to three months occur. Their concern is that under the national scheme - the Australian Securities Commission - those delays will be characteristic of trying to do business in this city or in the whole of Western Australia.

I extend that one step further. Not only might there be delays and frustrations of that order in getting answers about various aspects of company incorporation or regulation, because of the constant need to defer to a decision making process on the other side of Australia, but also, unless there is functionally autonomous decision making and functionally autonomous authority within this State, there will be a corresponding delay and frustration in enforcement. For example, will the Attorney General be content to have malpractice brought to his attention as Attorney General and, instead of being able to pursue that vigorously, be required to defer it to the Commonwealth Attorney General?

Hon J.M. Berinson: No.

Hon DERRICK TOMLINSON: Should, in fact, matters relating to companies operating entirely within the borders of Western Australia have to be referred to the Commonwealth Attorney General or the Australian Securities Commission in Sydney for action?

Hon J.M. Berinson: Can I just correct an impression I may have given with an earlier

interjection. I have probably read more into your phrase "functionally autonomous" than you mean. In practice what you are arguing for is what the Government has been arguing for also.

Hon DERRICK TOMLINSON: I sincerely hope that is so. I believe it means adequate financial resources, not in terms of a share of the funding proportional to population or to the business conducted by the securities commission in this State, but to enable that State office to function efficiently and effectively in companies and securities regulation. It means also the appointment of personnel at the State office who will have the authority to make a decision. This means people of sufficient standing and authority to be permitted to make those decisions.

It goes one step further; that is, it must, within the parameters of securities regulations and Commonwealth regulations, have the independence of action to pursue enforcement without having constantly to refer to some higher authority on the other side of Australia. That is the sort of functional autonomy that I am talking about. I believe that if the Attorney General - and I think that he has - has listened to the same people that I have listened to he will pursue those things vigorously. I put it to the Attorney General that if he does not pursue those things vigorously in his consultations with the Ministerial Council he will be doing a considerable disservice to the corporate sector in Western Australia and that all of the rorts which were perpetrated during the so-called bull run of the 1980s will occur again. They are not occurring now, not because there are adequate resources or personnel, or because there is a new found commitment to a vigorous enforcement procedure, but simply because the financial and economic circumstances of our community do not permit it. However, given a turn around in the national economy - and that will happen - without adequate resources and personnel and an independent authority to pursue enforcement the same thing will recur. I believe the Attorney General has a responsibility to ensure in his negotiations with the Ministerial Council that a guarantee is given that these things will be established in Western Australia.

Hon PETER FOSS: I endorse the remarks of Hon Derrick Tomlinson because he adequately set out both the problems with the second board and also the important points for the future. I take up, first, his point about autonomous authority in Western Australia. The term I would use for this is "proconsul". I use that term specifically because anyone who has studied ancient history would understand the ramifications of that term. It is important that we do not have a repetition of what has happened with Commonwealth administration in every sphere which the Commonwealth administers. The normal procedure followed by the Commonwealth is to have a commissioner in Canberra and deputy commissioners in each State. We may think, "That is good; these people are the deputies, and they are the next and most important people." In fact, there are also other people, who are usually called first assistant commissioners and second assistant commissioners, and the experience of anyone dealing with Commonwealth departments is that the deputies are truly subservient to the commissioner. They have no real independent decision-making power, and if we really get down to the line we find that any decision that is of any importance has to be made by a first or second assistant commissioner, and those first and second commissioners are not found anywhere near Western Australia. So if we are to do any useful negotiations with the Federal Government we have to go to Canberra. So the real authority is not found in the various States.

The job of deputy commissioner is a pleasant sort of job but he does not have an enormous amount of power. That he is the equivalent of the senior person in a branch office is as much as I could say about it. He does not have true proconsular power. He is not the commissioner in Western Australia. We should be aiming for proconsuls in Western Australia who will be subservient to the Australian Securities Commission but not to the commissioners. The proconsuls in Western Australia should have the same powers as the commissioners and first or second commissioners have as right, not as a delegation. That is the only way we will achieve a satisfactory result. Why is it that the people in Sydney and Melbourne suddenly became happy with this new ASC system? It is because the head offices were to be located in Sydney and Melbourne. They are not stupid. They know that if they can get to the bloke who makes the decisions they will get a lot done. Why does the Australian Constitution provide for where the Federal capital is to be located? What an extraordinary thing to put in the Constitution! The founding fathers knew darn well that the

closer a person is to where the decisions are made, the more likely it is that he will be able to influence them. We in Western Australia have the problem that we are remote from Canberra. I do not need to tell members that, because we all know what the situation is, but it will happen to us again in corporate affairs if the authority of the commissioner in Western Australia is not the same as that of the commissioner in Canberra. I know that the people in Canberra will not like that but I think we can reasonably insist on it. I would like the Attorney General to speak to the Attorneys General in New South Wales and Victoria and ask them how they would they like it if the head offices of the ASC were in Hobart and Perth. They would say that would be a dreadful thing and they would be inconvenienced.

Hon J.M. Berinson: Do you think I have not thought to put that to them already?

Hon PETER FOSS: I am sure the Attorney General has, but he should put it to them again. He should propose to them that we have a proconsular authority. I do not know if there are any classical scholars among the Attorneys General in other States -

Hon J.M. Berinson: Or here!

Hon PETER FOSS: I had assumed that there were. The Federal Attorney General may be a classical scholar. If they are classical scholars, they will instantly grasp what I mean by proconsular authority because that has been done previously and I see no reason why it should not be done in this case. The local commissioners should have full authority by Statute, not by delegation, to do everything that the commissioners do, and if it appears that some sort of differentiation is taking place in the way that the legislation is administered in each State it will be up to the Australian Securities Commission to bring each State into line. Members will find that this sort of scheme is followed to some extent in the United States, where people have a much greater idea of delegation in certain areas. I am not necessarily saying that applies in the SEC because the SEC does not appear to have that, but it applies in other forms of administrative control by the Federal Government.

Another reason why that is very important is that I believe we will have serious problems in attracting people of calibre to Western Australia to take on the job of deputy commissioner, and if we do not have people of calibre in Western Australia they will be unlikely to even use the power and authority that is granted to them by this legislation. That job has to be seen as a position of power and influence, and frankly deputy commissioner positions are not regarded as powerful and influential positions. They are a reward, almost, for long service, but they are not regarded as being as powerful as the positions of first and second assistant commissioners. I endorse everything that was said by Hon Derrick Tomlinson because he has quite plainly put his finger on the pulse of what we have to do. All the other things will follow if we have a person with that proconsular power.

If we do not have a person with that proconsular power, we will have the same problems we have with tax law enforcement in Western Australia. We figured as the major issue in tax law enforcement in the Costigan report - Western Australia was almost the most important part of the whole report. We do not have a National Crime Authority office here. People who have had anything to do with customs here will realise there is very little customs power and authority here. All of this rubs off from the way in which the Commonwealth law is administered here in Western Australia. We are too far away from the centre of things and we do not get proper service.

I want to deal with two other things specifically related to the Perth second board market. The first is gambling. It is quite clear that the second board was used for gambling. The people involved in it did not want to buy the shares that were certain. If someone tried to float a mining company with certain prospects and with clear research having been done into those prospects, no-one wanted to buy, because they were not using the second board for anything other than straight out gambling. Even if one told them there was nothing there, they bought it in huge quantities; so the second board was not used for proper investment but was abused for gambling. Secondly, it was well known around Perth that these abuses occurred, but the people involved were seen as being above the law. The law was not being enforced. One of the reasons those people were seen to be above the law is that they were too close to this Government. Laurie Connell was one of the most significant players on the second board. Many of the things referred to in the McCusker report relate to second board companies. Many people in Western Australia close to the Government were seen to be above the law; they believed themselves to be above the law, and they had good justification for thinking that they were.

Hon J.M. Berinson: They were not seen by us, and certainly they were not seen by the department or the NCSC, as above the law.

Hon PETER FOSS: The Attorney General was not doing a very good job, if he was not stopping them. He might not have seen it that way; it might not have been his department, but I lay a lot of the blame at the feet of the former Premier, Mr Burke, because they were Mr Burke's buddies and he certainly did nothing to disabuse people of the impression that if someone was one of his buddies they got all the deals and favours. The Teachers Credit Society people were also involved in second board scandals. I do not know whether Hon Joe Berinson had anything to do with it, but he was the Minister with responsibility in that area.

Hon J.M. Berinson: But the department, acting as a delegate of the NCSC, has always acted independently. It acted independently of me, and certainly of any Premier.

Hon PETER FOSS: I know exactly what the Attorney General is saying, and we have seen reports in here before about that.

Hon J.M. Berinson: Well, it is the fact.

Hon PETER FOSS: We have seen reports in here before, by the officer who had his case settled - Mr Hein. The fact is that this Government gave an impression to public servants that those people were its special mates. Hon Joe Berinson might not have realised what the people further down the line were thinking, but I can tell him that many a public servant would have had to be an extremely brave person to start prosecuting the mates of Brian Burke. Whether or not the Attorney General likes it, that was the impression created by the disgraceful atmosphere the former Premier allowed to exist in this State. I think one of the good things we can say about the second board is that, as well as its being limited, at least we do not have Mr Burke around any more, and the disgraceful practices he had.

Those two things - the gambling instinct and the failure of the Government to indicate quite plainly it disapproved of these people - were the cause.

[The member's time expired.]

The DEPUTY CHAIRMAN (Hon Doug Wenn): Order! For those members who might be interested, the privilege of holding the 1996 Olympic Games has been granted to Atlanta, Georgia.

Hon J.M. BERINSON: I am sorry that Hon Peter Foss ended on the note he did, because until that point I think the comments that both he and Hon Derrick Tomlinson made earlier were very much in keeping with the spirit, at least, of the Government's consistent efforts over the last two or three years as the Commonwealth's takeover in this area has been contemplated. I will not chase Hon Peter Foss down his path of criticising Premiers or Ministers for interference or perceived interference in the affairs of the Corporate Affairs Department. I simply state it as a fact that the Corporate Affairs Department, in its enforcement of company law - and that includes the second board, of course - acts, and has always acted during the period of the present Government from 1983, as a delegate to the National Companies and Securities Commission and has acted independently in that respect from any instructions by me.

Hon George Cash: What about Mr Burke?

Hon J.M. BERINSON: There has certainly been no question of any Minister, and that includes a Premier, attempting to intervene in the department's duties of enforcement of the company law.

Hon George Cash: There are many people who would take issue with you on that. Whether they are right or wrong, it is certainly a perception in the community.

Hon J.M. BERINSON: I really would like to deal with the subject matter before us but I will detour again, sufficient to say that I am prepared to accept, if that is the view of Hon George Cash and Hon Peter Foss, that they have observed a certain perception to that effect. What I am saying is that the fact is to the contrary. Again I have to say in this area, as I have on other occasions with the Crown Law Department and with Mr McCusker, for that matter, that attempts to sheet home criticisms of this sort to the responsible Minister, or the Premier, or the Government as a whole, are really directing criticisms at the department, at its various commissioners, and at the NCSC.

Hon Peter Foss: That is not what I said.

Hon J.M. BERINSON: I agree that that is not what Hon Peter Foss said, but what I am trying to point out is that, in a situation where enforcement officers act independently, have the power and the duty to act independently, and have the understanding of their Minister that that is the nature of their authority and office, to mount a criticism that that has not happened is a reflection on those officers. I do not suggest for a moment that that is what Hon Peter Foss said, but what I am putting to him is that it is the clear implication and it is one which I reject in respect of the commissioners who have acted in our Corporate Affairs Department during my term of office.

I move from there, however, to the more substantive comments made by Hon Derrick Tomlinson and Hon Peter Foss. I have already indicated that I agree to a large extent with what they have said, although I must say that a good deal of the discussion so far really relates more to my ministerial statement listed as Order of the Day No 31 on the Notice Paper - that is, the ministerial statement on companies law - than the statement on the second board as such. However, they are connected and it is timely to consider again the needs of this State under the proposed Commonwealth takeover of corporate law, and I accept that it is a proper time to pursue it.

I take up Hon Derrick Tomlinson's comment about the Select Committee of the Senate which reviewed the cooperative scheme. It is true, of course, that in the end the Senate Committee came down to a recommendation which called for a Commonwealth takeover. It is true that the committee used such terminology as "lowest common denominator in decision making power". If my memory is correct, the committee was referring in that respect to decision making power in respect of legislation; and I am glad to have Hon Derrick Tomlinson's nod, because there is a significant difference between the role of the Ministerial Council in respect of legislation making and in respect of enforcement responsibilities. Having acknowledged the Senate's criticisms of the cooperative scheme the Senate Committee referred to the fact that the cooperative scheme was working remarkably well.

Hon Derrick Tomlinson: Under the circumstances. I do not have the report with me at the moment to quote the particular section.

Hon J.M. BERINSON: I do not have the report either but the phrase "remarkably well" sits in my mind.

Hon Derrick Tomlinson: Under the circumstances it is very telling.

Hon J.M. BERINSON: I am prepared to accept that it is an important qualifier; however, I make the point, and it relates very closely to the Government's continuing concerns about the future of corporate regulations in the State, that the Senate committee in its qualifier was really dealing with the law making power more than the law enforcement function.

In spite of all the theoretical arguments about the decision making process in corporate law, there has been very little criticism of the substantive corporate law. That has not really been a problem. I also acknowledge that the current law was arrived at with very little disagreement between the participating parties, namely the Commonwealth, the States, and more recently the Northern Territory. That was an advantage, although it was balanced to some extent by a disadvantage which I regard as relatively minor. The disadvantage was that the process took more time than it would have taken if a law were to have been initiated by a single Government.

Again, the question arises, did the greater length of the decision making process under the cooperative scheme occur because it was intrinsic to the cooperative scheme; that is, did it arise from the fact that seven or eight Ministers had to get together to agree to the legislation before it could be implemented? The answer to that would be no. The delays in amendments and reviews of the current law did not occur because eight Ministers had to agree to the proposal. Those eight Ministers meet four times a year and could have disposed of the matter quicker than the ordinary time taken with a State's legislative program.

The Ministerial Council included - and this is often absent from the legislative process - a well developed process of community and professional consultation. It did that by way of so called exposure drafts. That process involved the Ministerial Council initially deciding on the form of legislation it was proposing. The legislation was then drafted, printed and

exposed to public comment for an extended period. The public comment then came back to the second or third ministerial meeting and a final resolution was agreed. In more difficult cases the council went to the point of compiling a second exposure draft which extended the process further. The criticisms about delay did not arise from the structure of the cooperative scheme; the delay arose from the deliberate decision to go into this unusually full blown community and professional consultative process. That was its main disadvantage.

Conversely, the advantages were considerable. The consultative and exposure draft processes meant that the commercial and professional community in every jurisdiction had the opportunity to make direct representations not only to the Ministerial Council but also to the State Minister with whom it had closest contact. That was a case where the advantage outweighed the disadvantage. However, we must accept realities and we have moved beyond that.

I made the distinction earlier between criticisms embodied in terms such as lowest common denominator as they applied to the legislative process on the one hand and the enforcement process on the other. That difference is really a question of resources. In retrospect, the shortcomings of the cooperative scheme have not been in the area of legislative decisions but in enforcement action. In turn that reflected a certain approach to resources. Paradoxically, towards the end it was the Commonwealth which was reluctant to participate in an increase in resources well after it had been agreed to by all the States. The Commonwealth was up for 50 per cent of any cost so it certainly had a special interest in not increasing the amount of resources. However, given all the criticisms of inadequate resources, the Commonwealth has been reluctant in recent years to participate in a substantial increase.

Once again, a division has to be made between the resources available at the centre - namely, with the National Companies and Securities Commission - and the resources made available to the delegates, which comprise the various States and Northern Territory Corporate Affairs Departments. Hon Derrick Tomlinson referred to concern expressed by members of Western Australia's commercial and professional community. Included in those comments was his view that the level of services provided by the Western Australian office compared more than favourably with that available elsewhere. The reason for this was that the resources in the respective States and Territory offices were subject to decisions by the States or Territory Governments. Western Australia was earlier than almost all other jurisdictions in recognising the need, as the pressure in that area built up, to build up its resources to meet that pressure.

Hon Derrick Tomlinson: It has long term record keeping procedures, information gathering, storage and retrieval systems which have made the process much easier and more efficient than in the other States.

Hon J.M. BERINSON: It also reflected a local view towards the provision of the resources. That is history and that is why we argued as long as it could reasonably be argued against the Commonwealth move. We have gone beyond that point and we are left with our main concern, which is the maintenance of levels of service in this State. We have used that phrase consistently to reflect what Hon Derrick Tomlinson was talking about in terms of a functionally autonomous State based office.

Hon Derrick Tomlinson: There is a difference between the two.

Hon J.M. BERINSON: I am not sure what the difference is. I said in the ministerial statement to which I referred that whenever we argued for maintenance of levels of service we made it clear that the term is used in two distinct senses. One relates to the sheer body of resources available; the other, and more important, relates to the level of local decision making powers that will be retained in this State. In respect of that, and admitting my ignorance of ancient history, the proconsul model goes too far.

Hon Peter Foss: Why is it going too far? They will not like it; that is the only reason.

Hon J.M. BERINSON: It is going too far because it will not be accepted. It is not that I am necessarily in an argument with Hon Peter Foss about whether we should have consuls, proconsuls, vice consuls or any sort of consuls -

Hon Peter Foss: You must pin down why they object to it.

Hon J.M. BERINSON: With due respect to what Hon Peter Foss is saying, to look for the

proconsul model is to look for more than we have now. I argue that the level of decision making which we have now, given the extent of delegation from the NCSC, is perfectly adequate for our purposes. My main concern is that the Commonwealth will not employ officers at sufficiently high levels of authority to enable the continuation of the sort of decisions which have been made in Perth as opposed to the Melbourne headquarters of the NCSC.

Hon Peter Foss: There is no individual in the present system with more authority than the local commissioner. However, above the commissioner are two bodies, the NCSC and the Ministerial Council of the NCSC, which operate as a corporate group.

Hon J.M. BERINSON: Of course there is no-one above the commissioner in this State, but given the extent of the independence and authority which has been delegated to the commissioner and his deputy from the NCSC headquarters, I suggest that we do not need more. We are experiencing enough trouble preserving that much. That is what we are battling for, and what the professional groups are arguing for.

Hon Peter Foss: No other person has more authority than the person in Western Australia.

Hon J.M. BERINSON: Is that what Hon Peter Foss is arguing about?

Hon Peter Foss: Yes, because somebody will go along and see the NCSC in Melbourne as opposed to the bloke in Western Australia.

Hon J.M. BERINSON: They will not if, unlike the position with the Taxation Office, the regional director who will be the equivalent of our current commissioner can adequately meet their purposes. It was a very rare case, even at the height of the boom when there was a huge outpouring of prospectuses, some of a very complex nature, that any reference was made to the NCSC in respect of the requisitions on a prospectus or the eventual decisions on it. It has always been open to the local commissioner and his officers to initiate investigations on their own authority. In most cases where the NCSC has taken an interest in and initiated some early work of its own it has found it convenient and appropriate, where the work is centred in Western Australia, to delegate a continuation of that work to the local office. It has then been the role of the office to report progress; but that is a different matter.

Hon Peter Foss: I see that as being a proconsulate one because no individual has greater authority than the local commissioner. All that is above that is a collegiate body - the NCSC - and it is very hard to go and see a collegiate body like the NCSC; you have to see somebody.

Hon J.M. BERINSON: The only answer I see to that is under the cooperative scheme. It is very rarely the case that people will have to see the NCSC.

The CHAIRMAN: Order! Would those honourable members carrying on discussions on the Opposition's front seating please hold them outside the Chamber?

Hon J.M. BERINSON: I commend to Hon Peter Foss an interest in modern history as well as ancient history, because we have to deal with current realities.

Hon Derrick Tomlinson: Perhaps we can reveal the current reality. Only two per cent of prospectuses were referred to the NCSC during this period. This was largely because 98 per cent dealt with companies either operating entirely within Western Australia or working within known parameters. The other two per cent were innovative and required reference to outside authority. It is not simply a factor of proconsular authority; the facts are that only a small number were so innovative that they could not adequately be handled within the existing and known parameters.

Hon J.M. BERINSON: I am still having a great deal of difficulty in identifying any real differences between Hon Derrick Tomlinson and myself.

Hon Peter Foss: There will be a commissioner and assistant commissioners who will have greater authority than the local director. They will have greater authority because they will be further up the line and if someone does not like what the deputy commissioner says, he will see what the assistant commissioner will come up with.

Hon J.M. BERINSON: I am sorry, I did not catch what Hon Peter Foss said. In any event I suspect that even if I had I would only respond by repeating what I have said before. Just as we have strenuously argued for this maintenance of levels of service, we will continue to do

that. I am not in a position to handle that matter at the forthcoming meeting of the Ministerial Council, as I am unable to attend, but Hon David Smith who has represented me on a number of occasions previously is well aware of our requirements and is well capable of putting the State's view.

Hon Peter Foss: Is he as obstinate as you?

Hon J.M. BERINSON: Worse! Perhaps I should not have said he is more obstinate, because as members will know I am not obstinate at all.

Hon R.G. Pike: You should deal with superlatives and not comparatives.

Hon J.M. BERINSON: The issue is very important and is coming to a head. The Commonwealth is maintaining its effort for a 1 January implementation date. I believe, as I indicated to the Chamber, that is not likely to prove a realistic target; nonetheless, the proximity of that date is an indication of the pressure that will now be applied. Western Australia will continue to put this question of maintenance of levels of service at the very top of its priorities in terms of our continuing discussions and negotiations. It is fair to say that, in doing that, we will be reflecting the general view of all those persons and bodies in this State which are affected. It is not a question, as Mr Tomlinson has pointed out, of delays incurred while an approach to Canberra, Melbourne or Sydney is made. In the end, it comes to a need by many elements of our business and professional community to establish offices in a position which are convenient for consultation by them and that, I believe, would be to the detriment of a wide section of the Western Australian community.

Hon DERRICK TOMLINSON: The Attorney General has very eloquently defended the allocation of resources to the Corporate Affairs Department under the cooperative scheme in Western Australia. I do not hesitate in agreeing with him. The resources for the administration of companies and securities law in Western Australia, for the incorporation of bodies in Western Australia and for the management procedures of securities regulation have been adequate. However, I challenge the question of enforcement because there has not been an adequate allocation of resources for the pursuit of malpractice in the securities area. I draw the Attorney General's attention to page 15 of the report of the review of the second board which refers to insider trading, only one of the areas of abuse which was pursued. For the record, the report makes the following point -

> The Department considers that the role of regulatory authorities is predominantly one of enforcement. In achieving this task more resources need to be provided to the insider trading area.

That is one aspect only of the enforcement problem. Let us take it one step further. The enforcement of regulatory authorities requires a combination of what might be described as four factors. The first is the adequacy of the resources, with which we disagree, and the second is the question of the laws. The Attorney has proposed that there has been very little criticism of the law.

However, the report draws attention to inadequacies of the law in relation to the pursuit of insider trading malpractices. It draws attention to inadequacies of the law in the regulation of prospectuses and so on. There are inadequacies in the law; these were spelt out not only by the report of the Corporate Affairs Department on the second board, but were also identified 12 months earlier by a report on the same area by the Australian Stock Exchange.

There are inadequacies in the law. They may be small inadequacies but the consequences of the small inadequacies are the abuses which in the Attorney's statement to this Chamber have been identified as "a number of serious deficiencies" in the operations of the second board market. Those serious deficiencies led to serious abuses which led to a serious decline in confidence in investment in Western Australia and a decline in confidence in the corporate sector of this State.

An acquaintance, a Chinaman from Singapore, has several million dollars invested in this State. He told me that he was giving this State until Christmas - he was referring to the integrity of both the corporate and public sectors - and if things did not improve he would withdraw his investments. Let us relate that to the questions of resources and laws. The resources were not adequate and the laws have deficiencies. Because of the inadequacies of the resources allocated for enforcement and deficiencies in the laws, there were abuses.

Another factor that is essential in the enforcement of regulatory authorities is the integrity of corporate managers. Those people who do not have integrity have abused the system and brought the Western Australian corporate sector into considerable disrepute.

I reinforce the statements made by Hon Peter Foss. He referred to the unfortunate relationship between some aspects of the private sector and some members of previous Governments, if not members of the existing Government in this State. Let us consider the integrity of some of those corporate managers. I again refer to page 7 of the report on the second board which tabulates the number of prospectuses lodged and registered between 1983-84 and 1988-89. In 1983-84, 46 were registered, with 57 being registered in the following year, 120 the next year, 158 the next year, followed by 144 in 1987-88 and 77 in 1988-89. During that period of the bull run in 1986 until the collapse of the market in October 1987, there was an exponential growth in the number of prospectuses registered on the second board. There was a quadrupling over the three year period. Page 17 of the same report states -

> According to the review conducted in July 1986 by Australian Second Board Consultants Pty Ltd, as at 30 June 1986, 128 companies had listed on the Second Boards around Australia raising over $250 million - comprising $182.8 million immediately prior or at the time of listing and $70.3 million subsequently.

That is a considerable investment. What we find in that considerable investment when we read the McCusker report for example is the unscrupulous few who exploited that situation, who exploited the inadequacies in resources for enforcement of the law, who exploited the loopholes in the laws, and who lacked the integrity to regulate their own corporate practices. The consequence of that was the absolute discrediting of the corporate sector in Western Australia. While the Attorney General was eloquent in defending the allocation of resources for enforcement of securities regulation in Western Australia by the Corporate Affairs Department, the evidence of this report on the second board gainsays much of what he said.

I again make the point that in the negotiations with the Ministerial Council, using the evidence of the report of the second board of the Stock Exchange, it is absolutely essential that the Minister continue to pursue vigorously the allocation of resources and devolution of authority within the State so that the commission will be truly functionally autonomous so that a mood will not be created whereby the unscrupulous individuals who operated during the bull run and exploited the loopholes will be able to profit from it. They profited at the expense of individuals who contributed to their - and I use the terms advisedly - bogus companies and at the expense of the reputation of Western Australia in particular as a good and secure place in which to invest.

Hon PETER FOSS: It is a pity we do not have the Attorney General representing Western Australia because he has more familiarity with the background of this matter and, whatever he might say, I do not think there is anybody more obstinate than him, which can be useful to the State sometimes.

What I meant by proconsular authority, which I believe we had here previously, is that there is no person above the local person in the hierarchy. There may be a commissioner who administers things as far as the Australian Securities Commission is concerned, but as far as the business of the commission as opposed to the administration of the commission is concerned, a local commissioner's decisions can only be appealed to the Australian Securities Commission - one cannot go and see somebody further up the hierarchy; that is what I am suggesting is the situation.

It may be suggested that that is what will happen. I say it will not happen if we have the situation we have in the tax office, because in that office there are certain decision about which an officer will say, "I am afraid that is an Australian policy decision. I cannot change that". One then has to see the first assistant commissioner in Canberra. That is the concept I am aiming at. I am trying to bundle a lot of theory into using that particular term.

Hon J.M. Berinson: When the NCSC put out guidelines they were binding and if you wanted them changed you could not get them changed by the local commissioner.

Hon PETER FOSS: No, one had to have them changed by the NCSC; in this case I see it being changed by the ASC. It is still a pity that one has to go to Canberra, but at least one does not go to the commissioner in Canberra because one wants him to make a different

decision from the person above. The commissioner in Canberra is not saying, "I am going to keep some of those decisions for myself." There should be no decision the commissioner can make that overrules a local commissioner or is reserved purely for the head commissioner. I am saying that is the essential thing. One can go to the local commissioner and get any decision from him that one can get out of a commissioner in Canberra, Melbourne or Sydney. Having made that decision, that is it.

The other matter is the question of responsibility for immorality in this State over the second board. We should not forget that the second board was invented in Western Australia. We should also not forget that it was invented by the Government and a little coterie of entrepreneurial crooks. I do not believe it is essential to assume from what I have said that I am criticising the people in the Corporate Affairs Department.

What we must understand is what the mood then was in Western Australia. People in the Corporate Affairs Department had more than enough to do. They could do their jobs with diligence and excellence without ever going anywhere near Mr Connell, Mr Dempster or any of those people.

The point is that Mr Burke was known as a vengeful man and if one was a person in the Corporate Affairs Department who wished to take on somebody the last person one took on was one of Mr Burke's mates, especially in regard to the second board, which was set up with the blessing of this State Government. A person would have been foolish to have gone out of his way to take on a vengeful Government if he wanted to have any future career. This is not to say that the people were not doing their jobs, because they were. However, a person would have been silly if he had gone out and chased those people. This has happened before in Australia and I think it happened under the Fraser Government, I am sad to say, regarding tax evasion.

The moral tone of business in this State and country must be set by the way in which the Government leads in enforcement. I do not believe it is a job for the people in the Corporate Affairs Department to go out and take on the mates of the Premier. It is for the Government to be conspicuously separated from those crooks - and they were crooks and known to be crooks and we all in Perth knew them to be crooks - but for some reason Mr Burke and his mates did not know they were crooks.

Hon Tom Helm: When did you know?

Hon PETER FOSS: A long time ago. I knew within a month of Mr Burke becoming Premier that he was a crook, but I will not go into details about that.

Hon Tom Helm: You are not allowed to say that.

Hon PETER FOSS: I can, he has left the Parliament.

Hon Tom Helm: Will you say that outside the Parliament. If you knew, why did you not tell people then, I wonder.

Hon PETER FOSS: No, I will not, and the member knows why. I was bound then and am still bound by the fact that I cannot tell the circumstances under which I know because of client confidentiality. I would very much like to. If I had my way I would get out and say a few things. The scuttlebutt around town was that those deals were too swift. One cannot deal with swift people like that. One cannot be seen to be mixing with them and expect that people will do something about that. Joe Bjelke-Petersen had a nice way of putting it. He said that if one looked like a crow, sounded like a crow, and flew with the crows one could expect to be shot down with the crows. This Government was flying with the crows, was sounding like the crows, and looked like it was helping the crows.

As a result of that the moral tone of business in Western Australia dropped because people believed that what was acceptable by the Government was the sort of thing being done by Laurie Connell and its mates. It was acceptable. The Government did not distance itself from those people. The important thing about Governments is that they should not be getting into bed with these people but should be keeping a distance so that if they are told these people are misbehaving they can do something about it. The problem was that this Government was so close I suspect some people were not prepared to tell it because they were not certain what the result would be.

Hon Tom Helm: You tell them in hindsight. It was never proved.

Hon PETER FOSS: There we go: We never proved it! What a wonderful system; members opposite were told, but it was not proved to them. That is no excuse. Members opposite were going around with their eyes blind to it. They would not be told.

Hon Tom Helm interjected.

The DEPUTY CHAIRMAN (Hon Muriel Patterson): Order!

Hon PETER FOSS: Members opposite would not be told; that is the problem with this Government. It first asks, "Why did you not tell us?"

Hon Tom Helm interjected.

Hon PETER FOSS: The member should stop interjecting and listen as he will learn something. Members opposite were told these people were crooks. They read it in the papers. They would have seen criticism of the deals. They were told they were getting too close to these people. Members opposite were told outside the Parliament, so they should have found that more interesting.

Hon Tom Helm interjected.

The DEPUTY CHAIRMAN: Order!

Hon PETER FOSS: The member should stop interjecting. Members opposite were being told these people were crooks. People of commonsense and morality were able to tell that these people were crooks, but members opposite could not. The problem is that if a Government is seen in bed with people like that the whole moral fabric of society will fall. It is no coincidence that it happened in Western Australia. It was inevitable once this Government got so close to that mob of crooks. It was also inevitable in Victoria; it happened in the same way.

Hon Tom Helm interjected.

Hon PETER FOSS: Must the member continue interjecting?

Hon Tom Helm: I am interjecting because Hon Peter Foss says stupid things. There is nothing in *Hansard* about that.

The DEPUTY CHAIRMAN: Order! Hon Tom Helm should allow the speaker on his feet to continue.

Hon PETER FOSS: If one does not distance oneself from them, one will find a drop in moral standards, and we have experienced this. I hope this Government will distance itself from these crooks. These crooks have an awful lot on this Government, and it is important that it should distance itself or it will end up like the crows. If it does, I hope it gets shot like the crows.

I do not believe for one moment that the officers of the Corporate Affairs Department were not doing their job. I cannot believe that they had not been trying to take these people down when their superiors, without saying anything to them, were hobnobbing with those people. This is the most difficult job to give any person to do. These people have my sincere sympathy. The difficulties were incredible. The fact that they persisted throughout this period of time is to their credit. Rather than criticise them I would point out the incredible difficulties under which they continued to operate. As the Attorney said, they operated honestly. There might have been considerable pressure of a moral suasion type on them, but they showed considerable moral strength and I congratulate them on that.

Question put and passed.

Report

Resolution reported, and the report adopted.

ACTS AMENDMENT (STUDENT GUILDS AND ASSOCIATIONS) BILL

Third Reading

Bill read a third time, on motion by Hon George Cash (Leader of the Opposition), and transmitted to the Assembly.

MINING DEVELOPMENT ACT REPEAL BILL

Second Reading

Debate resumed from 28 August.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [9.03 pm]: The Opposition supports this Bill. Those members who have had an opportunity to read it will have seen that it comprises basically a one line repeal in clause 3 of the Mining Development Act 1902. Clause 4 contains a consequential amendment, which is to schedule 5 of the Constitution Acts Amendment Act 1899, by deleting the Central Mining Board and any District Mining Board appointed under section 29 of the Mining Development Act 1902.

Some time ago - in fact soon after I entered the Parliament - I had the opportunity to meet Mr Lang Hancock, who, as members will know, was a pioneer developer of iron ore in the north west of our State. Mr Hancock had made his fortune by that time and was very keen to take young members of Parliament into the Pilbara and show them his developments. More than that; he tried to persuade us to his way of thinking and he tried to impart some of the wisdom he had gained over many years. One of the things Mr Hancock said to me on one visit to the Pilbara was that as a new member of Parliament I would be doing myself and the State a favour if I concentrated more on repealing legislation than on enacting it. Mr Hancock went on to say that one of the great burdens which the community in this State has to face - and indeed people right across Australia - is that we in the Parliaments seem to specialise in enacting legislation, creating more red tape every day of the week, but we never get around to the important job of repealing Acts of Parliament and cutting the red tape which seems to bind and strangle developments in this State. It is a pleasure to support a Bill which intends to repeal an Act.

If we look at the Mining Development Act of 1902, we will see that the intention was to enable the Government of the day to provide certain moneys either to companies or to miners - that is individual prospectors - to go out and seek to make their fortunes by developing the goldfields of Western Australia. The Act of 1902 was instituted just a few years after the gold rush in Western Australia, and the idea was to encourage as many people as possible to move into the goldfields and seek their fortunes. It is also fair to say that at that time there was another reason for the Government's introducing this legislation - to enable people to move into the mining areas and have some sort of income on which to exist while they fossicked and prospected for gold.

If we look at the 1902 legislation, and in particular the definitions, we can see how vague and general some of the terms were at that stage. I refer to section 3, and in particular the definition of pioneer mining, which is described as "carrying on mining operations at places where the expenditure of large sums of money extending over a considerable period of time will be necessary to test or develop the mine". If that sort of definition came before the House today I suggest a number of members would immediately jump to their feet and seek some explanation from the Minister handling the legislation to indicate exactly what those words meant. The first question would be, "What does the Minister interpret to be large sums of money?" Looking at the second reading speeches of the 1902 debates, we can see that one of the members for the mining area asked a question about large sums of money, even in those days. The Minister in 1902 when this Bill was discussed did not appear to answer that question, so in some respects things have not changed a lot in the last 90 or so years.

Another part of that definition which would bear questioning was the real meaning of the term "over a considerable period of time". While that does not appear to have been picked up at that stage of the game, it was a definition which was fairly vague and general. The idea in the original Act was to allow companies which were incorporated to borrow sums of money from the Government at an interest rate of 5 per cent to carry on pioneer mining and to procure, erect and connect machinery, plant or appliances for such purposes, and to provide other works and things which, in the opinion of the Minister, might be necessary for the original purpose.

The mining companies were required to execute a mortgage over the mines they intended to develop. Various penalties applied should they be unable to make good the payments for the Government loans. It is interesting to read the section of the Act which provides for

individual prospectors to borrow up to £300. One of the conditions covering approval of those applications was that the prospector had to show that he would spend £1 for every £1 that was to be advanced by the Government. In other words, he had to spend £1 in work, labour or material against every £1 that was to be advanced by the Government. It is also interesting to note that no penalties were included in the 1902 legislation were prospectors unable to repay the Government loan. I guess the Government was attempting to grubstake those original prospectors who contributed so much to the mining industry in this State.

It has been said that the Mining Development Act is no longer necessary because the Gold Banking Corporation Act has taken over its provisions. One has to only think back to that 1987 legislation to recognise that provisions covering the State Batteries and associated tailings were transferred to the Gold Banking Corporation Act. Members who took an interest in that legislation at the time will now - three years after it was passed - be able to reflect on whether the taking over of the State Batteries and the tailings by the Gold Banking Corporation Act was a positive step for the State. In fact, it has not been successful for the mining industry as evidenced by closure of a number of State Batteries and the sale of some of the tailing dumps. The manner in which those tailing dumps were processed and sold left a rather sour taste in my mouth.

A significant element of incompetence was probably exercised by some people concerned with those batteries and tailing dumps. I say that charitably because to say anything else would be to indicate that not all was necessarily well with the disposal of some of those tailing dumps. If the Auditor General has not already looked at the situation, he may wish to look at it in due course.

Very little more needs to be said about this legislation. Other legislation is in place which allows those who may wish to borrow funds to apply to the semi-Government agency, the R & I Bank, although it is true that, with modern financing techniques in the mining industry, it is not usual for mining companies or individual prospectors to rely on Government loans today to finance their mining operations. I am pleased to support this Bill which repeals the Mining Development Act.

HON J.N. CALDWELL (Agricultural) [9.16 pm]: The National Party also has pleasure in supporting this Bill. Many laws are introduced into Parliament which contribute to pressure on the Police Force. I sometimes feel great sympathy for the Minister for Police, but I am sure he would appreciate my saying that. The implementation of more laws puts the police under pressure. The Minister is often criticised by this side of the House because there are not enough police officers. Unfortunately, members on the Opposition side of the House do not always agree with the Government's legislation, particularly parts of legislation concerning the shooting of ducks, driving, drinking and smoking.

The Mining Development Act deals with the operation of the State Batteries and provides for subsidies and assistance with loans for miners in developing their mines. I have a rather curly question for the Minister handling this Bill. The Minister said in his second reading speech that no loans previously made to miners under this Act are now current and all have been fully repaid. That is a marvellous achievement. Not too many loans in this State have been fully repaid lately. Does the Minister know when the last loan was made under this Act or when it was fully repaid? Was it many years ago or recently? I think it was a long time ago.

Hon J.M. Berinson: Let me think!

Hon J.N. CALDWELL: The mining industry as we know it today is under a fair amount of strain. Much of that strain is due to the small environmental groups lobbying the Government to set aside pieces of land. The more land set aside, the more difficult it is for mining companies to gain access to that land. With those few comments, I support the Bill.

HON J.M. BERINSON (North Metropolitan - Minister for Resources) [9.19 pm]: I thank members who have indicated their support for the Bill. As I indicated by interjection, I was prepared to think hard about when the last Government mining loan was made, but I have been unsuccessful. I am quite happy to pass that inquiry on and I will let the member know directly.

Question put and passed.

Bill read a second time.

Committee and Report

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

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Minister for Resources), and passed.

BOXING CONTROL AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Graham Edwards (Minister for Police), read a first time.

Second Reading

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [9.22 pm]: I move -

That the Bill be now read a second time.

When the original Boxing Control Bill was introduced into Parliament in 1987 it received unanimous support from the Opposition. I trust that this amendment Bill, which will enhance the original Bill, will receive the same support. The Boxing Control Bill established the parameters for the environment in which professional boxing can take place and gave authority for the preparation of regulations to prescribe in more detail the conditions which should apply to the conduct of boxing. Although a slower process than desired, the regulations are now being finalised and the Boxing Control Act will be proclaimed shortly. The process of formulating the regulations has been exhaustive resulting in what should be the most relevant and state of the art regulations in Australia. However, the passage of time has highlighted some areas of the Act which can be enhanced.

The first amendment relates to section 4 of the Act in relation to membership of the Western Australian Boxing Commission. The amendment increases the number of members to include a representative of boxers. It is envisaged that the additional member will ensure that the viewpoints and requirements of boxers are taken into consideration in the deliberations of the commission. The person would be appointed by the Minister for Sport and Recreation.

The second amendment gives flexibility to the appointment of the person representing the Ministry of Sport and Recreation. In the original Act the person representing the Ministry of Sport and Recreation had to be the chief executive officer. The transformation of the Department for Sport and Recreation to a Ministry, and the realisation that the person with the most appropriate knowledge of boxing may not be the chief executive officer, prompted the amendment. In essence, the amendment gives the chief executive officer the option of nominating a person from the Ministry of Sport and Recreation to be his or her representative on the boxing commission.

The third amendment corrects a typographical error in section 29. The fourth amendment is simply one of consistency of terminology in the Act. The intent is to alter section 45(1)(a) to have the word "licensed" deleted and the word "registered" inserted in its place. Elsewhere in the Act the word "registered" is utilised in the same context. The next amendment is one of setting out. It ensures that both paragraphs of section 45(1) are captured by the final phrase. The final amendments in section 60 are again simple amendments: The use of the seal of the commission has been deleted as the commission does not have, and will not have, a seal. Lastly, consistency is maintained by allowing the Ministry of Sport and Recreation officer nominated to represent the chief executive officer to fulfil the delegated functions.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Max Evans.

RACECOURSE DEVELOPMENT AMENDMENT BILL

Second Reading

Debate resumed from 29 August.

HON P.H. LOCKYER (Mining and Pastoral) [9.28 pm]: The Opposition will support the second reading of this Bill, and it is pleased that it has finally found its way into this Chamber. During the last session of Parliament a similar Bill was introduced but it was not proceeded with. I had a number of amendments on the Notice Paper regarding that Bill and I am happy to see that the Government has picked up most of those amendments to tidy up the Bill to the point where it is now acceptable.

Basically, the funds available for distribution by the trust are unclaimed Totalisator Agency Board betting dividends, and I can say without equivocation that none of my money, nor yours, Mr Deputy President (Hon J.M. Brown), will find its way into the unclaimed moneys fund. It is amazing that in the financial year ended 31 July 1989, $1.3 million of betting funds were unclaimed by punters throughout the State. If honourable members happen to go to a racecourse and something happens to distract their attention - be it drink or whatever - and they miss the announcement of their wager, they should pay attention to the matter the next day!

At the moment the trust has a chairman, a member appointed by the responsible Minister and nominated by the WA Turf Club, and a person nominated by the WA Trotting Association. Both of these people are appointed by the Minister and the Chief Executive Officer of the Office of Racing and Gaming. While the Act allows for the racecourse development trust funds to be given only to country racing and trotting institutions, it does allow for representatives from metropolitan racing and trotting to present their points of view.

I am glad to see that the Government has accepted the recommendation of the Quin report that the racecourse development trust funds should be available for metropolitan as well as non-metropolitan horse racing and trotting tracks. This is extremely important, especially in these days when funds are difficult to obtain. In the name of fairness it is important for metropolitan clubs as well as for the country clubs to be able to use the funds. I also welcome the fact that, while the trust will comprise seven members, a chairman and one other member will be appointed by the responsible Minister. I understand that Hon Tom McNeil has been appointed as interim chairman.

Hon Graham Edwards: He was appointed last year. I understand that he will continue in that position.

Hon P.H. LOCKYER: I am glad that the Minister has pointed that out because no-one who has been in this Parliament has been held in such high esteem. He also has a great knowledge of all codes of racing. He is a regular visitor to both racing and trotting and he raced a Pan Licker with some distinction. That dog won a few races.

Hon Graham Edwards: The date of expiry of his term of office is 31 December 1991.

Hon P.H. LOCKYER: I hope the Minister will still have responsibility for this portfolio then, unless the Government concedes that it can no longer govern.

When the trust is set up, it must have great stability because it will not have an easy job to do. Tom McNeil will provide that stability. The Bill states -

> There will be a chairman and one other member appointed by the responsible Minister, as well as the Chief Executive Officer, or nominee, of the Office of Racing and Gaming.

While there are some fears in the racing fraternity that this will make the trust top heavy as far as ministerial appointments are concerned, it has accepted it and convinced the Opposition that it should accept it. I concede that. The most important appointments to this trust are the four independent representatives. Two of those persons will be nominated by the Western Australian Turf Club and appointed by the responsible Minister. One will represent metropolitan horseracing interests and the other will represent country horseracing interests. The same will apply to trotting. It is very important that country horseracing and trotting codes have their say on the trust.

When the trust meets to discuss the distribution of funds for either code, the two people representing the other code will not take part in the discussions. Originally I queried that. However, both codes assured me that they do not want to sit on the trust when discussions are taking place for the distribution of funds to the other code. I accept the decision of the industry. That means that the trust will never comprise more than five members when discussing matters relating to the distribution of funds.

Hon Graham Edwards: That is dead right. Some difficulty arose in another place because members did not understand matters of general policy affecting both industries and matters where they should come together where facilities exist.

Hon P.H. LOCKYER: I thank the Minister for that interjection and understand it. I did a considerable amount of checking because it is very important that the matter be made quite clear. The second reading speech states -

> . . . the Bill provides that the trust will be subject to directions from the responsible Minister with respect to its functions and powers.

The following is most important -

> It is not intended that the Minister give directions to the trust in relation to a particular application before the trust.

That is absolutely essential. People from various codes cannot attempt to get the ear of the Minister in the hope that he or she will direct the trust in the distribution of money. The Minister must be above that. By its very nature, it would be natural for a club in my area which might have applied for some funds to see whether I could get my good friend, Hon Graham Edwards' ear, if he were still the Minister. That cannot be allowed to happen. The distribution of funds has to be handled fairly by the trust and responsibility must rest with it because impartiality is important. The second reading speech continues -

> At present the Racecourse Development Act does not stipulate how the trust should allocate the funds between horseracing and trotting clubs. In practice, in the past the trust has applied approximately 60 per cent of the funds to horseracing clubs and approximately 40 per cent to trotting clubs, in keeping with the ratio for allocation of Totalisator Agency Board surplus funds between these two codes. The Bill provides that the trust apportion the funds between the two racing codes to reflect the changing ratio for the distribution of TAB surplus moneys established in the Totalisator Agency Board Betting Act by amendments passed in 1988.

I agree with that. It is the only fair way for the trust to carry out its duties. The Minister referred to the degree of danger, especially for jockeys and reinspersons. He said -

> The trust will be given power to direct individual clubs on safety issues. This could occur whether or not a racing club has applied for assistance. Jockeys and reinspersons will be given the right to raise safety issues with the trust, again whether or not there is a proposal already before the trust.

While I agree with that, it is my belief that a number of clubs in Western Australia, particularly in the north of our State, do not have the expertise necessary to bring the tracks to a standard that is expected for safe racing. On Sunday, I attended a meeting at Port Hedland that was chaired by the President of the Country Racing Association, Mr Dixie Solley, and Mr Bill Bevan, who is the chief executive of the Country TAB Clubs Association and the Country Racing Association. Every race club in the north of Western Australia from Broome to Carnarvon was represented. It was the most constructive meeting that I have been to for a long time. One problem the clubs have is that they do not have anyone to advise them on how the tracks should be prepared or the safety measures that are needed to present the most appropriate track to jockeys and to the general public on the day of racing. I strongly believe that the Minister should urge the Western Australian Turf Club to consider appointing a person who is able to advise these clubs on safety.

Country racing needs someone to advise on public relations and promotion of the industry. The turf club already has that person in its employ. He is a well known racing commentator, Mr Max Simmonds. He is held in extremely high esteem, particularly in the north of the State, in his capacity as a promoter of horseracing. His knowledge of racecourses is second to none and his advice would be accepted by the clubs. The reason I am making my comments about this Bill carefully is that some clubs think it is okay to run a grader across the racetrack on the morning of the day of the races. It ends up offending the trainers, jockeys and the public because the racing is not of the standard it should be. I am not laying the blame at any particular race club and I commend the tremendous work which the committees do. However, if a person of Mr Simmonds' ability were able to visit the clubs in the north of this State once or twice a year to advise them on what they should be doing it would be of assistance to them. The Minister has already said that the trust is empowered to

direct clubs on safety issues, and a person like Mr Simmonds could advise the clubs on what the trust requires them to do. The cost to the Western Australian Turf Club would be minimal as the person who could could advise the country clubs could be employed by it.

I am making these comments because Mr Solly and Mr Bevan are seeking, at the earliest possible opportunity, a meeting with the new Chairman of the WA Turf Club to put this matter to him. I urge the Government and the Minister for Racing and Gaming to take up this matter with the Turf Club because several racing clubs in this State need that kind of assistance. The day has gone when we can expect jockeys and trainers to work on substandard tracks. The clubs should be given advice and guidance.

One of the great things that came out of Sunday's meeting was that the north west racing association will hold a function in Perth to which it will invite trainers to come and inform them of the racing events in the north in the hope of encouraging them to race their horses there during winter and at major events. I hope the Minister will refer my comments to the Minister for Racing and Gaming because it is something which is very important to clubs, not only in the north, but also in the south of the State. It does not apply to the provincial clubs, but it does apply to clubs which conduct small meetings.

The Bill states that grants or loans made to clubs are subject to conditions and may be recovered by the trust if the racing club does not use the funds for approved purposes. This provision is essential because on the odd occasion funds made available to racing clubs are not used for the purpose stated on the application for funds. I hasten to add that this is not a common occurrence, but clubs should be required to prove the work has been carried out by producing the receipts for it. Some sort of inspection should be carried out by a representative of the trust. This inspection could be linked with a public relations officer, or similar person, appointed by the WA Turf Club who will once a year make an inspection of country race clubs with a view to making suggestions for improvements.

The Minister, in his second reading speech, said that the responsible Minister will give a direction to the trust in writing to the effect that any unspent moneys that have accrued in the fund before 1 August 1989 be applied to country horseracing and trotting tracks only. Metropolitan clubs would not have access to the funds prior to 1 August 1989. I understand that there was not a huge amount of money in the fund prior to that date, but I agree with the Government's commitment.

The industry is anxious that the Bill pass through the Parliament and be enacted by the Governor as soon as possible. The Racecourse Development Trust could be the lifeblood that will provide for the future of some race clubs. It is important that some documentation on how clubs can apply for funds from the trust and how they can expect to obtain the best from their application be forwarded to every racing and trotting club in Western Australia. Unfortunately not every club has the ability to know precisely how to apply for these funds. For instance, one of the oldest clubs in Western Australia, the Nor-West Jockey Club at Roebourne, needs to upgrade the ablution blocks at the racecourse to cater for the massive crowds which attend its racing events. It was indicated to me at the weekend that it is having difficulty determining whether its application will meet the guidelines set down by the trust. The trust's guidelines should be detailed in simple lay terms and forwarded to the clubs in order that they can obtain the funding to which they are entitled. The fund is not bottomless and the trust is charged with the onerous task of stretching its dollar to assist each club.

Members on this side of the House are prepared to support the Bill because it will assist the racing industry.

HON E.J. CHARLTON (Agricultural) [9.47 pm]: I compliment Hon Philip Lockyer on his obviously wide knowledge of the racing industry and the problems it faces. Members would agree with me that he has adequately covered the problems the industry faces.

My colleague in another place, the member for Avon, has had a great deal to do with this industry, particularly in the central districts of this State. In the last few years we have seen in many facets of country sport and in business generally that it is becoming increasingly more difficult to make the dollar go further. The racing industry in the metropolitan area is trying to maintain the high standard of racing desired by the public by offering high stakes. As a consequence of that it is placing an increasing burden on country clubs to operate efficiently. On several occasions we have had debates in this place about the distribution of Totalisator Agency Board funds to racing and trotting.

The Minister must be made aware of the effect the Tobacco Bill will have on the racing and trotting. Some country clubs receive tobacco company sponsorship, which is something that we, as members of Parliament, must take into consideration when voting on that legislation. I can assure the Minister and members of country racing clubs that we will leave no stone unturned in ensuring that country racing does not face detrimental consequences as a result of that legislation. We support the Bill and hope that the trust will be able to implement its expectations.

I confirm what Hon Philip Lockyer said about communication because that is what this Bill does; it sets out before these organisations, particularly in country areas, the opportunities and expectations relating to their operations. There is a declining population in country Australia and severe economic problems are facing country people as a whole. Fewer people are available in country areas to fill responsible positions. We should not under-emphasise the point that a small number of people are given responsibility in country communities to carry out wide ranging tasks and to run various organisations. These things are done on a part time basis as the people also have to earn a living and look after their other responsibilities.

These people are called upon to administer racing clubs in this instance, whether as seasonal operations or for a longer period as with the clubs in the south of the State. As a result of changing circumstances they need the help referred to earlier. There is often an oversight of a particular sport or industry by people in paid positions in metropolitan administrative areas, in this case the racing industry, and they do not reach the point of saying they should respond to country clubs because they play a vital role. People should not be responding, as they do on many occasions, to the limitation or centralisation of country sporting operations as they are an important part of the lifestyle and total environmental package that attracts people to country areas and encourages them to stay.

In the past little while people have sought to rationalise these events and if things continue in that way we will have problems. People sit down with a red pen saying, "If we had only one of these in the area instead of three that would be better," but things do not work that way. If things go wrong not only the country areas but also the whole State will be the loser. The propositions in this Bill will go a long way towards making things a little easier for the people who give their time and expertise to these positions. That will be for the good of all in the long run. We support the Bill.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [9.54 pm]: I thank members for their contribution to the debate. I appreciate that Hon Philip Lockyer has much knowledge of this subject, given his involvement in country racing. I appreciate his comments and suggestions and the comments made by Hon Eric Charlton, some of which related to another Bill currently being considered by the Legislation Committee. However, I note his general comments about country racing.

It is true to say that in the current Minister we have a person who has a good understanding of the needs of country racing and a great deal of interest and sympathy for it, which was demonstrated by the Minister responsible previously, and again by the present Minister since taking up the Racing and Gaming portfolio again. Hon Philip Lockyer indicated that this Bill was introduced previously and has now returned with changes. It is fair to say that some of the changes are the result of amendments put forward by him and of further consultation entered into by Hon Pam Beggs since picking up the reins again. Because of those changes this is undoubtedly a better Bill, and I, as the Minister responsible for the Bill when it was introduced previously, accept that. I said at the time that I was concerned to see both trotting and thoroughbred racing working together to improve the industry, whether in the city or the country, because they are collectively an important industry in this State employing a number of people. In my view they lead to a better quality of life, particularly in country areas where they have great volunteer support.

I take credit for appointing Hon Tom McNeil to his position. Like other members I sat through a number of informative and interesting speeches he made while a member of this Chamber. In my view he had much credibility and was not bent on politics but went into this matter seeking to do the best possible job for the industry. He has worked in that way, which I am sure is the way in which members expected him to work. I am sure he will continue to give service in his present capacity for many years.

I appreciate the comments made by Hon Philip Lockyer about safety, and I support those statements. There is no excuse for substandard tracks. Hopefully this legislation over time will be used to address that area and improve the situation when a safety problem arises. That is in the best interests of racing in both the short and long term. I will certainly convey Hon Philip Lockyer's comments and suggestions to Hon Pam Beggs and ask her to address them. This Bill allows the trust, with ministerial approval, to engage consultants and professionals to assist in its functions. It may be that the trust rather than the Western Australian Turf Club will be in a better position to address the suggestions that have been raised. I thank Hon Phil Lockyer and Hon Eric Charlton for their contributions to the debate and for their indications of support for the Bill.

Question put and passed.

Bill read a second time.

Committee

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

Clauses 1 to 5 put and passed.

Clause 6: Section 4 amended -

Hon P.H. LOCKYER: Proposed section 4(2)(a) provides that one person shall be appointed by the Minister to be chairman of the trust. I can understand that. The second person is to be appointed by the Minister. Can the Minister advise whether that person will be from the racing industry, or perhaps from the accountancy profession, who will have some particular expertise, and will it be left to the Minister to appoint that person? I am concerned that this appointment may provide a dumping ground for former members of Parliament of any political persuasion; I do not want to preclude them from this position - and I note that the person who has been appointed to be chairman of the trust is a former member of Parliament - but I do not want to see this become an area of jobs for the boys rather than for people with particular expertise.

Hon GRAHAM EDWARDS: The person appointed by the Minister to be chairman of the trust is Hon Tom McNeil. I will come back to the person to be appointed by the Minister. The other members of the trust will be the Chief Executive Officer of the Office of Racing and Gaming, or his nominee; one person nominated by the Western Australian Turf Club and appointed by the Minister to represent country racing interests; one person nominated by the club and appointed by the Minister to represent country racing interests; and the same will apply to country trotting interests, where one person is to be nominated by the West Australian Country Trotting Association and one person by the Western Australian Trotting Association.

The appointee about whom Hon Phil Lockyer has raised some concerns is to be appointed by the Minister and will need to have some knowledge of the industry, but need not necessarily be a person from within the industry. The trust may be looking for a person with particular expertise, and that person may be found outside the industry. We have to leave that open, and when we think about who may be appointed we need just reflect on the person who is to be appointed as chairman. I will convey the member's comments to the Minister for her consideration.

Hon P.H. LOCKYER: Proposed section 4(2)(d) says one person is to be nominated by the "club" and appointed by the Minister to represent country racing interests. Is that club the Western Australian Turf Club? If it is, I will need to move an amendment. I note that proposed section 4(2)(f) says one person is to be nominated by the West Australian Country Trotting Association. I put it to the Minister that the person nominated to represent country racing interests should be nominated by one of the two organisations that represent country racing; that is, the TAB country racing association and the non-TAB country racing association. The nomination of that person should be made by a combination of those two associations.

Hon GRAHAM EDWARDS: The "club" is defined as the body known as the Western Australian Turf Club, and that clearly addresses the first point. Was the member talking about country trotting?

Hon P.H. LOCKYER: It disturbs me even more that in proposed subsection (2)(b) the Western Australian Turf Club is to nominate the person to represent country racing interests because proposed subsection (2)(f) provides that the person who is to represent country trotting is to be nominated by the West Australian Country Trotting Association. Consideration should be given to allowing the TAB country trotting association and the non-TAB country trotting association to nominate the person to represent country trotting interests. I will be more than happy to formulate an amendment for the Minister to consider and it may be that he will agree to that. There should not be a delineation. Why is it that the West Australian Country Trotting Association can make a nomination -

Hon E.J. Charlton: And so it should.

Hon P.H. LOCKYER: Yes, but the Western Australian Turf Club is to nominate the person to represent country trotting interests. I do not want to imply that the Western Australian Turf Club will not be able to do that, but for the sake of fairness and because it has been deliberately written into the legislation that the West Australian Country Trotting Association will nominate a person, why should not the country trotting associations also make a nomination?

Hon GRAHAM EDWARDS: The difficulty arises because the West Australian Country Trotting Association is the only organisation which represents country trotting interests. The difficulty with thoroughbred racing is that there are two bodies, the TAB and the non-TAB clubs, and it was believed that by addressing the matter in this way it would not put the Minister in a situation where there could be a dispute about whom she should appoint and that it was better to filter that nomination through the Western Australian Turf Club.

The point Hon Philip Lockyer has raised is fair and reasonable, but I ask him: Who would he suggest? Would we amend it to put in a TAB club representative or a non-TAB club representative? The difficulty was considered best resolved in the way in which it has been put forward.

Hon P.H. LOCKYER: I see the Minister's dilemma. To assist him, I ask that he give an undertaking that the Minister will have discussions with the Western Australian Turf Club to obtain from it an undertaking that, prior to putting forward a nomination for a representative of country racing, nominations be discussed with both of those racing associations. I recognise that there is only one country trotting racing association, but there were a number of associations representing country racing in Western Australia; there are now only two, and I believe they are two very responsible bodies. They share a common executive officer, Mr Bill Bevan; Mr Peter Battle, who is the President of the Bunbury Race Club, is the chairman of the TAB country racing association, and Mr Dixie Solly is the president of the non-TAB country racing association. I believe Mr Solly and Mr Battle, along with Mr Bevan, are the people the Turf Club need to give the Minister an undertaking that they will discuss the possibility of a country representative for the Turf Club prior to a nomination being given to the Turf Club.

I have every confidence that the Western Australian Turf Club will accede to this, because I see a change in the attitude of the Turf Club at present, and I welcome that. I believe the members of the Turf Club committee are undergoing some change, particularly with the inclusion of Mr Wilson Tuckey on the committee. However, I believe it is very important that the person who will represent country racing be a nominee from the country racing people themselves, even if he be from the Turf Club. I do not believe there will be any dispute between the two associations because they work extremely closely together. The fact that they share a secretary-executive officer is, in itself, an illustration of the fact that they want to get on.

Therefore, if the Minister gives me an undertaking to ask his ministerial colleague to discuss that with the Turf Club I am happy to let this clause pass without an amendment.

Hon GRAHAM EDWARDS: I am happy to give the undertaking that I will ask the Minister to discuss that with the Turf Club. Hon Philip Lockyer will understand the difficulty I am in.

Hon P.H. Lockyer: I do understand.

Hon GRAHAM EDWARDS: The point the member has raised is a reasonable, fair and valid one. I am not in a position to give a further commitment than that. However, I point out that while the person is to be nominated by the Turf Club, that person will be appointed by the

Minister. I would interpret that to mean that if the Minister were not happy with the person nominated she could go back and say to the Turf Club, "Perhaps this person does not represent all of the interests which should be represented."

Hon P.H. Lockyer: I recognise that.

Hon GRAHAM EDWARDS: I give Hon Phil Lockyer an undertaking to discuss the matter with the Minister and to request that she discuss it with the Turf Club and give consideration to further discussing it with the two representative groups from the country. However, in the final analysis my view - and I am sure it is a view which would be shared by the Minister - is that the person who should be appointed is the person who will best represent not only country interests but also the interests of racing generally. That is very important.

Hon MARGARET McALEER: I would like a little further clarification. It seems to me from the way it is phrased, and even from the Minister's explanation, that one would expect that the nominee would come from the Western Australian Turf Club itself, rather than from either of the country associations. That does not seem to be a very satisfactory outcome, in light of what Hon Philip Lockyer has said.

Hon GRAHAM EDWARDS: I suppose the point I am making, and the point made by Hon Philip Lockyer, is that there is very much a recognition of the need for all of those bodies representing racing to come together and to work in unison to address the problems of racing. I asked earlier: If the Opposition amended this Bill, who would it put in - a TAB club or a non-TAB club? Because of that problem with the two representative groups it was thought that the best way to deal with it was to have the nomination come from the Turf Club; but, hand in hand with that, obviously the Turf Club would have to have discussed the matter with the two other bodies and the Minister would need to give consideration to that matter when the nomination was put forward.

Hon MARGARET McALEER: Just listening to Hon Philip Lockyer, I thought that if the two country associations shared a secretary it should be quite possible to arrive at a representative from one association or the other. I wonder whether the Minister would concentrate on doing that?

Hon GRAHAM EDWARDS: Yes, but what we are trying to do is address the matter but leave the flexibility there. I take the point Hon Margaret McAleer has raised, and that which has been raised by Hon Philip Lockyer.

Hon E.J. CHARLTON: I have listened very intently to the debate on this clause and I seek the Minister's confirmation on this point: I understand that it is the Western Australian Turf Club which makes the nomination. It does not mean that person comes from the Turf Club; it just means that the Turf Club has the responsibility to make the nomination. It would be absolutely imperative that the Turf Club nominate a person from the country.

Hon P.H. Lockyer: I said that.

Hon E.J. CHARLTON: That is the way it is. The simple machinery aspect of it is that the Turf Club will make the nomination to the Minister. It is important to say that the Minister of the day needs to be very much aware when he or she makes the appointment that he or she does not simply appoint somebody from the industry who does not have the expertise to represent the country, as Hon Margaret McAleer has pointed out.

Hon PETER FOSS: What has been done sounds a little illogical. Perhaps we could overcome it by saying that a person should be nominated by the WA Turf Club from the other two clubs to represent country interests. Then what we are doing is making the nominating body the WA Turf Club but on the other hand we are making it quite clear it must nominate from one of the other two clubs. It seems almost as illogical as a contract I once had, where something was being shipped from Australia to Germany and we could not agree whether to have German or Australian law so we ended up with Swiss law, which was totally inapplicable. The same seems to apply here - we are picking something which is entirely inapplicable as opposed to something which could resolve the matter.

Hon GRAHAM EDWARDS: I do not think the problem which some people perceive actually exists. Some very fair, reasonable and valid points have been made. The best course of action is to leave this clause unamended and I will draw to the Minister's attention the comments which have been made.

Hon MARGARET McALEER: I do not want to interfere too much with this Bill, but I cannot help feeling that it is dealing with the matter in an unsatisfactory way. I understand what Hon Phil Lockyer said about the Western Australian Turf Club and its developing a slightly different attitude to country racing, but the history of the WATC regarding country racing has been turbulent and country people have had a difficult time in receiving what they feel is a fair share of the spoils of racing. I would be loath to see a step backwards.

Hon P.H. LOCKYER: The final decision rests with the Minister. It is clear enough here that the person who is nominated by the club must represent country racing interests, and I am confident that, while difficulties definitely exist in this area, country racing will be represented on the body. I will certainly be one of the people watching its progress very closely. I am not presenting an amendment because of the very problem which was pointed out by the Minister about which person should be nominated and from which association that person should be drawn. If I thought that it was a standard matter and that one secretary could be the common secretary for both associations, that would be done. However, that is not a common occurrence - it is a one off, and I am happy to accept it on that basis.

Clause put and passed.

Clauses 7 to 9 put and passed.

Clause 10: Section 8 repealed and sections 8 and 8A substituted -

Hon P.H. LOCKYER: This clause refers to consultants and I thank the Minister for his comments during the second reading debate. I have been thinking about this issue since the Minister's comments, and it seems that it may be a more satisfactory arrangement if the trust were able to appoint consultants. I strongly reiterate that it is very important that inspections on safety requirements of all country racecourses be undertaken and a report prepared and presented to the trust; that advice should be available for the clubs. Once again, this could be done through consultants. The person appointed to do this job will be in a unique position due to the nature of the racing industry. The person will need to be of a particular competence, and although I mentioned that I thought Mr Max Simmonds would be a person capable of carrying out these duties, I hope the fact that he is employed on a part time basis by the Western Australian Turf Club does not preclude him.

Hon GRAHAM EDWARDS: Again, I take note of the matters raised by Hon Phil Lockyer and will raise them with the Minister. I have no doubt that the current chairman of the trust will be reading the debate himself and will be considering the matters raised.

Clause put and passed.

Clauses 11 to 17 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

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

CRIMINAL CODE AMENDMENT (INCITEMENT TO RACIAL HATRED) BILL

Committee

The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair; Hon Kay Hallahan (Minister for Planning) in charge of the Bill.

The DEPUTY CHAIRMAN: This Bill was dealt with by the Legislation Committee and under the Standing Orders it is the Chamber's pleasure that the committee's report be considered. I move -

That the Bill do stand as now printed.

Hon PETER FOSS: I wish to speak about the procedures adopted by the Legislation Committee and not so much about the text of the Bill. I refer to a couple of matters which have been aired in another place which should be spoken to so that an appropriate record is before the people of Western Australia. Paragraph 14 of the Legislation Committee report

refers, under the heading of "Haste", to the fact that some problems were experienced with the Bill as a result of the hasty conclusions of the Law Reform Commission report. This report was necessary for the Law Reform Commission to have some report ready prior to the legislation being introduced, and this matter has been spoken about by a number of people. It is quite clear to anybody who has read the report of the commission that the report had a beginning and an end but it did not have a middle or transition part from the beginning to the end. It had obviously started on its endeavour in a thorough manner, but had to rather hastily bring it to an end. It is a shame and the committee reached the decision that its hasty conclusion led to the problems seen with the Bill. Complaints from other organisations which the Legislation Committee did not hear evidence from, such as the Law Society of WA and the Criminal Law Association, were that they had been asked to comment on this Bill when it was first introduced at short notice, which did not allow them adequate time to make a full statement.

Although a suggestion has been made in another place that this Bill is being delayed, the biggest problem was one of more haste, less speed. Had the Bill been given more time in maturation it would not have struck the problems it did. It is curious to note that it has been suggested this Chamber is further delaying the Bill because the Legislation Committee took the unusual step of referring it back to the Legislative Council. It certainly shows that some people have an unusual idea of what the Legislation Committee is about. That committee does not finalise the Bill; it is referred back to this Committee. It is something like a month between the time the Legislation Committee reported to this place and its being dealt with by this Committee of the Whole. There are good reasons for it and the Attorney General would agree with me that there have been proper reasons for not bringing this Bill before the Chamber earlier. They are proper reasons with which we all sympathise.

It would be most unfortunate were this Bill, which has been agreed to unanimously by the Legislation Committee, to become the subject of political comment. It was dealt with in an earnest and straightforward manner by the committee, which made a very good recommendation to this Committee. A suggestion has been made elsewhere that members of the committee went into the debate on this Bill showing bias and preconceived opinions. Again, that is an unfortunate reflection on the excellent work done by members of the committee, who approached the Bill in a perfectly open and inquiring manner. Some people may not be aware of the Socratic method of obtaining results: An argument is put to the witness to see what the result is and it is repeatedly put to him until he makes a useful comment. Obviously those people who have read the report have not appreciated the open way in which questions were put to witnesses. If those people had read the evidence of the committee carefully they would have found that in most cases a member would put forward an argument to the one witness, and to another witness he would put forward a contrary view. It is an acceptable way of drawing from a witness his view.

I found the work of the committee extremely useful in formulating views. I did not go into the committee with a preconceived idea; I went into the committee to try to find out from witnesses what were their views and every member of the committee approached it on exactly the same basis. It was encouraging that the decision was unanimous. There was no possibility of a dispute between members because as we worked our way through our investigations the answer became obvious. It was really a matter of listening carefully to witnesses and looking at the alternatives; the answer popped out. It says a lot for the committee system that the answer did pop out and members were happy with the result.

Members of the committee are disappointed that the person who chose to make the criticisms to which I refer did not choose to appear before the committee. The committee was happy to ask for a message to be sent from this place to the other place requesting the Minister to appear before the committee to tell it why he held his views on the Bill. I am disappointed the Minister in another place indicated he was not interested in appearing before the committee. It is an unfortunate state of affairs and I hope that, in future, Ministers in the other place will not place an unfair burden on Ministers in the upper House who handle their legislation. They do not appreciate that upper House Ministers have a heavier load than do lower House Ministers.

Hon George Cash: That does not say much for what he thinks about the Bill.

Hon PETER FOSS: It says very little about his commitment to his Bill.

Several members interjected.

Hon PETER FOSS: Unfortunately it has been done in another place.

Hon T.G. Butler: Don't be so petulant.

Hon PETER FOSS: That is an interesting word. The words puerile and petulant are excellent descriptions of what took place in the other place when the Minister tried to defend his indefensible position. It is unfortunate that the Minister did not have the courage of his convictions and appear before the committee. His comments would have been extremely helpful and I would have valued the opportunity to discuss with him the points he made. Either the committee would have been persuaded by the force of his argument or, better still, he may have been able, by participating in the process of the committee, to join us in the confidence we had in the Bill.

It is rewarding for this Chamber to know that, before the Bill was referred to the Legislation Committee, Mr Doron Ur had been urging us to pass the Bill without any delay. Mr Ur was an extremely useful witness to appear before the Legislation Committee. It was rewarding to discuss the concerns he had. He is a competent debater and he has the ability to take up the theoretical and philosophical arguments and thrash them out. When he saw difficulties with the concerns he raised he acknowledged them. He was able to put certain matters to the committee quite strongly. For instance, he was keen to make certain that newspapers were not entirely exempted from the legislation and he put forward his ideas very strongly. The committee benefited from his opinion. There was not one witness who did not in some way impinge on our thoughts about the Bill. Members of the committee changed their attitudes towards the Bill - we received a better idea of the legislation from what each witness put forward. It is a rewarding experience and it makes for good legislation. I am not alone in that because Mr Ur has written to the Hon Garry Kelly, the Chairman of the Legislation Committee, in the following terms -

> I have read and studied the report of the Committee regarding the Criminal Code Amendment (Incitement to Racial Hatred) Bill.
>
> It is my pleasant duty to congratulate your committee for the praiseworthy effort you have completed.
>
> I am confident that the changes recommended by the Committee strengthen the Bill and I hope that it will be enacted with speed and become speedily the law of this state.

That is a very important statement - it is not only important that the legislation is right, but it must be accepted by the community as being right. I suggest the Minister in another place should take the situation as being that the umpire has spoken. The Legislation Committee is an all party committee and it listened to what was said and it made a decision. It is important that the committee was able to arrive at unanimity, which is important if this legislation is to receive respect in the community. It does not help at all for the Minister to try to seek to cause dissatisfaction or upset about this Bill. We have achieved something important for the community. He has said that he wishes to have bipartisan support; in fact, he has received tripartisan support for the Bill in this Chamber, and yet he is still trying to stir up suggestions that the Opposition is delaying the Bill. He should know by now that the delay between this report being presented and the Bill being dealt with has nothing to do with the Opposition. The Leader of the House has left it until today, and has quite properly done so. He has other responsibilities in other areas and has been very cautious of those responsibilities. The Opposition respects that fact.

I would prefer the Minister in another place not to have taken the opportunity once again to quite wrongly accuse the Opposition of delaying a Bill when he has been responsible in the past for some haste and some difficulties. The Opposition has been extremely measured in its terms as far as his responsibility for the haste was concerned. The first draft I prepared, which I did not give to the committee, was considerably more severe in commenting on that haste. The point had to be made that the haste was there and it caused some of the problems. We could have been more strict and said it was entirely the Minister's fault, but we were circumspect about the way those comments were made. We could have been more partisan so far as other matters were concerned, but we were not. This is a non-partisan report which received tripartisan support in the committee.

It has received the support of the community and ethnic groups who were very keen for it to be presented. Here is the opportunity for all parties in this Chamber and in this Parliament to agree on the result which has received support from the ethnic community. Let us not ruin it and stir up problems in the community. Let us demonstrate this time that we can do it correctly, and let us get some credit for the legislators of this State for being able to do things properly. It has been an excellent opportunity for the committee to function. We have all gained tremendously from it. Let us not lose it now by taking up the measures and views advanced by a Minister in another place.

I have raised this matter today because the remarks put on the record in another place could not stand without being in some small measure corrected. I am prepared to put that behind us and I urge the Committee to adopt the Bill as it stands.

Hon GARRY KELLY: As Chairman of the Legislation Committee I consider the report produced by the committee is the very positive result of a worthwhile exercise. No-one can criticise the committee for having reached the conclusions it did on the basis of the evidence submitted to it. No-one on the committee, or indeed in this Chamber, doubted the need for legislation of this kind to combat the problems being experienced. The Bill was designed to address the specific problem of the proliferation of posters and graffiti around the State aimed at various ethnic groups. That campaign continued for three or four years and as a result of it those people felt very threatened. At one stage members of those ethnic groups could not walk down the street without seeing the material which was offensive to them and from which they had a right to be protected. As members know, it was difficult to prosecute those responsible, and it was important for the community to put on the Statute book some indication of the community's sanction and outrage at what was being perpetrated on those ethnic groups. The Law Reform Commission recommended that amendments be made to the Criminal Code.

Having said that, some problems arose with the original Bill and with the later Bill introduced when the House was reconvened after the prorogation. Many of those difficulties centred on the problems facing the media with regard to reporting news items, and the possible curtailment of freedom of speech and expression. All the witnesses who appeared before the committee endorsed the basic thrust of the Bill and the need for the legislation. That includes members of the media - representatives from the Press Council and the Editor in Chief of *The West Australian*, Mr Bob Cronin. They all wanted the legislation to be enacted as soon as possible. Nevertheless, they saw problems with the way the Bill was framed, in that it would be difficult to report news and not be caught by the legislation and possibly subjected to litigation. They considered it would be necessary to defend their actions in court and, although Chris Smyth of the Australian Journalists Association was confident of their ability to defend themselves against any charges, the media did not want to be put in the position of constantly having to defend charges brought under the Act.

The biggest single amendment to the Bill as presented to the committee was the inclusion of the necessity to prove intent to do something likely to cause alarm or fear to a racial group. In the case of a newspaper reporting an incident, event or speech by an individual, even though that report might cause alarm or fear, the newspaper could be charged only if that was the intent of the publication of that report. I will not go into the technical details of the amendment, which details are included in the report, but as soon as that amendment was made, many of the problems associated with the Bill melted away. In fact, that phrase is used in the report. When that amendment was flagged some representatives from the ethnic communities were not keen on the idea.

However, as Hon Peter Foss indicated, after that report was tabled and made public Doron Ur had an opportunity to consider it and he then endorsed the committee's action in fairly glowing terms. A similar reaction came from Dr Eric Tan, a former president of the Chung Wah Association, and from Bob Cronin of *The West Australian*. Although the former two do not represent all the ethnic groups, certainly all the major newspapers currently printed in Perth are represented!

The definitions in the Bill were amended to include newspapers to ensure they are caught by the legislation. The result is that if various groups publish newspapers and they intend their publications to cause alarm or fear they can be prosecuted, but at the same time mainstream newspapers reporting the news have a ready and easy defence. I said at the beginning of my

remarks that the efforts of the committee in producing this report and this version of the Bill have been part of a very worthwhile exercise. Perhaps for the first time for this Committee of the Whole House, the motion that the Bill as reported stand as printed should be agreed to. I commend the Bill to the Committee.

Hon J.N. CALDWELL: I also am very pleased as a member of the Legislation Committee to present this Bill to the Committee for its consideration. I was absent while the major part of this Bill was debated. I am not saying that is why it has come back a much better Bill, but every Bill which has gone to the Legislation Committee has come back a lot better than when it left this Chamber.

I would like to comment on reports in the Press which suggest that, when Bills are referred to the Legislation Committee, somehow or other that committee acts as an obstruction to legislation. The public should be aware that if this Bill had been brought into this Chamber, debate could have lasted a full week, and it would probably not have finished up as good a Bill as it is now. That shows how good the committee system can be where the agreement of all parties can be obtained.

I am somewhat embarrassed as a result of receiving congratulatory letters saying what a wonderful job this committee did, but I can assure members that if I had been there for the full deliberations of the committee I would have endorsed its actions in putting in the amendments it did. I support this Bill.

Hon SAM PIANTADOSI: I thank members of the committee, on behalf of a number of ethnic groups. Members have indicated that they received letters from only a couple of participants and people who were interviewed, but I assure members that there is a great expectation in the community for this legislation. It is heartening to hear the comments which have been forthcoming from most members. They demonstrate that members now have a better understanding of the fears and feelings of members of the ethnic community and they understand some of the experiences its members have gone through over the last couple of years. While most of us are now the wiser as a result of this exercise, I am sure that members of our community will be able to rest easy in the future knowing that their interests are being well looked after.

On behalf of the people in our community of non-English speaking backgrounds, I thank the committee for its work, and I hope that the committee members receive more letters of support once this legislation is enacted.

Progress

Progress reported and leave given to sit again, on motion by Hon Kay Hallahan (Minister for Planning).

ADJOURNMENT OF THE HOUSE - ORDINARY

Adjournment Debate - Sittings of the House - New Committee System

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.54 pm]: I move -

That the House do now adjourn.

I take this opportunity to put on the record arrangements for the Committee process which have been agreed with the Leader of the Opposition and the Leader of the National Party. I quote from a letter to them which summarises the position which we now have. It is as follows -

1. Each Thursday of sitting weeks will be reserved for Standing Committee meetings from 9 am - 2.30 pm.
2. Each Wednesday of sitting weeks will be reserved for other Committee meetings from 9 am - 2.30 pm.
3. The sitting week after the presentation of the Budget will be used, as far as required, for discussion of the Budget in the House. On past experience, this should not preclude other matters also being dealt with, at least to some extent.

4. The whole of the sitting week thereafter, will be reserved for the three Finance Committees during approximately the following hours:

Tuesday	3.30 pm - 10.00 or 11.00 pm.
Wednesday	10.00 am - 10.00 pm.
Thursday	10.00 am - 6.00 pm.

5. Each of the Finance Committees will have a Minister available throughout its sittings and a tentative timetable will be agreed in advance to cover the consideration of all portfolios represented by that Minister during the allocated week.

6. During the week in (4) no other Committees will sit.

Although not specifically discussed yesterday, I believe it is understood that the Committee consideration in (4), although undertaken on the motion to take note of the Budget papers, would be accepted as covering the Committee stage of the Budget Bills proper, and the reports of the Committees would be presented in the latter context.

We are still, as we have often said, at the stage of learning to come to grips with the new committee system, and it goes without saying that, although this suggested procedure has been agreed, it will be subject to review in the light of experience. There may even be some occasion in the whole week which we have set aside to consider whether some time should be devoted to the introduction of Bills or some such limited process. For the moment, however, it should help all members to be aware of the general arrangements which will apply. It will also assist them to arrange their own other duties during relevant periods.

Adjournment Debate

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [10.57 pm]: Earlier today during question time I supplied information on behalf of a Minister in another place. I indicated that I needed to correct what I thought was a typographical error, and also the answer to the seventh question in a series. One line of the reply to the seventh question was there, but not the subsequent one and a half lines. I said to the member in this House who was asking the question, Hon Norman Moore, that I would obtain that information for him. Before the dinner break I obtained that information for him because he indicated by interjection that it was urgent. I said I would be happy to follow up the matter quickly and have it fully and accurately responded to.

The information was provided to Hon N.F. Moore by 6.00 pm. It is very little different from the response I gave as a reply in the House. It has another one and a half lines indicating that Mr Peter Dowding was a member of the board of the institute; and that I am informed he resigned on 29 May 1990. It was the date of resignation which I did not have; it somehow dropped off the bottom of the page which had been forwarded. I seek leave to table this question and answer.

Leave granted.

[See paper No 557.]

Question put and passed.

House adjourned at 11.00 pm

QUESTIONS ON NOTICE

DOWDING, HON PETER - MUSCA, MR LEON
Defamation Action - Solicitor's Fees

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

(1) What amounts have been paid to date to any firm or firms of solicitors who acted for Mr Peter Dowding in the recent defamation action initiated by Perth barrister and solicitor, Mr Leon Musca against Mr Dowding, which defamation Mr Dowding has now admitted and has issued a public apology to Mr Musca?

(2) Which firms of solicitors were involved and what were the respective amounts charged by those firms of solicitors?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

(1) $56 667.68.

(2) Freehill, Hollingdale and Page - $56 667.68.

KWINANA STRIP - "NEW KWINANA STRIP CHOSEN" ALTERNATIVE INDUSTRIAL SITES
Endangered Marine Flora or Fauna

753. Hon GEORGE CASH to the Minister for Lands representing the Minister for the Environment:

(1) Have any unique or endangered marine flora or fauna been discovered in the coastal areas five kilometres north and south of; and up to 10 kilometres westward of the alternative industrial sites identified in the article title "New Kwinana Strip Chosen" in *The West Australian* of 18 August 1990?

(2) If so, would the Minister provide details?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) Of the whales gazetted "rare" under State legislation, humpback and right whales occasionally pass through the waters adjacent to the proposed new industrial site. The Australian sea lion, a species gazetted as "in need of special protection", also present but there are no breeding or haul-out sites of this animal in the areas. The nearest haul-out site is Lancelin Island. There are no other gazetted marine flora or fauna in the area.

(2) Not relevant.

KWINANA STRIP - GROUND WATER
Heavy Industry Supplies

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

(1) What is the total abstraction from ground water sources which is utilised by heavy industry in the Kwinana strip?

(2) What is the total volume of water supplied from hills storage to the industries on the Kwinana strip?

(3) What shallow ground water aquifers would be in a position to supply water to any industry established in the areas mentioned within the article title "New Kwinana Strip Chosen" in *The West Australian* of 18 August 1990?

(4) What is the estimated maximum annual abstraction which can be supported from these aquifers?

(5) What is the present total annual abstraction from these aquifers?

Hon GRAHAM EDWARDS *replied:*

The Minister for Water Resources has provided the following reply -

(1) About 3.5 million cubic metres per year.

(2) About five million cubic metres per year.

(3) The local coastal superficial aquifers would be in a position to supply industry established in these areas. There are also other ground water resources in the Gingin ground water area, which extends from Muchea to Dandaragan, which would be available for industry.

(4) The sustainable draw from ground water resources in the coastal superficial aquifers between Two Rocks and Lancelin is estimated to be in excess of 40 million cubic metres per year. Total ground water availability in the Gingin ground water area is estimated to be more than 120 million cubic metres per year.

(5) Current abstraction from the coastal superficial aquifers is about 10 million cubic metres per year. Total ground water allocation within the Gingin ground water area is about 35 million cubic metres per year.

PASTORAL INDUSTRY - CHARNLEY RIVER PASTORAL LEASE
McAlpine, Robert; Adams, John - Purchase Conditions

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

(1) What conditions were attached to the sale of the Charnley River pastoral lease when it was sold to Robert McAlpine and John Adams?

(2) Has the lease been developed as a pastoral lease and, if not, why not?

(3) Has the lease been inspected by pastoral inspectors since its purchase by McAlpine and Adams and, if so, when?

(4) What are the current stock numbers on the lease which belong to the leaseholders?

(5) Have any improvements been made to the lease since it was acquired by McAlpine and Adams and, if so, what are they?

Hon KAY HALLAHAN replied:

(1) Pastoral lease 398/691 was transferred to Robert McAlpine and John Adams for use under normal pastoral lease conditions.

(2) I am advised that the original lessee, Dalmeny Pty Ltd, had sufficiently improved and stocked the lease to satisfy requirements under the Land Act.

(3) An aerial inspection of the lease was carried out by a pastoral inspector on 8 June 1986.

(4) A stock return dated 16 August 1990 stated that 1 250 large stock were on the lease.

(5) The extent of current improvements has not been documented at this stage; this will be undertaken at the next physical inspection of the lease.

HOMESWEST - ABORIGINES, CARNARVON
Karratha Vacant Housing Transfer

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

(1) Is it correct that Homeswest, or any other Government agency, is encouraging Aborigines in Carnarvon who are seeking Homeswest housing to move to Karratha where vacant houses are currently available?

(2) If so, what are the details of this scheme?

(3) Has Homeswest or any other Government agency ever encouraged Aborigines seeking Homeswest housing to move to other towns where accommodation is available?

(4) If so, what are the details?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply -

(1) No.

(2)-(4)

Not applicable.

HOMESWEST - UNOCCUPIED RENTAL PROPERTIES

Waiting Lists - Geraldton, Port Hedland, South Hedland, Carnarvon, Karratha

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

(1) How many Homeswest rental properties are currently unoccupied in -

(a) Geraldton;

(b) Port Hedland/South Hedland;

(c) Carnarvon; and

(d) Karratha?

(2) How many people are currently on the Homeswest waiting list in -

(a) Geraldton;

(b) Port Hedland/South Hedland;

(c) Carnarvon; and

(d) Karratha?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply -

(1) (a) There are currently nine unoccupied rental properties in Geraldton. All nine of these properties are under offer.

(b) There are currently 40 unoccupied rental properties in South Hedland. Seven are under offer; 21 are undergoing maintenance and 12 units are being upgraded.

(c) There are currently six unoccupied rental properties in Carnarvon. All six are currently under offer.

(d) There are currently 10 unoccupied rental properties in Karratha of which seven are pre-allocated and three undergoing maintenance.

(2) (a) Geraldton currently has 467 applicants on the Homeswest waiting list.

(b) South Hedland currently has 174 and Port Hedland has 61 applicants on the Homeswest waiting list.

(c) Carnarvon currently has 177 applicants on the Homeswest waiting list.

(d) Karratha currently has 243 applicants on the Homeswest waiting list.

QTV PTY LTD - QUILL ADVERTISING
Breakthrough Communications - Directors

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

Further to question on notice 286 to which the Premier supplied a written reply, would the Premier advise the names and director/s of the following companies -

(a) QTV Pty Ltd;

(b) Quill Advertising;

(c) Quill Television Media;

(d) Breakthrough Communications; and

(e) Breakthrough Advertising and Marketing Pty Ltd?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

(a)-(e)
This information is readily available from the Corporate Affairs Department.

McCUSKER REPORT - CONNELL, MR LAURIE
"Sham Deals" - Corporate Affairs Department

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

When did the Corporate Affairs Department first inform the Attorney General of what Mr McCusker refers to in various parts of his report as "sham deals" by Laurie Connell and his family companies?

Hon J.M. BERINSON replied:

I do not recall being informed by the Corporate Affairs Department of any alleged "sham deals" by Mr Connell and his family companies. The department has confirmed this by reference of the question to both Mr McCusker and the then commissioner, Mr O'Connor.

CABINET - ALBANY LUNCHEON
Albany Chamber of Commerce - Late Invitation

848. Hon MURRAY MONTGOMERY to the Leader of the House representing the Premier:

(1) Why was the Albany Chamber of Commerce not informed or invited to the luncheon hosted by State Cabinet in Albany on Monday, 13 August, until three days prior to the luncheon?

(2) Why was the request by the Albany Chamber of Commerce for a meeting with the Premier or senior members of the Cabinet refused?

(3) Were the usual protocols followed in informing community organisations in Albany of the Cabinet's visit?

(4) If not, why not?

(5) If the answer to (3) is yes, will the protocols be amended to enable community groups such as the Albany Chamber of Commerce the opportunity to meet the Government?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

(1) All invitations to the community luncheon at Albany were posted on 2 August 1990. The usual practice is for invitations to be sent two to three weeks prior to the function. In the case of Albany, however, the invitations were sent slightly later than usual because some groups were slow in nominating office-bearers for invitations to be sent to.

(2) I received an informal invitation to attend an Albany Chamber of Commerce dinner on the evening of Monday, 13 August. I was, however, unable to attend due to a prior commitment in Perth. I did meet with the director of the Albany Chamber of Commerce, Mr Jonathon Youngs, and sat with him at the community lunch held after the Cabinet meeting.

(3) Yes. Both the Albany Town Council and the Albany Shire Council were advised on 12 June of a proposed Cabinet meeting. It was suggested to both councils that they advise community groups of the Cabinet visit, and that any group wishing to meet with certain Ministers should arrange appointments directly with these Ministers' offices, as many did. In addition to this a Press release was issued by the Premier's department and appeared in the *Albany Advertiser* on 26 June 1990, advising the community of the visit.

(4) Not applicable.

(5) The protocols are of course the subject of ongoing review and improvement. However, in this instance I believe that all community groups including the Chamber of Commerce were given adequate opportunity to meet with me and other Ministers.

KING, JOHN MICHAEL - FREMANTLE HOSPITAL ESCAPE

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

(1) Will the Minister advise the circumstances surrounding the escape from lawful custody of Michael John King at the Fremantle Hospital on Thursday, 6 September 1990?

(2) What action is intended to be taken to ensure that prisoners who have been sentenced to long terms of imprisonment for serious offences are not able to escape lawful custody, in particular when the prisoner is being escorted to facilities outside the prison?

Hon J.M. BERINSON replied:

(1) Michael John King attended Fremantle Hospital on 6 September 1990 for an examination and was escorted by two officers. Following the examination, King indicated an urgent need to go to the toilet. Handcuffs that secured one of the officers to King were removed, and he was escorted to the toilet cubicle and both officers stood guard.

When the officers commenced replacing the handcuffs on King, he pushed both officers violently and knocked them off balance. Both officers gave chase and one of the officers caught hold of King and struggled with him. King assaulted the officer before escaping through the hospital entrance/exit door. King was recaptured by police at 8.30 am on 7 September.

(2) In addition to prisoners considered to be a high escape risk, all strict security (male) life imprisonment prisoners will now be escorted by the department's metropolitan security unit. Prisoners escorted by the MSU are handcuffed, and wear leg manacles where appropriate. If handcuffs are removed, then leg manacles will be required.

TRADE UNIONS - PORT OF FREMANTLE
Berth No 9 Reconstruction - Day Labour Stoppages

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

(1) Have the combined unions within the Port of Fremantle threatened or imposed rolling stoppages and bans on the day labour reconstruction of No 9 berth?

(2) If so, have the stoppages delayed the progress of the work and caused additional overtime payments to be made?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1) No.

(2) Not applicable.

SWIMMING - WORLD SWIMMING CHAMPIONSHIPS
Superdrome Creche Facility - Tenders

857. Hon GEORGE CASH to the Minister for Police representing the Minister for Sport and Recreation:

(1) Have tenders been called for the operation of the child care/creche facility at the Superdrome for the World Swimming Championships?

(2) Can the Minister advise -

(a) the term of the lease;

(b) whether the centre will be designated as a creche or long day care centre; and

(c) who was the successful tenderer?

Hon GRAHAM EDWARDS replied:

The Minister for Sport and Recreation has provided the following response -

(1)-(2)

The centre will open under new management on Monday, 17 September 1990 following the expiry of the previous lease. The lease period for the new operators is 12 months. The centre will provide both creche and day care services as approved by the Child Care Services Board. The new operators were invited to manage the centre following investigations by the management of the Superdrome and discussions with the Department for Community Services, the Women in Sport Foundation and a number of operators within the industry. The new operators are Mr and Mrs Ross Springer who trade as Marom Pty Ltd. The centre will operate as normal during the period of the championships and will attempt to accommodate the needs of the championship's patrons as well as regular clients.

TOTALISATOR AGENCY BOARD - PUBTABS

861. Hon REG DAVIES to the Minister for Police representing the Minister for Racing and Gaming:

(1) Will the Minister advise the House as to whether the Government has plans to establish PubTabs in more Western Australian hotels?

(2) If the answer is yes, which hotels will be granted TAB licences and when?

Hon GRAHAM EDWARDS replied:

The Minister for Racing and Gaming has provided the following response -

(1) The Totalisator Agency Board is continuing to receive applications from licensed premises for the installation of PubTab facilities which are assessed by the Totalisator Agency Board in conjunction with consultation with the Western Australian Totalisator Agency Board Agents' Association.

(2) It is an ongoing process with approval being granted or refused once the assessment has been completed.

TOTALISATOR AGENCY BOARD - FRANCHISED AGENCIES
Public Toilets

862. Hon REG DAVIES to the Minister for Police representing the Minister for Racing and Gaming:

Are there plans to establish public toilet facilities at those TABs where they do not currently exist?

Hon GRAHAM EDWARDS replied:

The Minister for Racing and Gaming has provided the following response -

The Totalisator Agency Board has no plans to introduce public toilet facilities in its franchised agencies. The Western Australian Totalisator Agency Board Agents' Association does not support the facilities being installed.

REGIONAL DEVELOPMENT - "WA'S REGIONAL CHALLENGE-A STRATEGY TO PROMOTE REGIONAL DEVELOPMENT" REPORT
Release Date

863. Hon BARRY HOUSE to the Minister for Police representing the Minister for Regional Development:

When will the report titled "WA's Regional Challenge - A Strategy to promote Regional Development" be released?

Hon GRAHAM EDWARDS replied:

The Minister for Regional Development has provided the following reply -

It is planned to be released in October.

QUESTIONS WITHOUT NOTICE

STATE GOVERNMENT INSURANCE COMMISSION - COMPANIES (WESTERN AUSTRALIA) CODE
Solicitor General's Advice

599. Hon GOERGE CASH to the Attorney General:

(1) Did the Attorney General request any advice from either the Solicitor General, the Crown Law Department, or other sources relating to the position of the SGIC, or more generally any statutory authority, in relation to those sections of the Companies (Western Australia) Code which determine whether parties to a transaction are deemed to be acting in association with another party?

(2) If so, will the Attorney General advise when that advice was asked?

Hon J.M. BERINSON replied:

(1) If I understand the question, and relate it correctly to the question asked by Mr Foss last week, having checked my records and checked the position with the Solicitor General, I obtained advice in more general terms than the specific question the Leader of the Opposition has asked. It was advice on matters which referred generally to the position of the SGIC in relation to the Companies Code. That advice was received in January 1989.

(2) The Solicitor General was the only officer from whom I sought advice of that nature.

McCUSKER INQUIRY - EVIDENCE
Oral or Written

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

(1) Was the evidence taken during the McCusker inquiry from the Attorney General, Mr Burke, Mr Dowding, Mr Parker, Mr Grill, Mr Edwards and Mr Lloyd provided verbally or in writing?

(2) If verbally, were those people questioned by Mr McCusker?

(3) If in writing, did they indicate to Mr McCusker their willingness and availability to be questioned on their evidence?

(4) Was their written evidence in the form of a sworn statement?

(5) Did Mr McCusker seek any information from them in addition to that obtained in their first written evidence?

(6) If their evidence was in writing, were they told, before making their statements, what other witnesses had said during the inquiry?

Hon J.M. BERINSON replied:

I thank the honourable member for some notice of this question. The House will appreciate that it is almost impossible to deal with this sort of detail without an advance indication that it is required. I refer, firstly, to the question on my own position.

(1) As I have previously indicated to the House, I replied in writing on affidavit to written questions.

(2) Not applicable.

(3) There was no question of any need to provide such an indication. The manner in which Mr McCusker sought information was entirely at his discretion.

(4) Yes.

(5)-(6) No.

I emphasise again that those questions relate solely to my position. In relation to all six questions about the other named persons in question (1) the answer is that I do not know. To make the point that I have consistently made earlier, even if I did know the answers to all those questions, it would be improper for me to provide them.

As with all similar questions, I will refer these to Mr McCusker for his consideration and for such reply as he considers fit at his discretion.

LAND - ELIZABETH HOUSING ESTATE, MANDURAH
Misleading Advertising

601. Hon B.L. JONES to the Minister for Lands:

Is the Minister aware that advertising for the Elizabeth housing estate in Mandurah could be misleading to the public?

Hon KAY HALLAHAN replied:

I thank the honourable member for some notice of this question. The matter is of concern in her electorate. I have publicly expressed my concern that the Elizabeth estate has been described by advertisements in print and on television as Mandurah's fastest growing suburb. The advertisements contain no reference to the suburb of Greenfields, nor has Elizabeth been described as an estate. This sort of advertising could give the community the impression that the lots for sale were in a suburb called Elizabeth, which does not exist.

The Government often receives complaints from people who have been misled by estate names only to find out later that their postal address is not what they had been led to believe.

The Department of Land Administration wrote to the developers of the Elizabeth estate in April to point out that the advertising could be misleading to buyers. In spite of that letter, the developers continued advertising until my recent public statement on the matter.

I am pleased to say that I am advised that the developers have now undertaken to amend their advertisements to read "Elizabeth at Greenfields, Mandurah's fastest growing suburb" which is a more accurate description of the area. Many members may have received complaints by people whose expectations of their postal address differed from their actual address and who were concerned about what that would mean in relation to the value of their land.

The advertising to which I referred is often the cause of many complaints. I hope the matter has been resolved in this instance.

POLICE - MANPOWER
1 000 Increase Commitment

602. Hon REG DAVIES to the Minister for Police:

Would the Minister inform the House whether the Government's commitment to increase the Western Australia Police Force by an additional 1 000 men within three years is on target?

Hon GRAHAM EDWARDS replied:

Yes, the commitment is on target. However, the number of years for completing the target is not three years; it is four years. My understanding is that that commitment was amended at the request of the Police Force because the Police Academy does not have the capacity to handle the additional officers within three years.

POLICE - RECRUIT COURSE
No Further Intake Assurance

603. Hon REG DAVIES to the Minister for Police:

Can the Minister confirm that no further police recruit intakes will occur until after the next financial year?

Hon GRAHAM EDWARDS replied:

That is not the case.

HEALTH PROMOTION FOUNDATION - $5 MILLION ALLOCATION
Tobacco Bill

604. Hon J.N. CALDWELL to the Minister for Planning:

Is the $5 million allocated to the Health Promotion Foundation during the 1989-1990 financial year, as stated by the Minister during the second reading debate on the Tobacco Bill, still committed to the foundation?

Hon KAY HALLAHAN replied:

This issue covers contentious ground. It seems to me that the political parties want to be seen to be doing something sensible on behalf of the community. Reference was made publicly to the fact that the Opposition had delayed the Bill; as a result it has carried on outrageously today. There has been an outrageous carry on today and terrible comments from Hon George Cash. It has been very disappointing.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! I suggest that the Minister respond to the question asked by Hon John Caldwell rather than continuing with a matter that has been debated already today.

Hon KAY HALLAHAN: I have made it clear that, had the Bill gone through in the last financial year, $5 million would have been set aside for the replacement of tobacco products advertising. However, the ban did not come into place. The mechanism for distribution also was not put in place. The members opposite want to redeem their reputations, impossible as that is. I do not understand why members opposite have problems understanding this matter. If we had allocated the money they would have said, "My God, they have not lost their tobacco advertising; what are you doing throwing money at them?" This is an unbelievable situation.

Hon George Cash: Is the answer no?

Hon KAY HALLAHAN: I will tell the Leader of the Opposition what the answer is.

Hon E.J. Charlton: They have lost it.

Hon KAY HALLAHAN: I have charge of this Bill in this House. It is a very good Bill and it will be historic.

Hon E.J. Charlton: You said we were outside the financial year.

Hon Peter Foss: Read your own second reading speech.

Hon KAY HALLAHAN: I do not mind reading second reading speeches; I would be happy to read it aloud, if the member wants. I cannot understand the problem that the member has by asking this question. If he puts his question on notice to the Minister for Health, I will come back with an answer.

Hon George Cash: You are running away from it.

Hon KAY HALLAHAN: I am running away from nothing. The member opposite suggests that to redeem his reputation.

Several members interjected.

The DEPUTY PRESIDENT: Order! I want order in this Chamber. I was disturbed earlier. Members should understand the action that the President would take if he were here. I will propose the same action by asking the Attorney General to discontinue questions if members do not cease interjecting. Question time is a time for members to obtain information. I therefore want it to continue with more decorum.

POLICE WEEK - PURPOSE

605. Hon TOM STEPHENS to the Minister for Police:

Will the Minister advise the House of the purpose of Police Week and indicate the activities in which the community can participate as part of Police Week?

Hon GRAHAM EDWARDS replied:

I thank the member for his question and for his interests in the police and Police Week. It was gratifying to see support given to Police Week by Hon George Cash's attendance at the opening yesterday and by John Bradshaw's attendance at the church service. It is also encouraging to see the support given to community policing with the presentation of community policing cars to the Warwick police district by the Mayor of the City of Wanneroo, Wayne Bradshaw. It is also pleasing to note that local authorities and the broader community have recognised their responsibilities to community policing.

Police Week 1990 which was officially opened yesterday morning is designed to emphasise the interrelationships between the Western Australian Police Force and the community. It is intended to draw attention to the fine work that the Police Department does in our community 52 weeks of the year and to demonstrate the many different ways in which the police involve themselves in the community. Police are actively involved in the community both on and off duty via sporting clubs, service organisations such as Rotary, schools, blue light discos, voluntary bodies such as the State Emergency Service, St John Ambulance, surf rescue, youth clubs and many more.

Police Week also highlights the role the public can play in the fight against crime. Community policing programs encourage public interest and involvement in crime prevention initiatives and involve a medium for communication, liaison and interaction between the community and the Police Force. A variety of measures have been employed under the community policing umbrella ranging from Neighbourhood Watch and Rural Watch to anti-theft squads, blue light discos and safety house programs.

Police Week will provide the opportunity for Western Australians to attend various organised activities to meet police officers and to gain some insight into what the police have to offer. Some of the activities in which the public can participate are the technology and CIB/crime prevention display at Allendale Square, Perth, the police exhibition at Fremantle Town Hall, the Neighbourhood Watch seminar in Maylands, a Rural Watch seminar in Northam and a blue light disco in Subiaco. That disco is being held specifically for young people with intellectual disabilities. It is tremendous that the police have recognised that there is a need for that. Police Week is a positive and worthwhile event.

Point of Order

Hon MARGARET McALEER: Standing Order No 140 states -

> Replies shall be concise, relevant, and free from argument and controversial matter.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! I am well aware of the Standing Orders.

Questions without Notice Resumed

Hon GRAHAM EDWARDS: I am about to finish. I am sure every member in the House will join with me in congratulating the organisers of Police Week and wish them every success.

QUESTIONS - No 2394, 1987

606. Hon PETER FOSS to the Minister for Police:

> I refer to my question 810 in which I asked a question about Legislative Assembly question 2394. I have now provided the Minister with a copy of *Hansard* containing the question. Will the Minister now provide an answer?

Hon GRAHAM EDWARDS replied:

> I will go to any lengths to ensure that proper and up to date information is provided to members when they ask questions. This question referred to a question asked in 1987. It would have been easier for the member to provide me with a copy of that question when he asked the question. Now that the member has provided me with all of the information, he will receive an answer within 24 hours.

WILTSHIRE, MR JOHN - ROYAL (WA) INSTITUTE FOR THE BLIND

Resignation

607. Hon N.F. MOORE to the Minister for Lands representing the Minister for Community Services:

(1) Is the Minister aware that the Executive Director of the Royal West Australian Institute for the Blind, Mr John Wiltshire, has resigned?

(2) If so, is the Minister aware of the reasons for his resignation, and if so, what are the reasons?

(3) Is the Minister aware that Mr Wiltshire is planning to leave Australia on Thursday, 20 September?

(4) Are any investigations being carried out into the activities of Mr Wiltshire as executive director of the institute, and, if so, what are the investigations and who is conducting them?

(5) Is the Charitable Collections Advisory Board investigating the affairs of the Royal WA Institute for the Blind; and if so, what is the basis of the inquiry?

(6) Will the Minister endeavour to prevent Mr Wiltshire from leaving Australia until any inquiries into the affairs of the institute are completed?

(7) Was Mr Peter Dowding a member of the board of the institute and, if so, has he resigned from that position?

Hon KAY HALLAHAN replied:

(1) Yes.

(2)-(3) No.

(4)-(5) Yes. The Charitable Collections Advisory Committee conducts investigations and examinations in the course of its duties. However, as has been indicated on previous occasions, questions of this nature on inquiries and investigations, whether by the committee, police, or any other investigating authority, are

inappropriate for public comment when proceedings have been initiated or, when proceedings are not initiated, the matter is the subject of an official report. A typographical error has been made and I will need to check this answer.

(6) No.

(7) Part of the answer to this question is missing from the page. It states that Mr Peter Dowding was a member of the board; I presume that it would have gone on to say that he was a member of the board of the institute. It appears that one line of the answer is missing. I will obtain that and get the typographical error fixed in reply to questions (4) and (5), and I will pass it to the member.

Hon N.F. Moore: Fairly urgently.

Hon KAY HALLAHAN: The answer I have given contains 99.8 per cent of the information.

Hon N.F. Moore: It is a very serious matter.

The DEPUTY PRESIDENT (Hon J.M. Brown): Questions without notice are very important and, if some notice of the question has been given, Ministers should ensure that a complete answer is available. Question time is not a time for having fun, it is a very serious time for all members. I would not like members to get into the habit of not taking these matters seriously. I bring that to the attention of all members when asking questions and Ministers when providing answers.

SOUTH WEST DEVELOPMENT AUTHORITY - CONSULTANT EMPLOYMENT

608. Hon BARRY HOUSE to the Minister for Police representing the Minister for South-West:

(1) Will the Minister list the consultants employed by the South West Development Authority since July 1988, and indicate the purpose and cost of each consultancy?

(2) How much has the SWDA spent in total on the employment of consultants in the financial years 1988-89, 1989-90, and since 1 July 1990?

Hon GRAHAM EDWARDS replied:

(1)-(2)

Information to enable listing of consultants as requested is not readily available. The following information is the expenditure on consultants from operating expenditure - Consolidated Revenue Fund: 1987-88 - $201 072; 1988-89 - $246 597; 1989-90 - $145 346.

There has been expenditure on consultants from projects funded from non-operating expenditure in addition to the above amounts. Details of these projects are contained on page 23 of the 1988 annual report of the South West Development Authority, and on page 37 of the 1989 annual report.

POLICE VEHICLES - BUDGET
No Minor Repairs Assurance

609. Hon REG DAVIES to the Minister for Police:

Will the Minister advise whether it is correct that no minor repairs will be carried out on police vehicles until after the present financial year?

Hon GRAHAM EDWARDS replied:

Not as far as I am aware. It seems to me that the member may be trying to anticipate what has been described as a difficult Budget for the State and, of course, the Police Department must share that difficulty. It seems the member is trying to interpret the situation and to take it to extreme lengths. I have no advice that that is the case, and I would be surprised if it were. I wonder whether that information has been obtained from discussions with an

executive of the Police Force or has been provided by that body. I can assure the member that if it is the case, I have not been provided with that information. I doubt very much that it is the case. It seems to be a question of rumour mongering.

PLANNING - TOODYAY SHIRE COUNCIL'S TOWN PLANNING SCHEME No 3

610. Hon MARGARET McALEER to the Minister for Planning:

Since I understand that the Toodyay Shire Council's town planning scheme No 3 is with the Minister and awaiting approval, and the documentation and submissions were first lodged with the department 19 months ago, I ask the Minister when her decision is likely to be made?

Hon KAY HALLAHAN replied:

I cannot be precise at all about when that planning scheme will be considered. However, now that the matter has been raised, I am happy to ascertain its progress. Very often people indicate that matters are in the Minister's office awaiting attention when they have not yet reached that stage. I am not suggesting that is the case because it may well be on my desk at the moment. I will follow up this matter and advise the member accordingly.

STATE ENGINEERING WORKS - BUILDING SALE

611. Hon MAX EVANS to the Minister for Lands:

(1) Is the State Engineering Works now vested in the Minister's department?

(2) If so, what is the nature of work being carried out?

(3) Why was this work not done before the building was sold by tender by the WADC?

(4) What will be the cost of the work?

(5) Does the department know how this building will be sold in the future - whether by tender or by LandCorp?

Hon KAY HALLAHAN replied:

I suggest that the honourable member put that series of questions on notice and the information will be obtained for him.

HERITAGE OF WESTERN AUSTRALIA BILL - DELAY
ABC Radio - Minister for Heritage's Comments

612. Hon MAX EVANS to the Minister for Heritage:

With regard to the Heritage of Western Australia Bill, which Hon Phillip Pendal has spoken to, can the Minister recall the comments she made on ABC radio last Friday night with regard to the delay of that legislation?

Hon KAY HALLAHAN replied:

I cannot recall an opportunity I had to speak on the matter last Friday night.

Hon Max Evans: On ABC radio news you spoke about the delay of the legislation.

Hon KAY HALLAHAN: I would have made the case that the problem with the heritage legislation is the Opposition's apparent continuing commitment to the notion of compensation. I advise members that I have had opportunities to discuss this with a number of people around the country.

Hon Peter Foss: We have seen that.

Hon Max Evans: You mentioned the delay of the legislation.

Hon KAY HALLAHAN: The Opposition has caused a delay because the Government does not want unworkable legislation.

Hon Peter Foss interjected.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! I will not tolerate any more of this behaviour. The next person who interrupts the reply by the Minister

will be named. The Minister has been asked a question but several members opposite want to interject and ask further questions before she has an opportunity to reply. It is just as well that question time is nearly over, or I would ask the Leader of the House to terminate question time. I ask the Minister for Heritage to continue to answer the question.

Hon KAY HALLAHAN: If the honourable member is complaining about my saying that, I advise that I will continue to say it until we find a workable pathway through this. I think some members opposite want a heritage Bill and see the necessity for it. We must get very clearly in our minds that compensation will actually bedevil any of our attempts to protect heritage buildings. I have been told that the New Zealand Bill does provide for compensation and that over a period of about eight years some really remarkable heritage buildings have been lost because of that compensation clause. I have been told also that in Melbourne the value of heritage buildings has increased by about 15 per cent. So the notion that somehow people will be disadvantaged by the listing of their property is a mistaken position because in fact their property will have an enhanced value.

I know that as much as groups like the Building Owners and Managers Association want a heritage Bill, they still have an underlying fear that there will be some interruption to owners' rights. We will have to find our way through this as a community, and I guess members in this House will be the representatives of the community in finding the way through it.

So if the member is making a complaint, then it is a complaint that is well justified. The member's party introduced a Bill about 15 years ago which had to be pulled out because of exactly the same underlying problem. I do not want us to have to do that here in 1990 because that would be a terrible blight on Western Australia. Other States have done it without compensation; why can't we?

POLICE - MANPOWER
300 Transfer Limit

613. Hon REG DAVIES to the Minister for Police:

Can the Minister confirm whether it is correct that there is a limit of 300 transfers for the WA Police Force until after the next financial year?

Hon GRAHAM EDWARDS replied:

I refer the member to the answer that I gave to his previous question.

POLICE - RECRUIT COURSE
Next Course Date

614. Hon REG DAVIES to the Minister for Police:

I should congratulate the Minister for his brilliant effort on the radio on Friday afternoon when he hosted a Radio 6PR program. However, he should not give up his day job.

Hon Graham Edwards: I am flattered that you listened.

Hon REG DAVIES: Can the Minister inform the House when the next WA Police Force recruit course will be held?

Hon GRAHAM EDWARDS replied:

No. A recruit course is being conducted at the moment - the member will be aware of that - but I cannot give him the date of the next recruit course.

Hon Reg Davies: You did say there would be more before the next financial year, did you not?

Hon GRAHAM EDWARDS: What was the question the member asked me previously?

Hon Reg Davies: I asked what would be the date of the next one.

Hon GRAHAM EDWARDS: I refer the member to the answer I gave to the previous question.

DUNSBOROUGH STRUCTURE PLAN - FURTHER PUBLIC MEETING

615. Hon BARRY HOUSE to the Minister for Planning:

In view of the Government's low key presentation of the Dunsborough structure plan in Busselton last Friday and the public interest in the matter, particularly in Dunsborough, why does the Minister consider - as expressed to me in a letter - that a further public meeting in Dunsborough to fully explain the Dunsborough structure plan and the State Government's plans for the area is not required?

Hon KAY HALLAHAN replied:

Did I write that there was not a need for a public meeting?

Hon BARRY HOUSE: That is right. You said there was no requirement for a further public meeting.

Hon KAY HALLAHAN: Does the member mean before the release of the structure plan? That is right. The structure plan was released last Friday and I understand the release went quite well.

Hon BARRY HOUSE: But it was very low key.

Hon KAY HALLAHAN: The structure plan was released. I thought that was what the member wanted, and that is what happened.

Hon BARRY HOUSE: In comparison with a couple of years ago, when the Government's launches had bells and whistles on them -

Hon KAY HALLAHAN: I have never got around with bells and whistles on but I do like a bit of colour so maybe bells and whistles could be the order of the day.

The structure plan, as members would know from questions asked in the House, has been a contentious one, mainly because of Curtis Bay. I think that is the only controversial area. As I understand it, the people who had a particular concern about Curtis Bay quickly whipped through the report to find that part within the plan.

Hon BARRY HOUSE: They still did not find any answers.

Hon KAY HALLAHAN: Boy, oh boy! However, they did find that their views could be accommodated. That is what they were looking for, and I am sure that is the case. I would have thought that now that the plan has been released there would be a case for holding a public workshop with departmental staff to go through the plan for people who are interested. I suspect that a couple of the residents groups at Dunsborough would like that opportunity, and that should take place. It is for that reason that I queried what the member's question was. I did not think there was a need for another public meeting prior to the release of the structure plan because the work had been done, and what needs to be done now is to address what is in the structure plan. I think it is all going very sensibly and that we will end up with something that will meet the needs of everybody at Dunsborough.