Legislative Council

Thursday, 28 November 1991

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 10.30 am, and read prayers.

FITZGERALD STREET BUS BRIDGE BILL

Second Reading

Debate resumed from 7 November.

HON J.M. BERINSON (North Metropolitan - Attorney General) [10.37 am]: I oppose the Bill. I said yesterday during the discussion on the procedures that it did not justify the extraordinary priority proposed for it, especially in view of the current pressure of business and the short time remaining in this session. Consistent with that view, I intend to speak very briefly, conscious of the fact that, as well as the problem of time with the allocation of priorities today, an additional priority must be given next week in order to pursue the procedures which this Bill contemplates. That, of course, is on the assumption that Hon Norman Moore will not join the Government on this occasion and vote against the Bill.

Hon N.F. Moore: You might persuade me not to support it.

Hon J.M. BERINSON: I am hoping I will be able to do that. Apart from the merits of the Bill - it does not pay us to pursue them too far today given its general nature - the main issues relate to allegations of lack of adequate consultation with the Perth City Council in particular. I will also deal in turn with additional complaints about the inadequacy of other consultations.

Firstly, it is simply not the case that proper consultation has not taken place with the Perth City Council; very considerable consultation has occurred, but agreement has not been reached. That is a very different thing. On innumerable occasions, after the fullest consultation and with the most genuine attention to arguments, Governments and councils will be left disagreeing with each other. When the northern suburbs railway starts, the density of the trains at peak periods at the Fitzgerald Street level crossing will be such that the buses will be denied crossing for 90 per cent of the time. This would impose unacceptable delays and costs on bus services. Senior officers of the Perth City Council were directly involved in the identification and consideration of the options for providing alternative direct access for the buses to the Wellington Street bus station. That process took several months and in late 1990 the council was presented with the full report of those deliberations, followed by a presentation on the proposals to the council's planning committee by the project's executive director. The fact is that the bus bridge option proved to involve the least cost and the most user benefits.

Hon George Cash: Do you support that view?

Hon J.M. BERINSON: Yes. Why should I not support it? I am prepared to rely on the experts. I do not purport to apply a personal professional view since I am not in a position to do that, no more than the Leader of the Opposition can do that.

Hon George Cash: Yesterday you said you did not know where the bus bridge was going.

Hon J.M. BERINSON: Yesterday I indicated that I knew where the bridge was going. I have put myself on a 10 minute time limit and I will have to claim time off for injuries if the Leader of the Opposition keeps up his performance. The opportunity was then provided for further consultation between the Government and the PCC when in late 1990 the then Lord Mayor led a deputation comprising the council chief executive, the city planner and the city engineer to the Minister for Transport. At that time the council representatives promoted their proposal which provided for the lowering of both railway lines and the creation of a direct traffic access from Fitzgerald Street to Wellington Street. That proposal was subsequently considered by Cabinet, and the council was advised in early 1991 of a decision that the Government could not support the extra costs and delays to the northern suburbs project which the council scheme would have created.

After this advice the Perth City Council adopted a resolution indicating its preference for the

scheme for extended tunnels but setting out the matters to be investigated in relation to the bus bridge, such as aesthetics and traffic matters; and those matters were put in hand by Westrail and its consultants. When the results of those studies were submitted to the council in August 1991, the council took a new stand and decided to renew its objections to the bus bridge proposal. This outline of the interaction between the northern suburbs transit system staff and the council indicates the extensive consultation which did take place. More recently the Premier has met with the Lord Mayor and a deputation from council; and further meetings involving officers of the council, the Ministry of the Premier and Cabinet, Westrail, Transperth and officers from the Department of Transport have taken place. These meetings have again looked at the Perth City Council's proposal for a rail tunnel at the Fitzgerald Street crossing as well as the option for a bus only tunnel.

The significant matter relating to this part of the objections to the scheme that have been raised in support of the Bill is that over 20 meetings have been held on this matter this year alone involving the Perth City Council, or its representatives, and it is difficult to discern what future useful purpose may be served by the attempt of this Bill to compulsorily require further consultation. Just as that view of the sponsors of the motion yesterday was incorrect, so is it incorrect to suggest that no consultation has taken place with local landowners and business proprietors.

The PRESIDENT: Order!

Hon J.M. BERINSON: However, those consultations have not taken place to the same extent as consultations with the PCC. Consultation with the local business proprietors and landholders in the affected area has necessarily been restricted as a matter of courtesy to the council and to enable the council to consider the results of the professional studies undertaken.

The PRESIDENT: Order!

Hon J.M. BERINSON: However, when it became clear that the council did not propose to accept these studies the northern suburbs transit system project staff contacted adjoining landholders and business proprietors and invited each one to meet and discuss the proposals.

Hon George Cash: When did that occur?

Hon J.M. BERINSON: This year, but the general nature of the scheme was known two years ago, as I indicated yesterday. There has been no reluctance on the part of the Government to make public the detailed plans of this bridge.

The PRESIDENT: Order! I interrupt the Attorney General because I have called for order three times now. When I do that it means that I am displeased with something. The reason on this occasion is that about six audible conversations have been taking place. The Attorney is endeavouring to ensure that we all are fully informed on this important Bill and I am keen to hear what he says.

Hon J.M. BERINSON: From the very early stages, it was understood in general terms that a proposal for a bridge was being examined for the Fitzgerald and Roe Streets area. However, detailed plans were displayed as part of an overall display of the northern suburbs transit system at the Perth Railway Station. The plans were also on display to the public inspecting the new trains. I am told that the display was viewed by approximately 20 000 people. I have indicated that there is no real point to entering into a debate on the merits of the plan and of the alternative costs.

Hon George Cash: Why not?

Hon J.M. BERINSON: Because this Bill is simply seeking further consultation; it is not condemning the plan.

Hon George Cash: What is your problem? I do not think you know where the bridge is to be located. I think you drive home every night and you are not fully aware of the proposed location of the bridge, even though you have lived in the area for 40 or 60 years.

Hon J.M. BERINSON: I am pleased to see that Hon George Cash approaches this question in such a light-hearted manner at this stage. However, I hope he will become more serious when the consequences of this Bill become apparent, because they will be serious and that is one of the reasons the Bill should not be supported. Having said there is no point in getting

into the technical merits of the scheme given the nature of the Bill, I will refer to only two or three issues which are constantly either ignored by the opponents of the bridge or which are constantly stated by them incorrectly. Firstly, if the bus bridge is not completed by November 1992 it will be necessary to redirect buses from the northern suburbs to the Wellington Street Bus Station via the West Perth subway. Even Hon George Cash, with his limited knowledge of the Fitzgerald Street area due to his recent arrival in associated districts, will have a full appreciation of the enormous disruption and cost that will have on both bus travellers and car drivers. Secondly, there is the allegation that the bus bridge proposal will worsen the access from Northbridge to the city; that is totally incorrect. Thirdly, concerns are sometimes expressed about the bridge's appearance and the aesthetics of the abutments and embankments. Special care has been taken by consultants with the bridge's appearance and the design of columnated abutments. Landscaping of embankments has also been designed.

I conclude with a reference to the general nature of the Bill. Yesterday I said that it was an undesirable type of Bill, let alone a Bill with undesirable content. It is presented in a novel, strange and undesirable form and all of those, if only for the fact that the very novelty of it raises serious prospects of potential difficulties, have not been considered by the proponents of the Bill or by the people who are supporting it now. One view of this Bill is that it will do neither good nor harm; it will allow further consultation and further expression of views. It may be thought there is no need to become concerned about questions of delays, costs associated with delays, costs associated with radical changes to the huge scheme of which this bridge is only a minor part, and so on.

This is precisely the sort of Bill that should not go through on a pressure cooker basis. However, since the Opposition is in a position to force us to proceed in that way and indicated yesterday its full intention to do so, there is really no alternative. This is the last sort of Bill that should be considered on that basis, because it has prospects of disruption, costs and delay which I am quite certain the initiators of the legislation do not appreciate. I oppose the Bill.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [10.52 am]: The Opposition supports the Fitzgerald Street Bus Bridge Bill. In view of the comments made by the Attorney General, it is obvious that he is not fully aware of the intent of the Bill. Its intent is to require the Government, the Western Australian Government Railways Commission and other proponents of the proposal to consult with the City of Perth, affected residents, the business community and others with a view to reaching an agreed solution to the problem of gaining bus, cycle and pedestrian access over the railway reserve. That is only one small portion of the Bill but that seems to be an admirable process and I am surprised that the Government, through the Leader of the Government in this place, states quite blatantly that it is not interested in consultation, that it wants to proceed with the plan it has already adopted, and that it could not care less about the consequences of that plan.

This Bill is required because there is a need for consultation with affected people. The Attorney General suggested that there had been a degree of consultation over a period with affected residents and the business community in the immediate area of the proposed bridge. I invite him to go to the Northbridge area and talk to the affected residents and business people. He will find that they believe there have been inconsequential consultations on the likely effects on them of the bus bridge. When I drew that to the attention of a senior member of the Railways Commission, the commission realised that some of the feedback it had been getting might not be as accurate as it believed it was. Only in the last few days has the Railways Commission had consultations with some of the residents. It is interesting that it took the introduction of this Bill into the Parliament to convince the commission that there was a real need for it to enter into a consultation process on the bridge.

It is also interesting that the affected residents and business people were invited only last week to participate in those discussions. The discussions were held on Monday and Tuesday of this week during business hours. The letter that was sent to the affected residents and business people suggested that they make an appointment individually with the commission. It did not want to talk to them as a group because it wanted to pick them off one by one and it wanted to do that in convenient business hours - that is, convenient to the commission - between 9.00 am and 5.00 pm. Obviously, the commission does not realise that we are in a recession at the moment and that small business owners would find it a battle to leave their

premises during those hours because they spend most of their time trying to raise enough profits to pay the rates and taxes imposed on them by the Government.

The Attorney General also said that he believed that there had been adequate consultation with the City of Perth. When I challenged him on that, he said that consultations had occurred earlier this year. In a letter dated 25 September 1991, almost two and a half months ago, the Lord Mayor of the City of Perth said -

> You will know that the Member for Perth, Dr Alexander, MLA intends to introduce a Bill to prevent the building of the Fitzgerald Street bridge.
>
> Two things ought to be quite clearly understood.
>
> The first is that the bridge was only **ONE OF A NUMBER OF OPTIONS** put up by Northern Electric Rail.
>
> The other favoured option was to build the tunnel, as an enormous majority of citizens of this State want to happen.
>
> If the tunnel was a feasible engineering solution when the options were put to Cabinet, **IT IS STILL A FEASIBLE ENGINEERING OPTION**, in spite of all the arguments now being produced to the contrary.
>
> If this present opportunity is missed, the unification of Perth and Northbridge will be set back for another one hundred years.

That is one of the critical factors to consider when we consider whether we should support this Bill to construct a bridge that will segregate the city even more than it is already segregated. Studies were commissioned by this Parliament in the early 1900s about the sinking of the railway because the railway was considered to be a physical barrier to the development of those areas close to the city north of Roe Street. That still is a problem and anyone now wanting to construct a bridge at the corner of Fitzgerald and Roe Streets to create another barrier must be living in the last century. The letter continues -

> If you desire to see a simple example of expediency wrecking our capital city of Western Australia, may I suggest you stand on the front steps of your Parliament House and see how that freeway has not only ruined our city, but has done irrepairable damage to a beautiful Parliament House, with its noise and pollution problems.
>
> That ditch ought to have been roofed at the time it was being built, but expediency won the day.
>
> As you look and listen to the roar of the ditch, please do not allow this to happen again by the building of the Fitzgerald Street bridge.
>
> Yours sincerely
>
> Reg Withers (sgd)

I respect Reg Withers as a person and I also respect his views and the vision he has for our capital city. As part of that vision, the Lord Mayor has said that to build a bus bridge at the corner of Fitzgerald and Roe Streets would be nothing more than another blight on the city. I agree with that wholeheartedly.

However, more than that, the Government sought at one stage to rely on the advice of Professor Gordon Stephenson and said during this year that Professor Stephenson was now an advocate of the bus bridge. Let us look at what he actually said when he was one of the people planning this city in the 1950s. The views expressed were on the central railway and are from a report by Professor Gordon Stephenson titled "Plan for the Metropolitan Region - Perth and Fremantle - 1955 Report", chapter 9 - central areas - Perth and Fremantle, pages 173 and 174. Without reading what is a lengthy comment by Professor Stephenson on the central railways and the problems associated with the physical barriers that were erected when the railway was put in, one comment is interesting. The proposal to elevate the railway track as a viaduct was rejected because of the blighting effect such a structure would tend to have on surrounding areas. That was way back in 1955. We have come a long way since then with our planning. If it was good enough in 1955 for Professor Gordon Stephenson to say that elevating the railway track would be a blight on surrounding areas, then the notion of

building a bus bridge would also be a blight on surrounding areas. It surprises me that the Government wants to drag Professor Stephenson into the argument by claiming he now thinks differently. The council of the City of Perth thinks that a bus bridge would cause a visual ring around the city. Professor Gordon Stephenson many years ago said that the railway line should be sunk, and the Opposition agrees with that proposal. The council has called in an independent consultant, Maunsell and Partners Pty Ltd, who say they have no engineering problems with a tunnel and that it would be a feasible alternative.

Hon Mark Nevill: Many of my constituents would dig that for you.

Hon GEORGE CASH: At least one Government member agrees.

Hon Mark Nevill: I am talking about sinking the railway.

Hon GEORGE CASH: The tunnel must be included in such a proposition. One cannot sink the railway and have a bus bridge as well. This Bill argues that we need to have consultation so that we have an underground system which begins the proposal talked about for so long, so that we do not erect an above ground bus bridge but tunnel under the lines and extend the existing tunnel to take buses.

Hon Mark Nevill: Would you have an underground bus terminal as well?

Hon GEORGE CASH: Hon Mark Nevill raises an interesting point. If it were raised in jest -

Hon Mark Nevill: I am serious.

Hon GEORGE CASH: An underground bus terminal was proposed for Perth prior to the establishment of the existing terminal in Wellington Street. As the member probably knows, the location of that underground terminal was to be below what is the Raine Square buildings, the Wentworth Hotel and the other hotel on the corner of William and Wellington Streets. As the member knows, that whole area was owned by the University of Western Australia. Maunsell and Partners were the engineers who worked out the feasibility of establishing a below-ground bus station in that area. Regrettably, a decision was not made to drop the bus station below ground level, but the idea was certainly examined at that stage.

I am glad that Hon Mark Nevill raised that matter because it reinforces what I am talking about. We do not need to erect barriers to the future planning of Perth. A bus bridge would be one such barrier. Another interesting point of conflict is what the Government is saying about this Bill. For a long time not only was an argument put that we should sink the railway area from approximately West Perth Station through to what is now McIver Station to provide better access between north of the existing central business district and south of it, but also a suggestion was made from time to time that we should have an underground railway which ran around the central business district.

One of the arguments the Government used when it was arguing about the planning of those new buildings was that it had an interest in a building on the Esplanade - and I do not know whether it is Central Park or the other building - and that the planning had to take into account the future undergrounding of a passenger system in Perth. When I was responsible for transport matters on behalf of the Opposition I discussed this proposition on a number of occasions in the other place. The then Minister for Transport, Hon Bob Pearce, conceded that a considerable amount of work had been done and that the Government wanted to keep its options open.

We are now having a look at the other side of Perth where it is proposed this bus bridge should be erected. The Government wants to throw away all those other options and not allow the future development of that area to be undertaken in an orderly manner. Apart from the general planning principles involved, it is important to understand what the ultimate effect of a bus bridge would be on landowners and tenants who have property adjacent to or in the area near the proposed bridge.

Hon Mark Nevill: Is there a plan in the House with this bus bridge on it?

Hon GEORGE CASH: I think the Minister for Transport could furnish the member with a plan that I have seen. It was incorporated in *Hansard*. I was trying to use a word other than abortion to describe this bridge, because it could only be described in such rough terms as "an abortion of a proposal".

Hon Derrick Tomlinson: Try shemozzle.

Hon GEORGE CASH: I thank Hon Derrick Tomlinson for that as I did not wish to use that other term.

Hon T.G. Butler: Do you have particular skills in planning?

Hon GEORGE CASH: No. I do not claim to have any more expertise than Hon Tom Butler in planning, but I invite him to look at the plan.

Hon T.G. Butler: I am not the one running it down. I am just asking a question.

Hon GEORGE CASH: As Hon Tom Butler is to be one of the people who votes on this Bill he should do this House and the people of Western Australia the favour of looking at the plan before he casts his vote. The least people can expect is that members be reasonably informed on the decisions they make in this place. I have three business examples in the metropolitan area and the likely effect of this bus bridge on them. The first is a produce merchant and warehouse located on the south western corner of James and Fitzgerald Streets. The nature of that development is such that service vehicles access the premises by reversing from James Street. If members look at the plan they will see that such a manoeuvre will be completely excluded by the proposed median strip in James Street. Similarly, customers accessing the premises from James Street will be unable to do so, and the drive through the building which presently exits onto Fitzgerald Street will also not be accessible to the firm's clients. The bottom line is that if the clients of that business, which has been operating in the area for more than 50 years, cannot access the building of this produce merchant the business will fail.

Hon Sam Piantadosi: Would you think it fair comment that the business is at the moment creating traffic chaos and a potential accident situation because of the trucks reversing into the premises and its location at the intersection of James and Fitzgerald Streets, two main arteries, and that it possibly should not be sited there any longer?

The PRESIDENT: Order!

Hon GEORGE CASH: I do not concede that, because I am not sure that is the present situation. I can say that if the bus bridge is built there will be no need for people to attempt to reverse into the business because it will have been wiped out and there will be no business. That will be one of the side effects of this bus bridge, one of the impacts that the Attorney General forgot to mention. The Attorney General forgot to mention that unlike Hon Sam Piantadosi and me, who share the electorate with the Attorney General and know what goes on, unfortunately he does not. As Hon Sam Piantadosi has the adjournment speech on this debate I hope he will put the Government's view, because it is clear to me and the people in the immediate Northbridge area that Hon Sam Piantadosi is the person on the Government side of this House who has the knowledge to put the Government's view. To ask the Attorney General to put the Government's view when he does not know the location of the bridge and probably has not seen the plan of it is an amazing situation.

Hon Sam Piantadosi: That is unfair.

Hon GEORGE CASH: It is not unfair, because I was paying the member a compliment, and that is what the people in the Northbridge area did when they said he should be handling the matter on behalf of the Government. The member knows that.

The next case I raise is that of the service station located on the north west corner of John and Fitzgerald Streets. Hon Sam Piantadosi knows the proprietors and operators of that place, and I would be surprised if they have not made representations to him.

Hon Sam Piantadosi: They have not.

Hon GEORGE CASH: They have made representations to me, as one of their members, about the effect this bus bridge is likely to have on their business.

Hon Sam Piantadosi: What does the Farinosi group have to say?

Hon GEORGE CASH: I am about to come to that. Does the member have a copy of a letter from that group?

Hon Sam Piantadosi: I would like to hear what you have to say.

Hon GEORGE CASH: If the member does not, he should let me know and I will get someone to give him a copy. I understood he had a copy. I met with some of those people.

Hon Sam Piantadosi: I have known them for many years.

The PRESIDENT: Order! I remind honourable members that they are supposed to be conducting a debate on this piece of legislation. That does not mean that the Leader of the Opposition and Hon Sam Piantadosi can carry on a conversation. I suggest Hon George Cash cease having a conversation with Hon Sam Piantadosi and address his comments to me. I will not interject.

Hon GEORGE CASH: I was referring to the second case study of the service station on the north west corner of John and Fitzgerald Streets in Northbridge. Members would be aware that the service station has crossovers to both James Street and Fitzgerald Street so that access and egress is available from four directions. The viability of any service station, as members would be well aware, is predicated by the availability and ease of access to the site, with the attendant ability to gain unimpeded egress in a desired direction. The proposal currently suggested by the Government for the bus street bridge will restrict access to the Mitchell Freeway off ramp, which is in James Street travelling east, and Fitzgerald Street travelling north. Furthermore, Westrail's preferred option would preclude a right hand turn from Fitzgerald Street travelling south into James Street travelling west. Clearly the impact of the Government's proposal would mean that the majority of clients who currently use that service station would no longer be able to access it with their current ease. All these matters can be solved in pure planning terms, and the general access to and egress from the whole area could be improved if the Government would consider a tunnel option rather than the current bus bridge proposal.

Case three involves the hardware store on the corner of James and Fitzgerald Streets. That is the business referred to by Hon Sam Piantadosi as part of the Farinosi group of companies. I have a letter from that group outlining the problems which will be faced by that business if this bridge is constructed. It was my understanding that as a fellow member for the North Metropolitan Region, Hon Sam Piantadosi also had a letter so that he would be fully aware of the impact of this bridge on businesses in that area. Because people in that area had confidence in Hon Sam Piantadosi, they hoped he would be handling this matter on behalf of the Government so that some justice might be offered to the people in that area in view of his undoubted knowledge of the area. The hardware and building supplies building has frontages on both James and Fitzgerald Streets, and is built around the service station on the corner. The building has a customer drive with arrangements similar to the produce merchant in order that vehicles may gain access from James Street and exit onto Fitzgerald Street. If this bus bridge proposal goes ahead, the viability of that business will also be placed in jeopardy. There is no need for that to happen if the Government takes a reasoned view of the planning and engineering opportunities which present themselves with the Fitzgerald and Roe Street intersection.

Hon Mark Nevill: What would be the effect if the tunnel came out in Fitzgerald Street? That will also disrupt businesses.

Hon GEORGE CASH: The engineers have prepared a number of preliminary drawings, and I am told by planning consultants working on behalf of the business community in that area that a tunnel can be constructed in such a way as not to have any deleterious effect on the businesses. In fact the argument from the planning consultants and engineers is that the whole area can be opened up and improved rather than blighted, as will be the case with the Government's proposal.

The Attorney General mentioned cost. It is important to recognise that the City of Perth has already offered to purchase from the Government certain land at the rear of the Entertainment Centre which fronts Wellington Street and abuts the railway reserve. The City of Perth is prepared to pay something like $7 million for that land, and it would want that money applied to any additional cost involved in constructing a tunnel rather than a bus bridge. The Opposition acknowledges that there is likely to be a slight increase in cost as a result of constructing the tunnel rather than the bus bridge but, as has been pointed out on many occasions in this House, if we take the cheap option we will end up owning it for life and everything else planned around it must have regard for the cheap option and the impact that will have on the planning in that general area. If the Government wants to sink the central railway in due course, this is the opportunity to make a start on it. The Government should not put back the sinking of the railway by another 50 or 75 years by constructing this

monstrosity at the corner of Roe and Fitzgerald Streets. It should put in tunnels as requested by the City of Perth and the Northbridge community. This would turn Northbridge into a place of which we can all be proud.

There have been tremendous advantages in the planning and general use of Northbridge over a period of time. The one thing which is stopping any further significant advancement continues to be the physical barrier of the railway, and a bus bridge at the corner of Roe and Fitzgerald Streets will complicate that even more.

This Bill requires the Government to consult. This is a Government which claims that one of its basic principles is to consult and reach a consensus with the community, but obviously that is now no longer one of its principles. This is something the Government does not want to go on with. I ask the Government to reconsider its position. The Bill is a commonsense Bill, not only for planning but for the future development of the City of Perth and the general amenity of the Northbridge area.

HON GARRY KELLY (South Metropolitan) [11.19 am]: The Fitzgerald Street Bus Bridge Bill: I do not want to go into the technical whys and wherefores of this Bill; from my assessment of the numbers in the House it looks as though it will be passed. However, this Bill has a hurdle to pass. Unless members can say the title of the Bill three times quickly it should fail. The Bill should be called the tongue twister Bill.

Hon Derrick Tomlinson: Say it fast three times.

Hon GARRY KELLY: No, I could not do that - Fitzgerald Street is not in the south metropolitan region! I said to Dr Alexander, the member for Perth, some time ago that at least the Independents are producing legislation with interesting titles, regardless of whether the substance of the legislation has much to recommend it. If members move in the direction expected with this piece of legislation, when it becomes an Act at least the title will be easier to pronounce.

HON REG DAVIES (North Metropolitan) [11.20 am]: I thank all members who have contributed to this debate. I have covered most of what I wanted to say previously. Hon George Cash has certainly answered the Government's few concerns. It should be made clear that the Bill is all about public consultation. It is not about whether we think there should be a bridge or whether we think the Roe Street tunnel should be extended a further 100 metres. This Bill is all about consultation with the people who will be affected; it will allow such consultation to occur.

Hon Sam Piantadosi: Do you think that the local businesses should be located there still?

Hon REG DAVIES: We should consult with the residents and the businesses and see what they think.

Hon Sam Piantadosi: You should already know.

Hon REG DAVIES: I turn now to a letter addressed to me from the Farinosi Group of Companies which sums up the lack of consultation, a copy of which was not sent to Hon Sam Piantadosi. The letter reads, in part -

> First we object strongly to the manner in which the proposed bridge has been presented as a "Fait accompli". No consultation whatever was taken with the various people concerned with the affect it would have on their business activities or property value, etc. The first knowledge of the go ahead was obtained from a relatively obscure report in a suburban newspaper in August of this year. We cannot object too strongly against this autocratic action and resent it to the extreme.

That is just one of a number of letters I have received complaining about the lack of consultation. It has been said many times that people have been talking about the sinking of the railway for decades, but we should have a vision for the future of the City of Perth. On this occasion, the Government has taken the economic consideration, and economics and expediency may win the day. This Bill seeks to ensure that that does not happen.

Hon T.G. Butler: What about the delays?

Hon REG DAVIES: In his contribution to the debate the Attorney General mentioned that the completion date of the northern suburbs railway, which is supposed to be November 1992, could be delayed. However, we are talking about a 100 metre extension of the Roe

Street tunnel and I am sure that we have very competent engineers who could overcome any delay. If there is any concern about delay in the completion of the railway the answer would be to install the preferred option of most people; that is, a tunnel as opposed to a bus bridge. In this day and age we should undertake more consultation with the people who will be affected by planning decisions of the Government. This Bill will go some way towards ensuring that consultation will occur in future.

No point will be proved by extending debate any longer. This issue has been given some priority, and I appreciate that. Other important pieces of legislation must be dealt with before we rise for the summer recess. I hope that amendments to the child sexual abuse legislation will be debated before we rise. Therefore, I will not prolong debate. I support the Bill.

Division

Question put and a division taken with the following result -

	Ayes (13)	
Hon J.N. Caldwell	Hon Peter Foss	Hon W.N. Stretch
Hon George Cash	Hon Barry House	Hon Derrick Tomlinson
Hon E.J. Charlton	Hon N.F. Moore	Hon Margaret McAleer
Hon Reg Davies	Hon Muriel Patterson	*(Teller)*
Hon Max Evans	Hon P.G. Pendal	
	Noes (12)	
Hon J.M. Berinson	Hon Tom Helm	Hon Doug Wenn
Hon J.M. Brown	Hon Garry Kelly	Hon Fred McKenzie
Hon T.G. Butler	Hon Mark Nevill	*(Teller)*
Hon Cheryl Davenport	Hon Sam Piantadosi	
Hon John Halden	Hon Bob Thomas	

Pairs	
Hon R.G. Pike	Hon Kay Hallahan
Hon D.J. Wordsworth	Hon B.L. Jones
Hon P.H. Lockyer	Hon Graham Edwards
Hon Murray Montgomery	Hon Tom Stephens

Question thus passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Reg Davies in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Provisions of other Acts -

Hon REG DAVIES: I had intended moving the amendment contained in Supplementary Notice Paper No 25 as there was a degree of urgency that 3 December be the reporting date for both Houses of Parliament. However, the Attorney General, after consultation with the Minister for Transport, has assured me there will be no impediment to the Bill as it stands with the requirement of Tuesday, 3 December. I was a little surprised at this, but I am quite happy to take that advice on face value and not proceed with the amendment.

Clause put and passed.

Clause 4 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 Reg Davies, and passed.

RESERVES AND LAND REVESTMENT BILL

Receipt and First Reading

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

Second Reading

HON MARK NEVILL (Mining and Pastoral - Parliamentary Secretary) [11.38 am]: I move -

That the Bill be now read a second time.

This Bill is similar in intent to many others which have been brought before the House to obtain Parliament's approval to vary class A reserves, to remove trusts over freehold reserve land, and to close certain pedestrian accessways. The majority of clauses in the Bill deal with class A reserves. A significant feature of this Bill is a clause which will exclude the application of section 167A of the Transfer of Land Act from ways vested in or transferred to the Crown. This will in future remove the need for closure of such ways to be referred to Parliament.

Clause 5: Class A reserve 18720 at Margaret River is set apart for the purpose of "national park" and vested in the Shire of Augusta-Margaret River. This reserve lies within South West Region and in the electoral district of Vasse, and has an area of 17.6873 hectares. Agreement has been reached between the Department of Conservation and Land Management and council to amend the purpose of this reserve to "park and recreation" as the current purpose is no longer considered appropriate for a reserve of this size. This clause seeks Parliament's approval to change the purpose of class A reserve 18720 to "park and recreation".

Clause 6: Class A reserve 29911 at Boyup Brook is set apart for the purpose of "park" and vested in the Shire of Boyup Brook. The reserve is located in South West Region and within the electoral district of Collie. The WA Fire Brigades Board holds the adjoining reserve 24011 "fire station site". The board has negotiated with the council to provide an additional area for reserve 24011 from class A reserve 29911. Both the Shire of Boyup Brook and the Department of Planning and Urban Development agree to the proposal. This clause seeks approval for the excision of an area of 754 square metres from class A reserve 29911 to enable inclusion into reserve 24011.

Clause 7: Class A reserve 18090 at Cunderdin is set apart for the purpose of "recreation" and is unvested. The reserve is located within Agricultural Region and in the electoral district of Moore, in the municipality of Cunderdin. The Cunderdin Shire Council has approached the Department of Land Administration requesting the amalgamation of class A reserve 18090 with reserve 18681 "golf links" adjoining. The council holds the vesting of reserve 18681 and has indicated that the "A" classification of reserve 18090 is no longer required. This clause seeks approval for the cancellation of class A reserve 18090 to enable the inclusion of the contained area within reserve 18681. The purpose of reserve 18681 is then proposed to be amended to "golf course and recreation".

Clause 8: Class A reserves 39960, 40841 and 41446 between Manjimup and Walpole are set apart for the purpose of "national park" and "national park and water" respectively. All the affected reserves lie within South West Region and in the electoral district of Warren, in the Shire of Manjimup. The Department of Conservation and Land Management has requested the cancellation of reserves 39960 and 40841 to enable their inclusion into a consolidated reserve 41466, which forms the eastern extremity of D'Entrecasteaux National Park. This clause seeks Parliament's approval for the cancellation of class A reserves 39960 and 40841 and the inclusion of their areas into class A reserve 41446 "national park and water".

Clause 9: Class A reserve 8800 at Goomalling is set apart for "park and rest room" and vested in the Shire of Goomalling with power to lease for any term not exceeding 40 years. The reserve is located within Agricultural Region and in the electoral district of Moore.

Council has indicated that it considers "A" classification no longer appropriate and has requested its cancellation. Council proposes that the purpose of the reserve would then be amended to "park and community centre", to enable wider community use of the facilities established thereon. This clause seeks approval for the reclassification and change of purpose of class A reserve 8800.

Clause 10: Class A reserve 30082 is set apart for "national park - Dales Gorge" and is vested in the National Parks and Nature Conservation Authority. This reserve is more commonly known as the Hamersley Range National Park. During the passage of a recent reserves Bill - now Act No 21 of 1990 - it was reported to Parliament that further adjustments of this reserve would be presented as soon as possible. The alterations proposed in this clause relate to two land exchanges involving adjoining pastoral lessees, a redefinition of the north eastern park boundary and the change of purpose to "national park", in accordance with CALM's policy of rationalisation of purposes. In view of the extensive changes proposed by CALM it was decided to redefine the boundaries of the class A reserve, and appropriate plans were compiled. The reserve is located in Mining and Pastoral Region within the electoral district of Pilbara in the Shire of Ashburton. This clause seeks approval for the redefinition of class A reserve 30082 involving the excision of several portions, and the inclusion of several portions of Crown land, together with the change of purpose to "national park".

Clause 11: Class A reserve 18414 near Lake Preston is set apart for "stopping place" and is not vested. The reserve is located in South West Region, within the electoral district of Wellington. Environmental Protection Authority system 6 recommendation C66-3 was that this 8 337 square metre reserve be vested in the local authority. The Shire of Harvey has declined to accept vesting as the reserve has been cleared and grazed for some years and has no conservation value. Both CALM and the EPA have now agreed that the reserve may be sold to the adjoining owner. This clause seeks approval for the cancellation of reserve class A 18414 accordingly.

Clause 12: This clause deals with reserve 10129 south of Pingrup which is set apart for "water and conservation of flora and fauna". The reserve is located within Agricultural Region and is in the electoral district of Roe, in the Shire of Kent. Reserve 10129 was proclaimed as class A reserve and amended to its current purpose in 1989. While drawing more up to date plans for class A reserve 10129, a major discrepancy in its area was found which has resulted in the current area being some 25 per cent greater than calculated. The source of the apparent error has been traced back to over 75 years ago. This clause seeks Parliament's approval for the amendment of class A reserve 10129 to agree with its calculated area of 1 891.5618 hectares.

Clause 13: Class A reserve 10504 is set apart for the purpose of "recreation and stopping place" and vested in the Shire of Manjimup. The reserve is situated in South West Region and within the Warren electoral district. Council has requested the change of purpose of class A reserve to "parkland rehabilitation, gravel and water" to facilitate the rehabilitation of this reserve, which was formerly used as a gravel pit. This clause seeks approval for the change of purpose of class A reserve 10504 to "parkland rehabilitation, gravel and water".

Clause 14: Class A reserve 27575 is set apart as "national park". The reserve is more commonly known as Neerabup National Park. The reserve is situated in North Metropolitan Region, within the Wanneroo electoral district and City of Wanneroo. Class A Reserve 27575 is subject to mining lease 70/17 and discussions have been held with the tenement holder, the Department of Mines and the Department of Conservation and Land Management. The outcome of these discussions was the recommendation that class A reserve 27575 be amended to excise a redefined tenement boundary which would see the mining lease located further away from Quinns Rocks Road. The proposed excision is in accordance with the Government's policy of resolution of conflict of mining and conservation areas. This clause seeks Parliament's approval for the excision of 25.5417 hectares from class A reserve 27575.

Clause 15: Class A reserve 20091 is set apart for the purposes of "recreation and parklands" and vested in the City of Wanneroo. The reserve has an 18 hole golf course established on the land. The reserve is situated within North Metropolitan Region in the electoral district of Marangaroo and located in the City of Wanneroo. A comprehensive redescription of this reserve has been planned for some time but was not able to proceed as the southern boundary

of Hepburn Avenue was not finalised. The Hepburn Avenue alignment is now fixed and the following actions are proposed: (a) The excision of a small portion of class A reserve 20091 to enable inclusion into "recreation" reserve 10659 adjoining; and (b) the inclusion of areas of closed road, former "recreation" reserve 28058 and former freehold land acquired by the Council. The clause seeks Parliament's approval for these changes.

Clause 16: Class A reserve 24491 is set apart for "national park" and is more commonly referred to as Watheroo National Park. The reserve is subject to exploration application E70/591. The reserve is situated within Agricultural Region in the electoral district of Moore, within the Shire of Dandaragan. As part of the Government's policy on resolution of conflict on mining and conservation areas, discussions were held between the tenement holder, the Department of Mines and the Department of Conservation and Land Management. The outcome of these discussions was to seek the excision of the affected area of the reserve so that it can be set apart as a multiple use reserve under the Conservation and Land Management Act 1985. Any proposal to mine on this reserve would be subject to prior assessment by the EPA. This clause seeks Parliament's approval for the excision of 38.2500 hectares from class A reserve 24491 to enable the affected area to be set apart under the Land Act as a multiple use CALM reserve in accordance with section 5(g) of the CALM Act.

Clause 17: Class A reserve 11710 is set apart for "national park" and is commonly known as Yalgorup National Park. The reserve is situated within South West Region in the electoral district of Murray, in the municipality of Mandurah. In 1986 Government approved the acquisition of a parcel of freehold land for inclusion within class A reserve 11710. This parcel has now been surveyed and identified as Wellington location 5524. This clause seeks Parliament's approval for the inclusion of Wellington location 5524 into class A reserve 11710.

Clause 18: Class A reserve 9868 is set apart for "protection and preservation of caves and flora and for health and pleasure resort". This reserve is more commonly known as Yanchep National Park. The reserve is situated within North Metropolitan Region in the electoral district of Wanneroo and within the City of Wanneroo. In accordance with Environmental Protection Authority system 6 recommendation M3, CALM has acquired an area of freehold land known locally as Pipidinny Swamp for inclusion with class A reserve 9868. Additionally CALM has requested the amendment of the reserve to "national park". This clause seeks approval for the amendment of class A reserve 9868 to include acquired land and to change the purpose to "national park".

Clause 19: Bunbury lot 153 is held in Crown grant trust by the St John Ambulance Association in Western Australia Incorporated. This lot is also set apart as reserve 13332 for "site for St John Ambulance quarters". Lot 153 is located in South West Region and within the electoral district of Bunbury. The St John Ambulance Association advises that the facility on lot 153 has reached the end of its economical life and wishes to establish new, larger premises on portion of reserve 23839. Reserve 23839 is set apart for "parking" and is vested in the City of Bunbury. The Bunbury City Council has agreed to the excision of a suitable site for the association from reserve 23839. The association has now approached the Department of Land Administration seeking removal of the trust over lot 153 to enable sale and subsequent application of moneys towards a new facility on portion of reserve 23839. This clause seeks approval for the lifting of the trust expressed over Bunbury lot 153 to enable sale by the St John Ambulance Association.

Clause 20: Perth lot 543 is held in trust by the Churches of Christ in Western Australia for "ecclesiastical purposes (Church of Christ in Western Australia Incorporated)". Lot 543 is also set apart as reserve 15707. Lot 543 is situated within North Metropolitan Region and the Nedlands electoral district in the City of Subiaco. The church erected a manse on lot 543 some years ago. However, as church activities moved elsewhere the lot became too distant to be effectively used. The church has requested the lifting of the trust over lot 543 to enable it to sell the land and retain all moneys. The church has agreed to pay the Department of Land Administration unimproved market valuation for the lot. This clause seeks Parliament's approval for the lifting of the trust expressed over Perth lot 543.

Clause 21: The latter part of this Bill seeks approval to the closure and revestment of eight pedestrian accessways situated in various localities. These accessways, as described on the table to the clause, were created from private freehold subdivisions under section 20A of the

Town Planning and Development Act and as a condition of subdivision were vested in Her Majesty. Passage of time has indicated that in these instances the accessways are no longer required or are causing problems through misuse, vandalism, intrusion into family privacy, and antisocial behaviour. In all cases the closure applications have been submitted by the relevant local government authority after adequate publicity and provision of time for submission of objections. The need for this legislative measure arises from the lack of existing legislation to close these types of accessways. Pending enactment of amendments to existing legislation to establish permanent powers to deal with these accessways, this revestment clause is intended as a short term solution to provide the legislative authority necessary to resolve these particular cases where closure is considered to be an immediate requirement. Existing machinery established under part VIIA of the Land Act will be used to enable disposal of the land to adjoining landowners, with reasonable time allowed for payment for the land.

Clauses 22 and 23: These clauses deal, firstly, with the amendment of section 167A of the Transfer of Land Act 1893, and, secondly, the amendment of section 297A of the Local Government Act 1960. As some members would be aware, following advice from the Crown Law Department it was determined in 1985 that all closures of redundant pedestrian accessways and rights of way vested in the Crown as part of the subdivisional process need to be referred to Parliament for approval. Previously section 297A of the Local Government Act had been used. However, this section relates to private streets. The legal situation is that ways vested in the Crown for public use are not private streets, but, at the same time, section 167A of the Transfer of Land Act imposes private interests in favour of adjoining lot holders. These private interests prevent the land from being removed from freehold and dealt with as Crown land under the Land Act. With each successive year there has been a significant number of applications for closure, with a resultant increasing demand on Parliament's time. A number of pedestrian accessways are contained in clause 21 of the present Bill. Clause 22 accordingly seeks Parliament's approval for the removal of the application of section 167A of the Transfer of Land Act to such PAWs and ROWs. This will ensure that these closures can be dealt with in a similar manner to road closures by the Department of Land Administration. The purpose of clause 23 is to rectify those closures undertaken prior to 1984 under section 297A of the Local Government Act.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

OFFICIAL CORRUPTION COMMISSION AMENDMENT BILL

Returned

Bill returned from the Assembly with an amendment.

THE PRESIDENT (Hon Clive Griffiths): Before we proceed with this message I want to bring to the attention of members a communication to me from the Ombudsman in September this year. I undertook to table certain correspondence from the Ombudsman in relation to the Official Corruption Commission Amendment Bill in the event, as has now occurred, that the Bill was returned from the Legislative Assembly with amendments. In tabling this correspondence the Ombudsman has asked that I draw the attention of members to the final paragraph. He wishes it to be known and understood that he is not opposed to the principle of the Bill, but he is concerned at the confusion about his role. It has occurred to me that perhaps I should read the letter to members before I table it so that they are aware of what the Ombudsman said. The letter is dated 18 September 1991 and is addressed to me and reads as follows -

> **re: Official Corruption Amendment Bill 1991**
>
> I enclose copies of letters from the former Parliamentary Commissioner, Mr Eric Freeman, addressed to yourself and to the Hon J M Berinson QC, Attorney General, both of which are dated 6 December 1990.
>
> I share my predecessor's concern with regard to clause 3(b) of the above Bill, which seeks to amend section 7(1)(b) of the Official Corruption Commission Act (the Act), insofar as it relates to a power to be given to the Official Corruption Commission (the Commission) to refer matters to public officials, such as the Parliamentary Commissioner, for investigation.

My main reasons for that concern are:

> In the first place, the proposal, when read together with section 7(5) of the Act, would require the Parliamentary Commissioner to submit reports to the Commission in connection with cases referred by it under the proposed amendment. Such a duty to report to an agency of government rather than to the Parliament is unprecedented and is not consistent with the Parliamentary Commissioner's traditional and proper role as an officer of Parliament. If this proposal were given effect, the Parliamentary Commissioner would be relegated to the role of an investigator for the Commission. It would then be the Commission which would report to Parliament.
>
> Secondly, it would in any event be inappropriate to provide for such "references" to be made from the Commission to the Parliamentary Commissioner as he has **no general power to investigate allegations of corruption.** The Parliamentary Commissioner's primary role is to investigate complaints about defective administration on the part of government departments, local authorities and those statutory authorities named in the Parliamentary Commissioner Act. Since 1985, the Parliamentary Commissioner has had power to investigate complaints about the conduct of police officers. This includes looking at allegations of corruption on their part. However, the Parliamentary Commissioner has no power to investigate allegations of corruption about any other public officers or about members of Parliament. **In other words, in most cases, the Parliamentary Commissioner would not have power to conduct an investigation of the kind proposed.**

The next paragraph is the paragraph I referred to earlier -

> I wish to make it clear that, in voicing my misgivings in relation to this particular amendment, I am in no way denigrating the Bill's supporters, or the Commission, for seeking to make the Commission's role more effective. However, I consider that, as an officer of Parliament, it is appropriate for me to bring these matters to your attention.

The letter is signed by R. Eadie, the Parliamentary Commissioner for Administrative Investigations. I table this letter together with the other correspondence to which I referred from Mr Freeman.

[See paper No 917.]

ROAD TRAFFIC (BICYCLE HELMETS) AMENDMENT BILL

Committee

Resumed from 27 November. The Deputy Chairman of Committees (Hon Muriel Patterson) in the Chair; Hon Graham Edwards (Minister for Police) in charge of the Bill.

Progress was reported after clause 1 had been agreed to.

Clause 2 put and passed.

Clause 3: Section 111 amended -

Hon GEORGE CASH: The Bill provides that a $25 infringement notice shall be issued to any person who is found not to be wearing a safety helmet while on a road or dual use path. How does the Minister intend to enforce infringement notices against minors? I stated during the second reading debate that the Liberal Party would prefer a process of education to convince and encourage people to wear a safety helmet, rather than a more prescriptive model, as is the case in this Bill and the proposed regulations. It appears to me that minors will not be fined, but some other method must be applied to encourage them to wear safety helmets, and rather than my hypothesising about what is the answer, I ask the Minister to comment.

Hon GRAHAM EDWARDS: I thank the Leader of the Opposition for raising that issue. I addressed it yesterday in my response, but I understand that for a short time the Leader of the Opposition was out of the Chamber on other business and may not have heard what I said. Children aged 10 years and under are under the age of criminal responsibility, and it is the

intention of the police to handle the non-wearing of helmets by children under the age of 10 by way of informal cautions, perhaps delivered in a father to son or mother to daughter manner, and preferably delivered also to the parents. No penalty will be imposed for children of that age. Children over the age of 10 and up to the age of 18 will be dealt with by way of the cautioning system, and the Commissioner of Police will be issuing an instruction to that effect. Although the cautioning system will apply to juveniles, a repeat non-helmet wearer will be dealt with eventually by the courts. Children over the age of 18 will ultimately be dealt with by way of the prescribed penalty of $25. We have endeavoured to be as fair and as up front as we possibly can, and we have attempted to put the emphasis on education even in respect of the introduction of this Bill. For that reason, no penalties will apply for the first six months of operation of this legislation; and that will be dealt with in the regulations. For the second six month period, it will suffice for a person who has been issued with an infringement notice simply to make available a receipt showing that he has purchased an approved helmet, and the infringement notice will be withdrawn. We on this side also are very much in favour of that educational process.

Hon MURIEL PATTERSON: I am pleased to hear the Minister emphasising the need for education. People assume that safety helmets are sufficient if they are accredited. Who decides what is an accredited safety helmet? Members might recall that not very many years ago certain life jackets were proved to be very dangerous. Also, during the Gulf War soldiers used a certain kind of helmet which I understand was considered to be a very safe helmet suitable for use in war zones. However, recently I was at an agricultural show and saw a man fall off a horse, and his helmet hit the ground before he did. I want an assurance from the Minister about the safety of children and adults when wearing safety helmets.

Hon GRAHAM EDWARDS: We are getting a little in advance of ourselves. Hon Muriel Patterson is now asking for information about the regulations. They will be laid upon the Table of this Chamber and be available for perusal at a later date, and if members wish, and I certainly hope they do not, they can disallow those regulations. In an endeavour to be up-front about this Bill, as we always try to be, I provided a draft list of regulations to the Leader of the Opposition. I have also indicated that when the regulations are drafted I will be more than happy to provide a copy of them to members.

I say that because we need to put this back into perspective. However, in determining the suitability of a helmet it is intended to recognise brands which conform to the specifications set by the Australian Standards Association and other internationally accepted standards. Bikewest, a division of the Department of Transport, has agreed to assist in this regard and has provided a long list of helmets which are available and which conform. The final determination will be made by the Traffic Board, which will base its decision on those standards.

Hon DERRICK TOMLINSON: I return to the question of penalties. I accept the Minister's explanation that minors under 10 years of age cannot be prosecuted anyway and therefore will be admonished suitably by a policeman, and no doubt those over 17 years will be dealt with by the infringement notice registration and enforcement procedure. However, I did not hear the Minister's comments about those people between the ages of 10 and 17 years. I understand that, of persons under the age of 18, this is the group which is causing the greatest concern since primary school children are responding very well to the educational programs and are wearing bicycle helmets. Adolescents, however, responding to different sorts of pressures, are preferring not to be seen wearing bicycle helmets rather than suffer the admonition of their peers.

There is a problem about policing this. I refer to the days when all bicycles were required to carry a number plate, which I think cost a shilling each. That requirement was abolished simply because it was more inconvenient to police it than not to police it. Because we knew it would not be policed, as young people we had competitions to find the most obscure place to which we could attach our number plates. We hung them from various parts of the bicycle frame and from the seat, but the most effective thing to do was to place them in the spokes, because there a number plate could not be distinguished from any other piece of detritus which attached to the spokes of the bicycle. It was a farcical requirement which the Police Department did not pursue and eventually the requirement ceased to exist altogether.

If this legislation is passed we will now require people to wear bicycle helmets, and I refer

particularly to young people and adolescents since they are the major focus of concern. If they do not wear helmets they will be served an infringement notice or admonished by a policeman. However, let us assume that they will be served an infringement notice and dealt with under the INREP scheme as a result of the amendments to the Justices Act to which the Governor assented two or three days ago. Policemen will be engaged in policing the wearing of bicycle helmets. At the moment they are heavily engaged in policing other aspects of the Road Traffic Act, and such are the demands on their time that they are now introducing non-labour intensive means of policing the Act. Hence we have an increasing number of radar devices and Multanova cameras for which a policeman is not required. Why is that necessary? It is necessary, firstly, because it is a very efficient means of policing, in this case, the speed limit; but, secondly, because it is cost effective not to use policemen in this way. Policemen have other demands upon their time. While we are busily pursuing cost effective means of policing the more serious offence of infringing speed limits, this Bill will require a labour intensive police presence simply to ensure that people are wearing bicycle helmets. In the days of bicycle licences the most effective policing method was for the policeman to visit the school and check the bicycles, and frighten us all considerably. That admonition was very effective. Here, however, the policeman will have to catch the young person and issue an infringement notice.

Hon T.G. Butler: Isn't it the same with seat-belts?

Hon DERRICK TOMLINSON: I wonder how effective the policing of seat-belts is? People wear seat-belts because they have come to accept it through a long process of education.

Hon T.G. Butler: It is compulsory.

Hon DERRICK TOMLINSON: The good sense of wearing seat-belts is accepted. Through a similarly long and effective process of education people will see -

Hon T.G. Butler: You know it is not true.

Hon DERRICK TOMLINSON: - the good sense of wearing bicycle helmets. This law will be unenforceable simply because the demands placed on police to provide a presence will not be able to be met. I invite the Minister to respond to my points.

Hon T.G. Butler interjected.

Hon DERRICK TOMLINSON: I am not sure what Hon Tom Butler is mumbling about; he should rise to his little feet to say a few words. What will the penalties be under this law and how will it be policed?

Hon GRAHAM EDWARDS: Among the most enthusiastic supporters of this legislation are the police.

Hon Derrick Tomlinson: I accept that.

Hon GRAHAM EDWARDS: The police are supportive because they see that this legislation will mean a reduction in pain, suffering and loss of life.

Hon Derrick Tomlinson: They are very reasonable benefits.

Hon GRAHAM EDWARDS: As I said yesterday, the police accept that enforcement difficulties will be involved, but they do not see those difficulties as outweighing the benefits to accrue from this legislation. On two occasions I have indicated that the Commissioner of Police will be using the cautioning system for people between the ages of 10 and 18 years. That is the most efficient way of policing this matter; however, this legislation will be of great assistance to parents who have been saying to us for some time, through petitions before this House and through Apex and other community clubs, with which I am sure members are in contact -

Hon Derrick Tomlinson: Do you really believe it is good sense for the policeman always to be used as a bogeyman threat to children?

Hon GRAHAM EDWARDS: The police have tried hard to dispel that view.

Hon Derrick Tomlinson: It is being used again here.

Hon GRAHAM EDWARDS: Hang on. A prime police responsibility is that of road safety in this State. Over recent years programs have involved police officers visiting schools to talk to children about the need for road safety. One of the great aids that this legislation will

be to parents will be to help those having difficulties overcoming peer pressure on their children. The member may be right; we will not know the extent of the problems until we put the legislation in place. Perhaps after 12 months we will find that the enforcement problems are such that the legislation will have to be withdrawn. Nevertheless, the evident problems arising from the non-wearing of bicycle helmets mainly due to peer pressure in our community, particularly among the group to which the member has referred, must be addressed. The Government's view, one shared by many in the community, is that the best way to address this problem is by way of legislation. We accept that problems will be created. However, those problems are surmountable and are minuscule when compared with the hospitalisation and trauma of head injuries and the deaths experienced in our community today. This trauma is preventable.

Hon PETER FOSS: This clause contains two problems. Firstly, subclause (a) deletes the word "motor"; and secondly, certain words are to be inserted after the word "equipment". Section 111 of the Road Traffic Act states that -

> (1) The Governor may make regulations for any purpose for which regulations are contemplated or required by this Act and may make all such other regulations as may, in his opinion, be necessary or convenient for giving full effect to the provisions of, and for the due administration of, this Act, for the licensing, equipment and use of vehicles and for the regulation of traffic, generally.

Subsection (2) contains a specific power in that the Governor may make regulations -

> requiring drivers and passengers of motor vehicles to wear or use the prescribed items of equipment.

That sounds a little strange. It pops up in the middle of the regulation and refers to "the prescribed items of equipment". The equipment being described is that of standard equipment "to be fitted to, vehicles and requiring vehicles or equipment to be maintained in the prescribed manner". Therefore, the problem is that helmets are not fitted to vehicles. The amendment refers to the wearing of such items of equipment, but one cannot wear items of equipment unless they are fitted to the vehicle. Helmets are not fitted to vehicles. Therefore, it is not possible to regulate for people to wear them. I should not mention this because I am opposed to the legislation. However, the drafting of the legislation has a fundamental flaw because it is telling persons to wear equipment which is fitted to the bicycle. This provision was drafted initially for seat-belts, which are fitted to the vehicle. However, unless the helmet is attached and hovering over the cyclist's head and is pulled down to be worn, it cannot be a prescribed item of equipment!

Leaving that matter aside, why are we deleting the word "motor"? This Bill is supposedly about bicycles. However, by deleting the reference to motor the legislation will refer to "every conveyance not being a train, vessel or aircraft, and every object capable of being compelled or drawn on wheel or tracks by any means". The context of section 111(2)(b) permits an animal being driven or ridden. I am pleased to say that the proposed legislation appears to pick up skateboards, on which people often have nasty accidents. It has also picked up scooters, wheelchairs and quadricycles merely by deleting the word "motor". Once that has been done the words "if they are sufficient to deal with equipment that is not fitted" would not be needed. By referring to section 111 we are referring to equipment which is not fitted. We do not, therefore, need the second part of clause 3 in the Bill which refers to wearing or using such items in areas where a person may ride or drive a pedal cycle. Interestingly enough, section 111(2)(c) is not restricted to roads, and the specific referral to the wearing or using of such items in areas where a person may ride or drive a pedal cycle would eliminate those places where one is not allowed to ride a pedal cycle. Presumably, therefore, if one were riding on a single use footpath - on which one may not ride a pedal cycle - one could do so without a helmet. If, on the other hand, one went where one could ride a bicycle one would have to wear a helmet. People could even be required to wear helmets in their own home because one can ride a bicycle there. The only place one would not be required to wear a helmet would be on a single use footpath or other place where bicycles are prohibited.

It seems there has been a drafting problem with this legislation and I do not like it. If we must have the legislation, why do we not get it right? The Minister should not delete the word "motor" from the clause, rather he should specifically include a provision requiring the

wearing of prescribed items of equipment on pedal cycles. If the Minister wants to pass regulations that require people to wear helmets why does he not say that rather than what appears to be a provision to regulate for the wearing of helmets except in those places where one may not ride or drive a pedal cycle.

We keep coming back to the question of helping young people and I am sympathetic with that. I have no quarrel with the fact that the duties and obligations of this Parliament regarding children are different from those regarding adults. I understand that we must look after children when their parents are not prepared to look after them; notwithstanding that it is preferable that parents look after their children. However, why is the legislation directed to adults also? I can understand that children may not have the maturity of judgment to make a right decision, but why not allow adults to make up their own minds?

In summary, there should be a regulation that specifically deals with the wearing of equipment on bicycles and tricycles. The word "motor" should not be deleted from section 111(2)(c) of the Act because that would leave the matter open to skateboards, scooters and wheelchairs. We should say what we mean and do it properly as opposed to the way it is presently proposed.

Hon GRAHAM EDWARDS: This legislation has been drafted properly; it is right and that is the view of Parliamentary Counsel, who of course, has perused it.

Hon Peter Foss: Explain why I am wrong.

Hon GRAHAM EDWARDS: The Road Traffic Act states that a motor vehicle means a self-propelled vehicle that is not operated on rails, and the expression includes a trailer, semitrailer or caravan while attached to a motor vehicle. If we were to leave in the word "motor" we would simply not be able to prescribe the regulations in order to address the issue. Hon Peter Foss is giving me different advice from that which I received from Parliamentary Counsel.

Hon Peter Foss: You did not listen.

Hon GRAHAM EDWARDS: I did; Hon Peter Foss said that we should get it right and that he does not like this sort of legislation. I am saying the legislation is right. My advice is that the amended legislation will extend the existing provisions to permit the making of regulations which will cover the use of wearing prescribed items to cover people who ride pedal cycles. It will allow bicycle helmet regulations to be included in the section of the Road Traffic Code regulating the wearing of seat-belts and motorcycle helmets.

I refer now to Hon Peter Foss' other issue that we should be restricting the legislation to juveniles. In bringing down this legislation the Government made a judgment based on community consultation and what it saw as a need to address a road safety problem in the community. If Mr Foss does not like that judgment he has an opportunity to defeat the Bill. However, he will not change my mind and I may need to accept that I will not change his mind.

I have thought about this legislation and the benefits it will bring to this State and the community through cost savings and in saving lives and reducing suffering. However, by the same token I accept there is a civil libertarian view to these matters, to which I am sympathetic, but in this instance I do not agree with it. My advice is that this legislation is spot on. However I may be able to reach a compromise with Mr Foss, although I am always cautious about making compromises. I will draw his comments to the attention of Parliamentary Counsel and the other place. If there is any need for amendments I am happy to look at the matter.

Hon PETER FOSS: Perhaps I should make it quite clear that I am making my comments in the interests of this legislation doing what it is intended to do, because I believe it will be passed. I am concerned not only about the regulations that the Minister proposes to bring in for bicycle helmets, but also about the current legislation for motorcycle helmets. Firstly, I am not saying that section 111(2)(c) of the Road Traffic Act does not need to have the word "motor" deleted in order to include something else. I am saying that by deleting the word "motor" the legislation will go too far. Furthermore, the addition the Minister proposes does not achieve his aim because, as it presently stands, paragraph (c) does not require people to wear anything other than equipment which is fitted to a vehicle - but one does not fit helmets. A new paragraph (ca) should probably be added which will require the wearing of prescribed

items of equipment irrespective of whether they are fitted to a vehicle and I am suggesting that the Minister specifically direct the matter to bicycles and tricycles. Furthermore, this provision will apply to roads and dual use footpaths only and will be prohibited from being applied to single use footpaths. A person might be fined for riding a bike on a footpath, but he will not be fined for riding on a footpath without wearing a helmet simply because he is not required to wear a helmet while riding a bike on a footpath: A footpath is not a place where a person may ride or drive a pedal cycle. If a person is forbidden from doing that the regulation cannot extend to footpaths, but only to those places where it is legal for a person to ride or drive a pedal cycle.

The first half of the Government's legislation goes too far and the second half does not go far enough. The Government should give consideration to an amendment to make sure that motorcycle helmets are compelled to be worn. If the regulations are dependent on paragraph (c) of section 111 of the Road Traffic Act, I do not think they are valid because paragraph (c) can be applied only to "the prescribed equipment" and "the prescribed equipment" is only covered in paragraph (d), which deals with equipment fitted to vehicles - helmets are not fitted to vehicles.

I do not particularly like the legislation, but I face the fact that the Chamber will pass it. I do not accept the idea of passing it in this gobbledygook fashion and amending it in another place. It should be amended in this place. I am happy to participate in amending it to expedite its passage. I will not agree to sending gobbledygook legislation to the other place simply because the Minister thinks it is right.

Hon GRAHAM EDWARDS: I accept the member's comments, but by the same token, he wants to amend a clause because he thinks it is wrong. That is not the advice we have been given by Parliamentary Counsel. I think Hon Peter Foss is wrong and I offered him what I thought was a reasonable compromise. I said I would have his comments examined. If an amendment is needed we have every capacity to accommodate it. In the limited time I have been in this place I have seen too many amendments suggested in this place by members turn out to be wrong. That is the reason we have Parliamentary Counsel and it is not wise to accept an amendment which is made on the run, which would be the case now. I do not disregard what Hon Peter Foss has said and I have made a fairly reasonable offer. My understanding is that an amendment is not required because what is required will be prescribed by way of regulation.

Sitting suspended from 12.46 to 2.15 pm

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon Graham Edwards (Minister for Police).

[Continued on p 7144.]

OFFICIAL CORRUPTION COMMISSION AMENDMENT BILL

Assembly's Amendment

Amendment made by the Assembly now considered.

Committee

The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair; Hon P.G. Pendal in charge of the Bill.

The amendment made by the Assembly was as follows -

Clause 3 -

Page 2 - To delete lines 5 to 10 and substitute the following -

(6) The Commission may at its discretion after an investigation under subsection (3), report to each House of Parliament -

(a) in respect of any findings of illegality; or

(b) matters where a person under investigation requests public disclosure of a clearance arising out of, or concerned with, the investigation. The report may be accompanied by a

recommendation for further action where the Commission sees fit. The Commission may also at any time during an investigation report to each House of Parliament if it considers that the investigation is not being properly, efficiently or expeditiously conducted.

Hon P.G. PENDAL: I move -

That the amendment made by the Assembly be agreed to.

I am delighted that the Leader of the House in another place said that in general terms the Government is not opposed to this Bill. That is something of a change of heart, of course, from the remarks made in this Chamber by the Leader of the House on 9 May when the Government opposed the Bill. I seek an assurance from the Minister on the matter of the Royal assent because it seems that it would be possible to circumvent the processes that the Parliament would go through rather laboriously if Royal assent were not sought in an expeditious manner.

The kernel of the Bill is the matter before us; that is, we are confronted with how best we might provide a mechanism for the Official Corruption Commission to report to Parliament. The Opposition Bill which was sponsored from this Chamber some months ago saw that objective being met in one way; other people in another place have taken the view that the same objective can be met in another way. In the main, we will not allow the argument to be bogged down in whose idea or whose route of reporting has the distinction of being the best one. Without power to report to Parliament the Official Corruption Commission will be largely impotent. It is now of some satisfaction that most people in the Parliament accept the need for the Official Corruption Commission to have that power because essentially it is the power only to come back to Parliament and say that an investigation which the commission has referred to an appropriate body - in terms of the parent Act - is being impeded or is not being carried out as quickly or as efficiently as it ought to be; and that power of reporting to the Parliament of course would have some considerable salutary effect on the investigating agency.

The Independent member for Perth seeks to set a limit, one could say, on the sort of reportage that should apply. To use his words - and he made no secret of it - he wanted to find a way to circumscribe that power; and I hasten to say that I am not doubting his motives, although I have doubts whether his method is the best one. On the other hand, the original Liberal Bill at clause 3(a) added new subsection (6) which proposed to give the Official Corruption Commission the power to "report to Parliament in respect of any matter arising out of, or connected with" an investigation. In other words, ours was an unlimited power. Dr Alexander, by his own words, seeks to circumscribe that to some extent. Whether it does is a matter of some conjecture because it contains another weakness, which I will come to quickly. In the meantime, Dr Alexander wants to dilute the reporting power. I do not use that remark in a derogatory sense because I can see the value in that dilution. He wants to confine the reportage to "any findings of illegality". That clearly confines the Official Corruption Commissioners to reporting to us on a question of illegality, if we allow Dr Alexander's amendment. Having said that, despite what he sees as a limitation, the Parliamentary Liberal Party will accept the amendment because it has been moved in good faith by Dr Alexander.

I must say emphatically for the record that we believe that our original provision is the best way to go. That provision came to us, as it came to all parties, from the Chairman of the Official Corruption Commission, Mr Wickham. Notwithstanding our belief that that pathway is the preferred one we also accept the reality that half a loaf is better than no bread at all. Were we to reject Dr Alexander's compromise the likelihood is that we would finish this session without the power that has been sought for such a long time by the commission being granted. The Minister for the Environment, who was handling this Bill, in the other place queried whether the first part of Dr Alexander's limitation would ever be acted upon. His argument, which frankly is one I have some sympathy for, was that the commission would never report to Parliament under proposed section 6A on any findings of illegality because no-one could possibly get a fair trial if the commission were declaring someone guilty by virtue -

The DEPUTY CHAIRMAN (Hon Doug Wenn): I advise Hon Phillip Pendal that he cannot refer to a debate in another place.

Hon P.G. PENDAL: I am aware of that Standing Order and I took some advice yesterday, but for the life of me I cannot understand how I can deal with an amendment in this place which is the result of something which occurred in the other place if I cannot refer to debate in the other place. Perhaps if I make my remarks a little broader I will arrive at the same spot. It was said publicly by the Minister, Mr Pearce, that the commission would never make a report to Parliament on any findings of illegality because of the presumption that the people were guilty. There is probably some merit in that view. I hasten to add that the original intent of the Opposition's Bill is contained in the last sentence of subparagraph (b). It is envisaged by Dr Alexander that at any time during an investigation the commission can report to each House of Parliament if it considers that the investigation is not being appropriately or expeditiously conducted. That is the crux of the matter from our point of view. Therefore, Dr Alexander has certainly embodied the spirit of our Bill into that sentence. One is entitled to say that the first part of his amendment will not be all that effective, but neither will it impede the course of investigations on official corruption because the real power is conferred in the last sentence of subparagraph (b). That is not to say that members of the Liberal Party would not have preferred to insist on their own Bill, drafted as it was when it left this House; but before all else we want the Bill passed during this session, so we will not quibble about the way in which that will be achieved.

I will make some brief mention of other public comments that involve me which are so outrageous and so untruthful that I must refer to them here. It has been publicly stated in the last day or so by Mr Pearce - and while I have spent a couple of minutes agreeing with him and commending him, I must now point out some of the untruthful remarks made by him publicly - that I made a complaint about members of the Rottnest Island Board when the Official Corruption Commission was first set up. He said that I organised the leaking of a complaint to the Press so that the Press were aware that the Rottnest Island Board was being investigated. That is untruthful and I say that on the parliamentary record. It was not a "leak"; it was an official announcement on the part of the Opposition made on 2 August 1989. The story does not refer to some unnamed source, but quotes me from the second paragraph onwards. There is no way that could be constituted as a leak, when in fact I allowed my name to be used publicly. That report appeared in the *Daily News* and the first two paragraphs stated -

> The Rottnest Island Authority's handling of the Geordie Bay store lease will be referred to the new Official Corruption Commission.
>
> Opposition spokesman on Tourism Phillip Pendal announced this today.

The story then goes on to deal with other matters. One could not be accused of leaking if in fact one had made an official announcement. As is so often the case it is one of those sad occasions of Mr Pearce frothing at the mouth. A second and equally important matter that must be refuted is Mr Pearce's statement that I organised for the information that the board was being investigated by the commission to be leaked. I have set that to rest, because it was an official, up front public announcement that the Opposition was referring that matter to the commission.

Hon Reg Davies: Hon Phillip Pendal is always up-front.

Hon P.G. PENDAL: I hope so. Thank you, Mr Davies.

Mr Pearce also said that the commission investigated the claims against members of the Rottnest Island Board and found them to be unsubstantiated. In fact, the investigation now has been reopened. Mr Pearce also said that I had consistently refused to release the results of that investigation. Mr Pearce has it wrong again. I refer particularly to an announcement that appeared on 2 February 1990 where I chose to do the very thing that Mr Pearce is now claiming I refused to do; namely, to release the result of the investigation. Members must bear in mind that it is an oddity of the Act that the person making the complaint is the only one with the right to publicly say anything about the results of the investigation. That, of course, is one of the absurdities the Opposition wants to overcome. On 2 February 1990 a story appeared, which would not have appeared had I not been prepared to say publicly that the police had investigated and had found insufficient evidence to proceed. On that occasion *The West Australian* journalist, Steven Loxley, chose to jazz that up somewhat. He said -

> Police have dismissed a complaint lodged by Liberal front bencher Phillip Pendal over the granting of the lease to the Geordie Bay general store on Rottnest Island.

In fact, I did what Mr Pearce said I did not do.

The second reason that this is a matter that needs to go onto the official record is that it led to an editorial in *The West Australian* in the form of an admonishment to me for certain things I did in this matter. It is interesting that later in the year, on 24 May 1991, the Official Corruption Commission reopened the investigation into this matter. I do not know the results which have now been with the Official Corruption Commission for 18 months. It is important to note the story which appeared in the newspaper on 24 May 1991 which stated -

> WA's Official Corruption Commission has asked police to reopen the investigation into the granting of the lease for Rottnest's Geordie Bay store to CIB Det-Sgt Russell August.
>
> The Police Department reported in January that it could find no evidence to sustain a complaint of corruption lodged with the commission by Liberal MLC Philip Pendal.

Therefore, many months after the police allegedly dismissed the complaint - which they never did - the Official Corruption Commission asked that the investigation be reopened; and, as far as I am aware, the matter is still being investigated.

This morning the President read out a letter from the Ombudsman which expressed his concerns about the amendments to the Official Corruption Commission Act. After closely studying Mr Eadie's letter I find no reason for the Chamber not to put the legislation through today. The letter acts as only a caution. I thank Mr Eadie for bringing this matter to the Parliament's attention; however, it makes no difference to the passage of the Bill. The burden of Mr Eadie's letter was that we should never allow the Office of the Parliamentary Commissioner for Administrative Investigations to be subordinate to the Official Corruption Commission. That of course is not based on interdepartmental jealousy but on the premise that we should not put any parliamentary officer in a subordinate position to an agency outside the Parliament. I hasten to add that is not what the Bill would do. The Ombudsman has misunderstood the intention of the Bill. He has also misunderstood the words of the Bill. At page 2 of Mr Eadie's letter we find -

> In other words, in most cases, the Parliamentary Commissioner would not have power to conduct an investigation of the kind proposed.

Section 7 of the parent Act states that the Official Corruption Commission cannot be asked to carry out any investigation that it is not empowered to carry out because section 7(b) specifically states that it must consider whether, in its opinion, the matter should be referred to a person or body who or which is empowered by law to investigate. If, for example, the Ombudsman is not empowered by law to investigate alleged corruption against a member of Parliament, the Ombudsman is not obliged to investigate that matter. That should put to rest any concerns Mr Eadie has. The Corruption Commission can only refer a complaint to an investigating agency which is empowered by law to investigate that matter. Mr Eadie also seeks to preserve and protect the independence of the Parliamentary Commissioner, and so he should. He states at page 1 of his letter, in his observation of the Bill, that -

> Such a duty to report to an agency of government rather than to the Parliament is unprecedented . . .

It is not unprecedented at all. It is the ideal that a parliamentary officer should report to no person or no body other than Parliament, and it is certainly the ideal that Parliament should not be subordinate to civil servants. However, does any member of the Committee suggest that the reality is that Parliament is subordinate to the Treasury, for example? I know the theory. Hon Fred McKenzie may shake his head but the theory is that the Treasury asks for its funds from the Parliament and it is subordinate to the Parliament. However, why is it that each year we go through the torturous process of our Budget being cut? By whom is it being cut? Hon Tom Helm knows. It is cut by the Treasury, which is effectively a subordinate body to Parliament.

Hon Tom Helm: We agree to that.

Hon P.G. PENDAL: Yes, we do.

Hon Peter Foss: Aren't we stupid!

Hon P.G. PENDAL: Yes. Mr Eadie wants to establish a reality from an ideal. I do not have

any difficulty with that; however, he has been overly concerned and cautious about the way in which the amended Official Corruption Commission Act will impact on his office's independence. His concern will not be realised, for the reasons I have outlined. We are happy, after 15 months, to see an end in sight for this Bill. We are not passing the Bill for our own benefit. It will provide a set of powers that will give the Official Corruption Commission real teeth and take away its impotence. This Bill is not the preferred way of doing that but, in the main, the amendment Dr Alexander, the member for Perth, has proposed will achieve much the same end. Therefore, I commend the amendment to the Committee.

Hon J.M. BERINSON: The Government supports this motion and I assure Hon Phil Pendal there will be no delay in the date of assent.

Question put and passed; the Assembly's amendment agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

STAMP AMENDMENT BILL

Second Reading

Debate resumed from 26 September.

HON PETER FOSS (East Metropolitan) [2.52 pm]: This Bill is intended to set aside dealings which are entered into by people in order to avoid the consequences of the Stamp Act. To understand the amendment, one needs to understand what it was that people did in order to avoid the payment of stamp duty. To do that we need to look at section 83 to understand the effects of proposed section 89. Section 83 of the Stamp Act is divided into two parts. The first part, contained in subsection (1), is concerned with stamping of a security where the total amount secured or to be ultimately recoverable is in any way limited. The second part, comprising the remaining subsections, deals with the upstamping of unlimited securities. An unlimited security is subject to an initial stamp on the total amount secured or ultimately recoverable. However, where an advance or loan in excess of that basic amount is made or the indebtedness thereby secured is increased, there is an obligation to upstamp. The upstamping provisions have been tinkered with a number of times. In particular, the provisions obliging an upstamping where the indebtedness secured by an instrument was increased were tacked on in later times. The basic effect was the introduction of two different concepts. The first concept, which determined the amount of duty payable on first execution related to "the total amount secured or to be ultimately recoverable thereunder". The other concept which applies on upstamping relates to loans and advances or the indebtedness thereby secured. The choice of two different concepts allowed a loophole to develop in the case of securities which secured contingent amounts; that is, guarantees. Provided that the relevant secured liability arose after execution of the security, only nominal duty would be payable upon the instrument of security until such time as the contingent liability crystallised; that is, when demand was made under the guarantee. This is due to the fact that, on first execution of the instrument of security, it did not secure any amount. Thus, only nominal duty was payable. When the instrument creating the secured liability was subsequently executed, execution by itself did not result in an increase in the indebtedness thereby secured.

Proposed section 89 attempts to overcome the loophole by relatively tortuous drafting. The easiest way to deal with the problem would be to amend the provisions of section 83(3) so that, instead of referring to an advance or loan in excess of the basic amount or the indebtedness thereby secured increasing beyond the basic amount, the liability to upstamp arises if the total amount secured or to be ultimately recoverable thereunder increased beyond the basic amount. What proposed section 89 purports to do is to deem amounts payable, etc, under other transactions as being secured or ultimately recoverable under the instrument of security and advances, loans, etc, arising out of some separate transaction being deemed to be advances, loans or indebtedness made or recoverable under the relevant instrument of security. Under proposed section 89(3), it is provided that the section applies, first, if the other transaction was entered into on or after the prescribed day, even if the instrument of security were executed before the prescribed day; and, second, if the

instrument of security were executed on or after the prescribed day, even if the other transaction were entered into before the prescribed day. "Prescribed day" is defined in proposed section 4 as 29 August 1991.

The effect of subsection (3) is that the Act has a retrospective effect in relation to instruments of security executed before 29 August 1991. It is a basic principle of stamp duty that the liability of an instrument for duty is determined by reference to the law that exists at the time of first execution. That applies in relation to the execution of an instrument of security. Proposed subsection (3) is objectionable inasmuch as it provides that it applies to an instrument of security executed before the prescribed day on the basis that the transaction secured thereby was entered into after the prescribed day. It is not objectionable for the section to apply to an instrument of security executed after the prescribed day if the relevant transaction was entered into before the prescribed day on the basis that the section is levying duty on an instrument and an instrument executed after the prescribed day should be subject to duty in accordance with the Act as it stands at the day of execution.

The problem the proposed amendment gives rise to can be seen in the light of an example. Say a resource project has been established. The financiers to the resource project have taken security over the project in a stamp duty effective manner. The security has been structured in such a manner that it merely secures contingent liability. The instruments of security were executed well before 27 August 1991. The instruments of security have always contemplated that certain transactions would be entered into. If those transactions are entered into after 27 August 1991, the effect is to impose a duty liability in respect of the instrument of security. An appropriate method of amending the Bill so that it does not have this retrospective effect would be to amend section 89(3) so that it provides that the section does not apply to an instrument of security executed before the prescribed day.

I am pleased to say that, as a result of discussions that took place in another place where the same problem was raised, the Government reconsidered the matter and showed me amendments to the Bill which would have the effect of overcoming the problem that I have just outlined in the Bill as it presently stands. In particular, they have the effect of not attracting duty to those transactions, pursuant to a transaction that was entered into prior to the prescribed day. In fact, all the references to that will start to disappear in that respect. I am pleased to say that the effect of these amendments is intended to - and I believe will - result in the removal of that retrospective effect.

There is still some element of retrospectivity, but that element relates to the date upon which the announcement of the change is made. Where there is a new transaction after that date, pursuant to an agreement after that date, that also will be caught. Therefore, if these amendments are made, the revenue will be adequately protected in the present instance, and they will also remove the objectionable part of the Bill as it stands. That will make it far more acceptable to members on this side. Therefore, assuming that the amendment which has been shown to me by Hon John Halden will be moved by him, that is acceptable.

I did place on the Notice Paper some amendments of my own, and I wish to explain why they are there because I will not be proceeding with them due to the fact that I believe it will be sufficient if the second reading debate makes clear what is the effect of this amendment, and also because this matter will probably be dealt with at a later stage by a particular amendment thought out properly and introduced into this House. I mentioned some concerns about the fact that in this instance we referred only to the second schedule - a duty imposed under the second schedule - without referring to the section under which that duty was charged.

Strictly speaking, all duty is imposed under the Act, and one then refers to the schedule to determine the amount or whether it is an exempt instrument. Other sections of the Stamp Act contain specific references to a section and to the schedule. However, in this Bill there is no such reference to the section and the schedule. I want to make it clear - and I understand from the Government that this is the case - that no significance can be attached to this amendment by virtue of the fact that it does not refer to both the section imposing the duty and the schedule item. It is the other section which is the aberration, rather than this one.

I had proposed that we move an amendment, which would overcome this problem, and I will read it to the House to set out its intent. The amendment was as follows-

Page 14, after line 16 - To insert the following clause to stand as clause 15 -

Section 16 amended

15. Section 16 of the principal Act is amended by inserting after subsection (1) the following subsection

(1a) A reference in this Act to -

(a) duty chargeable or payable; or

(b) the stamping of an instrument,

under an item or portion of an item of the Second Schedule is a reference to duty or stamping under that item or portion of an item as read with this section or some other provision of this Act.

Therefore, there would have been a general provision in the Act that whenever there is a reference to a schedule there is also a reference to the relevant section or sections of the Act. After discussion with Parliamentary Counsel it was determined that an amendment such as this should not be introduced with the specific amendments that will be moved today. It should be looked at in more general terms and possibly circulated to the profession so that it could be commented upon and dealt with at that time. The Stamp Act is a fairly old Act, and it has managed to struggle along for some years without that particular interpretation provision. Therefore, it is probably not a matter of enormous urgency, as long as we clarify the situation for the record and make it clear that no significance is to be attributed to this Bill by our not using that double reference as opposed to the single reference which is used and as opposed to the double reference which is to be found in other sections of the Act.

In view of the proposed amendments to be moved by the Government and in view of what we believe is a perfectly proper stamp duty avoidance cancellation measure, the Opposition has pleasure in supporting the Bill.

HON JOHN HALDEN (South Metropolitan - Parliamentary Secretary) [3.06 pm]: I thank Hon Peter Foss and Hon Max Evans for their efforts towards our reaching a solution with this Bill. Hon Peter Foss is correct when he says that the Stamp Act is an old Act. It has been amended on many occasions, but there are still matters of concern to him, to Hon Max Evans, and to the professions involved in this area that need to be reviewed from time to time. A commitment was given in the other place by the Premier to look at the issue of retrospectivity, and that commitment has resulted in the amendments which I shall move later during the Committee stage and which will have the effect of ensuring that transactions entered into prior to the prescribed date will not have duty levied upon them, and if the transaction was entered into prior to the prescribed date, and there are progress payments after the prescribed date, then those progress payments will not have duty levied upon them. I am sorry I missed the point that Hon Peter Foss asked me to clarify, but I am happy to clarify it during the Committee stage. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair; Hon John Halden (Parliamentary Secretary) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement -

Hon JOHN HALDEN: I move -

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

(1) Subject to subsection (2), this

Page 1, after line 7 - To insert the following lines -

(2) Sections 4 and 6 are deemed to have come into operation on 29 August 1991.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 3 put and passed.

Clause 4: Section 81 amended -

The DEPUTY CHAIRMAN: I have been advised that the first amendment in clause 4 is actually a clerical amendment, so we will discuss the second amendment.

Hon JOHN HALDEN: I move -

Page 2, lines 15 and 16 - To delete the lines.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 5: Section 87 amended -

Hon PETER FOSS: I had some amendments to this clause on the Notice Paper, but I shall not now move them. However, I would like confirmation from the Parliamentary Secretary that it is his understanding that the omission of these words will not be treated as in any way distinguishing this section from other sections in the Act where these words are included.

Hon JOHN HALDEN: We have no problems with that. It is not the intention in any way to show that there is any difference between this and other sections of the Act.

Clause put and passed.

Clause 6: Sections 88 to 90 inserted -

Hon JOHN HALDEN: I move -

Page 4, lines 9 to 24 - To delete the lines and substitute the following lines -

(a) it does not matter whether the option or right is granted before, at the time of, or after the execution of the instrument; but

(b) if the option or right is granted after the execution of the instrument, section 20 applies to the instrument as if references in that section to the execution of the instrument were references to the granting of the option or right.

Page 4, line 25 to page 5, line 19 - To delete the lines.

Page 6, lines 17 to 20 - To delete the lines.

Page 7, lines 15 to 23 - To delete the lines.

Hon PETER FOSS: These are significant amendments. I take it that the Bill will take effect from 29 August 1991. It will not have retrospective effect.

Hon JOHN HALDEN: That is exactly what is meant.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 7 to 16 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon John Halden (Parliamentary Secretary), and returned to the Assembly with amendments.

STAMP AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 14 November.

HON MAX EVANS (North Metropolitan) [3.16 pm]: Hon Peter Foss has explained in

detail the work undertaken on this Bill. We recognise the cooperation we have had from Hon John Halden and from Parliamentary Counsel, which has resulted in a change to the original amendments. The result is a very satisfactory arrangement with the mining industry, and particularly with the help of Barry Johnston of Freehill Hollingdale and Page, we now have a good piece of legislation. I must say that that may be only for the time being, because somebody may find another problem, but the Bill has been well thought out and we appreciate the cooperation.

This matter has been on my plate since 1987 or 1988. We have brought up the value of mining tenements a number of times. I am now very glad that this matter has been settled. The mining companies are happy that the Act has been amended in a satisfactory way, and the Opposition supports the amendments.

HON JOHN HALDEN (South Metropolitan - Parliamentary Secretary) [3.17 pm]: I thank members opposite for their cooperation. I am sure the amendments we have agreed on will clarify the matter of dutiable items. I am pleased we have been able to resolve this matter so quickly.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair; Hon John Halden (Parliamentary Secretary) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 75A amended -

Hon JOHN HALDEN: I move -

Page 2, lines 13 and 14 - To delete the lines and substitute the following -

> would, for the purpose of negotiating the price for the land, have knowledge of all existing information relating to the land, and no account is to be taken of any amount that a hypothetical purchaser would have to expend to reproduce, or otherwise acquire a permanent right of access to and use of, existing information relating to the land.

Hon PETER FOSS: I have great pleasure in supporting this amendment. It is very seldom that a revenue raising Bill goes through this Parliament and is universally received with acclamation. Hon John Halden must take some credit for having initiated this discussion, because until discussions did take place there was a huge amount of acrimony on both sides. One side said the others were soft on tax evaders, and the other said the second reading speech was deceptive. The message is that when debate becomes acrimonious and views are so strong on both sides perhaps it is time to pause to see whether there is justification for the dispute between the parties. In this case, it did turn out that it was a matter of miscommunication in many ways. We have eventually put down in words something which not only satisfies the very serious concerns that the Opposition felt in regard to mining and the land, but also, and most importantly, it preserves the position of the revenue. It must be understood that we, like the Government, wish to have the position of the revenue protected. We see no reason that people should be entitled to escape from their proper liabilities for stamp duty because this is an important part of the revenue of this State. It has not been tested in the courts but the amendment appears to satisfy the revenue and the concerns of people who considered the last draft was not acceptable. If we could resolve most disputes in the way we have resolved this one we would have better legislation and a much better despatch of business.

Hon W.N. STRETCH: This clause has caused some problems for the farming community because of the possible deemed valuations of future projects. Can I have assurance that this area is covered in the same way in this legislation as it is for the mining industry?

Hon JOHN HALDEN: I am advised that I can give that assurance.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 5: Section 76AA amended -

Hon JOHN HALDEN: I move -

Page 3, lines 7 and 8 - To delete the lines and substitute the following lines -

> would, for the purpose of negotiating the price for the land, have knowledge of all existing information relating to the land, and no account is to be taken of any amount that a hypothetical purchaser would have to expend to reproduce, or otherwise acquire a permanent right of access to and use of, existing information relating to the land. ".

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon John Halden (Parliamentary Secretary), and returned to the Assembly with amendments.

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Seventh Report Tabling

HON TOM HELM (Mining and Pastoral) [3.27 pm] - by leave: I present the seventh report of the Joint Standing Committee on Delegated Legislation titled "Part I Various Fees under the Local Acts and Justices Act; Part II Various Fees under Department of Land Administration Legislation". I move -

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

Question put and passed. [See paper No 918.]

EAST PERTH REDEVELOPMENT BILL

Committee

Resumed from 14 November. The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair; Hon Kay Hallahan (Minister for Education) in charge of the Bill.

Clause 19: Powers -

Progress was reported on the clause after the following amendment had been moved -

Page 11, after line 8 - To insert a new subclause as follows -

> Notwithstanding anything in this section or in section 18, the Authority may carry out any study or undertake any work on land that is adjacent to the redevelopment area if the study or work is, in its opinion, directly related to the improvement of the redevelopment area or the functions of the Authority.

Hon KAY HALLAHAN: There is no need to address this amendment extensively at this stage. I intend to move further amendments which I hope will be satisfactory to the Chamber. Discussions were held outside the Chamber about the particular concerns created by my amendment. Further studies will need to be undertaken on the contextual issues and where the interfaces will be on the boundary. Clause 19 limits the powers on expenditure to matters directly related to the improvement of the redevelopment area or the functions of the East Perth Redevelopment Authority. I propose to amend my amendment by deleting the words "adjacent to" and substituting the words "contiguous with".

Hon GEORGE CASH: I was mainly concerned with the words "adjacent to" because unless we are very clear about the location of the defined land an opportunity would arise for the East Perth Redevelopment Authority to step over those boundaries and undertake work on other than land within the defined area. I have no objection to the words "contiguous with". However, I am surprised the Minister now wants, as I understand it, to delete the words

"carry out any study". I do not wish to counter any discussions conducted behind the Chair, but before any work was carried out it would seem logical that a study would need to be done. To delete those words may take something away from the authority.

Hon PETER FOSS: My concern was probably more with the word "working" than the word "study". I made a distinction last time between that which the authority can do and which anyone else can do. I have no problem with the authority paying for a study to be carried out and work to be done in the contiguous area. However, I am concerned that if the authority is given statutory powers outside its area then two people have the authority to carry out the work. For instance, how can the Perth City Council and the East Perth Redevelopment Authority have authority over street trees. I prefer to keep the word "study" but to insert "that the authority may pay for the carrying out of any study or the undertaking of any work on land that is contiguous to the redevelopment area" because in that way all of those things can be dealt with. It will mean that the Government together with the Perth City Council and the authority will not have authority in that contiguous area. I am happy for the Government, the council and the authority to each be given authority to spend money outside their individual areas of authority. However, we can achieve what the authority is seeking by not giving compulsory powers outside an authority's area. "Expenditure" is the word that is required because we should not allow for the grey areas.

Hon KAY HALLAHAN: I appreciate the member's attempt to assist in the clarification of the complexity on the boundaries of an area. My initial advice is that what the member suggests may not be as helpful as he believes it to be. If the member wants to pursue his suggestion I must consult with the adviser from the Crown Law Department.

Sitting suspended from 3.43 to 4.00 pm

[Questions without notice taken.]

Hon KAY HALLAHAN: I seek leave to amend my amendment.

Leave granted.

My amendment now reads -

> Page 11, after line 8 - To insert a new subsection as follows -
>
> > Notwithstanding anything in this section or in section 18, the Authority may undertake any work on land that is contiguous with the redevelopment area if the work is, in its opinion, directly related to the improvement of the redevelopment area or the functions of the Authority.

Hon PETER FOSS: I move -

> To delete "undertake" and substitute "pay for the carrying out of".

The difference between this wording and the wording proposed by the Minister is that if the authority wishes to carry out work outside its area it will need to obtain the compliance of the authority which has the power. It is not a good idea to have two authorities with power to carry out work. For instance, we may have one authority which does not like peppermint trees on its side of a street, so it pulls out all the peppermint trees and replaces them with jacaranda trees. Perhaps the Perth City Council does not like jacaranda trees so it pulls them out and puts in box trees. There will need to be discussions and cooperation between two authorities with a common boundary and that will be the case wherever the line is drawn. At some stage there will have to be some sort of sensible agreement between the parties as to how they will do things. It is not sensible to have two bodies having the same authority in the same area. By all means if it suits the East Perth Redevelopment Authority to pay the Perth City Council to carry out the works or to pay for the work to be carried out with the consent of the Perth City Council in the Perth City Council's area, the Perth City Council should have the ultimate say.

However, having two authorities with a say over the same area is absurd. The simple solution would be to draw a line around the East Perth Redevelopment Authority's boundaries indicating that that is the extent of its authority. As a matter of good legislation, only one body should have authority over an area and this legislation allows two bodies to have responsibility for this area. I see no way in which this should not be carried out with the appropriate cooperation between the Perth City Council and the East Perth Redevelopment Authority with the PCC having the cooperation of the East Perth

Redevelopment Authority in its area and the East Perth Redevelopment Authority having the cooperation of the PCC in its area.

Amendment on the amendment put and passed.

Amendment, as amended, put and passed.

Hon KAY HALLAHAN: I move -

Page 11, lines 12 to 15 - To delete subclause (5) and substitute the following -

(5) Where the Minister or Governor in Council grants any approval under this section a summary of the text of the approval shall be laid before both Houses of Parliament within 42 sitting days after the day on which the approval is given.

I seek leave to alter the number "42" referred to in that amendment to "28".

[Leave granted.]

Hon KAY HALLAHAN: Although I am seeking to alter the number of sitting days, I wish to retain the time factor already referred to in the Bill. There are some difficulties with the clause as it stands and therefore I ask the Committee to give serious thought to supporting the amendment. Great difficulties could be involved in land transactions where valuations are disclosed by virtue of the requirement included in the clause as it stands ahead of negotiations. Members will appreciate that many agreements progress in stages and compromises by other commercial parties or vested interests could be serious problems in the development of this area and the way that contracts will be let. There could be a loss of legitimate commercial confidentiality. The Minister for Planning is concerned about the functioning of this clause. He has suggested the compromise by way of the amendment that I have moved. He believes that will satisfy the requirements reflected in the clause, but also that a summary of a text of approval would be tabled. If that were so, commercial confidentiality would not be exposed and it would mean that different stages of redevelopment could progress and we would not have the situation where documents which are tabled could be scrutinised by a competitor with the whole process becoming untidy and unseemly. I therefore ask the Committee to support the amendment.

Hon GEORGE CASH: The Opposition opposes the amendment. Members will be aware that one of the problems associated with this Government has been its general lack of accountability over a number of years. That lack of accountability led to the establishment of the Burt Commission on Accountability to consider ways in which accountability could be improved in respect of the Government and agencies of the Government. The clause is written in that way to achieve that accountability. The Minister seeks agreement from the Committee to have only a summary of the text of approval laid before the House rather than the complete text. If the Opposition agreed to a summary of the text being laid before the House, incomplete advice could be given to it and that would not comply with the principle of accountability to which we have referred in respect of this Bill. I am surprised that a Minister in this House is claiming that the accountability of the Government, which it has talked about so much, should not apply to this Bill, of all Bills. During the second reading debate I referred to the comments made about the birth of the East Perth Redevelopment Authority some years ago and the circumstances discussed in the community at that time. It is critical that the Minister's amendment not be agreed to because it would cut the accountability of the authority from the Bill.

The other point raised by the Minister related to confidentiality. It has been agreed by the Committee that the 42 day minimum proposed will be reduced to 28 days consistent with clause 19(5) of the Bill. I remind the Committee that when one talks about 28 sitting days, given the sitting schedule of this Government, that could be a complete session, or longer. The Opposition argues that no need exists to breach confidentiality; firstly, because of the time involved by providing the 28 sitting days mentioned; and secondly, because clearly the East Perth Redevelopment Authority will daily be making important decisions over which it will wish to maintain confidentiality. To say that the Bill will fail because the Minister is required to table approvals related to this clause is taking a ridiculous stance on an important matter. We are dealing with the clause setting out the powers of the authority so it is important that it be agreed to in its present form and that the amendment be rejected.

Hon KAY HALLAHAN: The Leader of the Opposition was reduced to rhetoric about certain events with which he disagrees relating to this clause and the history of the East Perth project. I was Minister for Planning in 1990 and nothing untoward happened relating to the planning for the East Perth Redevelopment Authority. I find offensive and cannot understand his comments, which come from some historical and personality based issues related to this matter. Plenty of accountability exists in this Bill. It is not a reasonable or sustainable argument to say that this Government does not agree to accountability, because it has introduced more accountability measures in the long and short terms than any other Government. I therefore reject what the Leader of the Opposition has said. My advice is that this amendment will cause no real difficulty as we are talking here about a large project involving long term development. This development will take years. I do not know whether members opposite realise how big this development is or how long it will take to implement. It is an important development which will have a positive impact on the area. The compromise set out in my amendment should be supported.

Division

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon Doug Wenn): Before the tellers tell I cast my vote with the Ayes.

Division resulted as follows -

Ayes (13)		
Hon J.M. Berinson	Hon B.L. Jones	Hon Bob Thomas
Hon Cheryl Davenport	Hon Garry Kelly	Hon Doug Wenn
Hon Graham Edwards	Hon Mark Nevill	Hon Fred McKenzie
Hon John Halden	Hon Sam Piantadosi	*(Teller)*
Hon Kay Hallahan	Hon Tom Stephens	

Noes (13)		
Hon J.N. Caldwell	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon George Cash	Hon N.F. Moore	Hon D.J. Wordsworth
Hon E.J. Charlton	Hon Muriel Patterson	Hon Margaret McAleer
Hon Max Evans	Hon P.G. Pendal	*(Teller)*
Hon Peter Foss	Hon R.G. Pike	

Pairs	
Hon T.G. Butler	Hon W.N. Stretch
Hon Tom Helm	Hon Barry House
Hon J.M. Brown	Hon Murray Montgomery

Amendment thus negatived.

Hon KAY HALLAHAN: I move -

> Page 11, lines 32 and 33 - To delete "section 19(2)(a) or the Governor in Council under section 19(4)" and substitute -
>
> subsection (2)(a) or the Governor in Council under subsection (4).

This amendment relates to a typographical error so I see no difficulty in members of the Committee agreeing to it.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 20 put and passed.

Clause 21: Compulsory taking of land -

Hon P.G. PENDAL: Depending on the Minister's explanation, I may seek assurances on this matter. I have been approached by people who own property in the ward which will be

affected by this Bill. They have raised with me, by way of Councillor David Cole of the Perth City Council, their fears about the resumption clauses. Members will be aware that clause 21 will treat the East Perth Redevelopment Authority as a local authority for the purposes of resumptions under the Public Works Act. Some time ago, without having read this clause, I sought to allay the fears of those property owners and Councillor Cole by saying, "I am sure you will find the powers of resumption are no different from the powers of resumption which operate normally." As a result he had his fears somewhat allayed.

However, I have now read the Bill and discovered at this late stage that parts of the resumption protections of the Public Works Act will be taken away from property owners. I have to admit that I learnt this at a rather late stage, but it alarms me. I asked for a copy of the Public Works Act, because the Minister will seek, under clause 21(2)(b), to provide that sections 17(2) to (7), and 17A of that Act do not apply. Bear in mind we are talking about people's property. Section 17(1) of the Public Works Act will not be affected, as I understand it, by the Bill. In other words, this is a provision which will remain for property owners. It reads -

> Whenever any land is required for any public work, the Governor may, subject to the provisions of subsection (2) -

And that is the subsection we will take out in a few minutes if we vote for the clause; it continues -

> - by notice published in the *Government Gazette*, declare that the land has been set apart, taken or resumed . . .

In other words, the current Public Works Act says, if we want to resume someone's property, the first thing to do is to put a notice in the *Government Gazette*. The Act goes on to say that there are other things one has to do to safeguard property owners. I now find that the Bill will take those things out. That will leave as the only safeguard in the Act for property owners the fact that by notice published in the *Government Gazette* they will be told that their properties are being resumed.

I will now quote from page 13 of the Public Works Act of 1902 some of the rights which will disappear. I would be happy to be told that I am misunderstanding the Bill, and I admit that I have only learnt this at the last minute. For example, subsection (2)(b) reads -

> Before the publication of the notice referred to in subsection (1) of this section, the Minister shall cause to be published in the *Government Gazette* a notice of intention to take or resume the land which notice is to include the following particulars:-
>
> (i) The place where persons interested may at any reasonable time inspect a plan of the land;

That is a right which will disappear. Am I not right in that assumption? This is another right which will disappear. I quote from the same page, but under paragraph (c), which reads -

> . . . the Minister shall -
>
> (i) cause a copy of the notice to be published in one issue of a newspaper circulating in the district in which the land is situated;

That is a right which I often see in a Bill, and which will disappear. If that is not bad enough, I ask members to consider the next one, and I can hardly believe that this is even contemplated. Under subsection (2)(ii) the Minister shall cause a copy of the notice to be served on the owner to tell him that his property will be resumed. That protection will be taken out, if I read the Bill correctly. There are other rights which seem to be disappearing, but I may be misunderstanding the Bill because of my late reading of it. As well, the Bill seeks to take out section 17A, which contains a reasonably important civil liberty which authorises persons to enter land at reasonable times to do certain things. It would appear, from my reading of the Bill, that we are taking that out. Section 17A reads -

> (1) At any time after the publication in the *Gazette* of a notice of intention to take or resume any land, a person authorised in writing by the Minister may at all reasonable times lawfully enter upon the land for the purpose of inspecting the land or making an assessment of compensation . . .

That will be removed - or I think it will be. Are we seriously saying that such a provision in

the Public Works Act designed to protect property owners' rights will come out? Am I to understand, firstly, that all those rights which I have just outlined will not apply in the case of East Perth property owners? Secondly, if those rights in the Public Works Act are not to apply to East Perth property owners, why should that be the case?

This brings me to the point which Councillor Cole has referred to me. He says there is a grave concern on the part of property owners in Kensington Street. I do not know East Perth well and I do not recall where that street is, but I have a metropolitan road guide here. Kensington Street is a lateral street at the top of the proposed redevelopment area. Does that have anything to do with the Burswood Bridge? I do not know. I am talking about my concerns regarding the provisions of the Public Works Act being taken out.

Hon KAY HALLAHAN: I take on board the member's concerns. As to the sections which have been exempted from the Public Works Act and the opportunity to lodge objections, the intent is evident in the content of the redevelopment scheme which is published for public inspection during that process. There is no removal of opportunities for people. I refer the member to clauses 27 to 35. The exemption from the Public Works Act brings the Bill into line with the Metropolitan Region Town Planning Scheme Act. Notices are issued under the planning provisions; they are adequate and do not create any duplication. I refer the member to clause 30, line 5 onwards. The provisions in the Public Works Act are covered in the planning measures of the Bill.

Hon P.G. Pendal: Which clause of the Bill re-inserts the rights that are excluded?

Hon KAY HALLAHAN: My advice is that the rights of the people are included in the redevelopment scheme but not in the terms set out in the Public Works Act. They are contained in a planning context in the Bill. This measure has nothing to do with the Burswood Bridge. It is not a consideration. This measure brings the Bill into line with the Metropolitan Region Town Planning Scheme Act. Any land required for the development of the Burswood Bridge would be acquired under other planning legislation.

Hon P.G. PENDAL: I thank the Minister for the information about the Burswood Bridge. I note from the map that the site has been shifted, and that was part of my alarm about Kensington Street. The Minister has not satisfied my concern. That is not to say that the Bill does not protect property rights; however, at this moment I cannot see it. The Minister referred to later clauses that protect those rights. I have looked at clauses 23 to 29 and none of them seems to re-insert the rights about which I am concerned. I concede that clause 30 perhaps addresses those rights. I note the reference to newspapers and inspection of the scheme. The Public Works Act goes to considerable lengths, for example, not only on the newspaper question but also on the inspection of plans. However, does this Bill cause a copy of notice to be served on the owner or each of the owners according to the provisions of the Public Works Act?

Hon KAY HALLAHAN: The Public Works Act does not apply in the metropolitan area because planning legislation takes precedence. Planning legislation does not give the individual notice that appears in the Public Works Act; that applies under the Metropolitan Region Town Planning Scheme Act. I understand the deletion is to bring the Bill in line with planning legislation; that is, not to have parallel notification processes. The councillor's inquiry could be satisfied by reference to the planning legislation, and that person would be able to discuss the matter with the relevant council staff who are familiar with planning legislation requirements. In that way it could be made clear that the requirements of the Public Works Act do not apply to many situations where the planning legislation measures in the metropolitan area are applicable.

I should clarify an earlier comment: This does not take away the need for notification to individual owners. It takes away the gazettal because gazettal takes place with the redevelopment scheme in the planning context. Therefore, individual landowners will be notified. That is probably one of the major matters about which the member wanted some reassurance. In my earlier comment I said something different.

Hon P.G. PENDAL: I understood the Minister to say, among other things, that the Public Works Act does not apply in the metropolitan area. I accept what the Minister said.

Hon Kay Hallahan: The Act does but those sections do not because of the requirements of the Metropolitan Region Town Planning Scheme Act.

Hon P.G. PENDAL: To take that one step further, the Government has seen fit to leave section 17(1) of the Public Works Act in the East Perth Redevelopment Bill; that is, we have become selective. I am at a loss to understand why when it comes to people's priority rights some parts of the Public Works Act will apply to the East Perth property owners but some will not. We are agreed upon the one part of the Public Works Act that will remain; that is, the simple notice in the *Government Gazette* that someone's property will be resumed. All members are aware that the *Government Gazette* is not some mass produced tabloid that everyone rushes out to get hold of. The Minister did say - and I know we cannot jump ahead in too much detail -

The DEPUTY CHAIRMAN (Hon Doug Wenn): Not in any detail.

Hon P.G. PENDAL: It is very hard to get the assurance one needs on this clause without at least making an oblique reference to clause 30, which provides that the redevelopment scheme shall be publicly notified by the authority in the *Government Gazette* and in a daily newspaper. That clause also talks about copies of the scheme being inspected, and that is a mirror of what occurs in the Public Works Act. However, clause 30 does not refer to such things as causing a copy of the notice to be served on each owner. Is the Minister saying that, under planning legislation, people will receive a letter? If that is not the case, we would be taking out a pretty fundamental right to get a letter and that concerns me. That is my major concern and it was Councillor David Cole who alerted me to the concerns of property owners in Kensington Street about the Bill. I do not even know Kensington Street, but I am told that its residences will be made over for commercial development. In a way it does not matter whether a property is to be taken over for X purpose or Z purpose, but those people have clearly read the Bill.

It appears to me that their concerns relate to the guardian provisions of the Public Works Act which are being taken out. We are dealing with a Statute which gives the most detailed attention to the property rights of people who are about to lose control of their properties. I am not trying to ambush the Minister and I have no concerns other than why all of those guardian provisions are being taken out.

Hon KAY HALLAHAN: I think I will find that when I go back over my comments in response to Hon Phillip Pendal I will wish that I reported progress earlier and had sought thorough advice. I accept Hon Phillip Pendal's statement that this matter came before him at quite a late stage of debate and that it is a matter of concern to him. I will seek further advice which most likely will be that the property rights of people are safeguarded under the planning provisions in the Bill and that the deletion of the provision for the Public Works Act does not diminish people's property rights. I will have the matter thoroughly looked at and come back to the Committee with some clear advice so that members will be happy about the measure before them.

Progress

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

ROAD TRAFFIC (BICYCLE HELMETS) AMENDMENT BILL

Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair; Hon Graham Edwards (Minister for Police) in charge of the Bill.

Clause 3: Section 111 amended -

Progress was reported after the clause had been partly considered.

Hon GRAHAM EDWARDS: Members will recall the debate before we reported progress on this matter when Hon Peter Foss asserted that this legislation was not drafted as it should be, and that my response was an assertion that it should be spot on. We have taken the opportunity to consider the matter in the company of Parliamentary Counsel and we have agreed to some amendments which I understand Hon Peter Foss will move.

Hon PETER FOSS: I move -

Page 2, lines 2 to 7 - To delete the lines and substitute the following -

3. Section 111(2) of the *Road Traffic Act 1974** is amended by deleting paragraph (c) and substituting the following paragraph -

" (c) requiring the drivers and passengers of -

(i) motor vehicles;

(ii) 2-wheeled or 3-wheeled vehicles that are designed to be propelled through a mechanism operated solely by human power; and

(iii) 2-wheeled or 3-wheeled vehicles that are power assisted pedal cycles,

to wear prescribed items of equipment, whether or not the items are items required to be fitted to the vehicles; " .

Further to discussions on this matter earlier today I am happy with the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Title put and passed.

Report

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

Third Reading

Bill read a third time, on motion by Hon Graham Edwards (Minister for Police), and transmitted to the Assembly.

LAND TAX RELIEF BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [5.36 pm]: I move -

That the Bill be now read a second time.

This Bill contains measures to give effect to major land tax relief proposals announced by the Government on 22 October. I emphasise that the level of the 1991-92 assessments originally issued was in no way influenced by any decision taken by the Government. No taxation rate of any kind has been increased in 1991-92. An increase in an amount of taxation could come about only by the operation of the particular taxation scheme as set down in the legislation. However, having received many representations about the level of 1991-92 land tax assessment, the Government quickly decided to provide relief notwithstanding the Government's tight budgetary circumstances. Through the measures contained in this Bill the burden on taxpayers this year will be reduced by an estimated $18 million, comprising land tax of $16 million and $2 million in metropolitan region improvement tax.

Taxpayers will also benefit by the deferment of land tax payments and, if the estimated $4 million in interest earning which will be lost by the Government is taken as a guide for this purpose, the total benefit to taxpayers will be in the order of $22 million. The impact on this year's Budget will probably be even greater. Collections to 30 June 1992 will inevitably be diminished because of the short time available in which to reassess and collect the taxes.

Under the land tax assessment Act as it presently stands, increases in valuation caused by a general revaluation are phased in over four years. The purpose of this is to cushion the impact of valuation increases. Unfortunately, the cushioning effect was reduced this year when the Valuer General promulgated a general revaluation of about 40 per cent of the State taxable land after only three years since the previous valuation. As a consequence many taxpayers were faced with a total increase representing the final quarter of the increase for the previous revaluation plus the first quarter of the 1991 valuation increase. This doubling effect in the valuation increase in turn gave rise to larger than expected increases in assessments. Under the provisions of the Bill those 1991 values, except where any such

value happened to be lower than the previous 1990 unimproved value, are to be ignored for land tax purposes.

All taxpayers who have already received an original 1991-92 assessment have now been advised - through the announcement, as well as by advertisement and the issue of individual notices from the Commissioner of State Taxation - that they need not pay that assessment and that a fresh assessment will be issued. In the case of land which had originally been assessed on the basis of the 1991 valuation the revised assessment will be based on the unimproved value used for the 1990-91 assessment. If the 1991 value happens to be lower than that which applied in 1990, the lower valuation will be used. In cases where taxpayers have already paid a 1991-92 assessment which is subsequently reduced by these relief measures the Bill provides for a refund of the amount overpaid.

The Valuation of Land Act is also amended by this Bill to preclude the Valuer General from revaluing land for tax purposes unless four years has elapsed since the previous revaluation. This will ensure that the four year phase-in provision operates as intended to lessen the effect of valuation increases from one revaluation to the next. These measures are expected to benefit an estimated 50 000 taxpayers in this financial year and a further 30 000 next year. The announcement of 22 October also foreshadowed a review of the current land tax system in an endeavour to come up with measures to remove the volatility of land tax assessments which has led to the introduction of this legislation. The Government intends to involve industry in this process. I commend the Bill to the House.

Debate adjourned, on motion by Hon Max Evans.

WESTERN AUSTRALIAN TRIPARTITE LABOUR CONSULTATIVE COUNCIL ACT (REVIVAL AND CONTINUANCE) BILL

Second Reading

Debate resumed from 7 November.

HON PETER FOSS (East Metropolitan) [5.43 pm]: The Opposition supports this Bill with some reservation. The concern the Opposition has in general terms is the resolve to go to peak bodies at all times. I have no real problem with going to peak bodies, but I think a problem arises when people consider that that is enough. The stage has been reached when instead of trying to consult the community and arrive at a solution satisfactory to all involved it has become a matter of trying to wrest a deal out of the tripartite council. It seems to be taken that if one can get the peak bodies to agree one can forget about everybody else.

I appreciate that that is not what the legislation says; if it were, we would not support it. However, what has happened as a matter of human behaviour is that because it exists it is seen as being the panacea to all problems to get the tripartite council to agree. One does not need too much imagination to see that peak bodies, although they may theoretically be seen to represent the entire community, in many cases do not do so. I will give an example of where they do not, even on the face of it, represent all the bodies concerned. That example is legislation related to workers' compensation that came before this House last year. The council was consulted about that legislation but it unfortunately failed to recognise that in workers' compensation some of the major people involved are insurance companies because they pay the bills; lawyers, because they are the ones who actually do the work; and doctors, because they are the ones actually treating people. It was a simplistic approach in the case of that workers' compensation legislation merely to deal with the consultative council saying, "We have consulted all the people we needed to consult because they represent all the interests in society."

Hon John Halden: It was not set up to do that.

Hon PETER FOSS: I appreciate that.

Hon John Halden: It only involved a reference to the Minister.

Hon PETER FOSS: I appreciate that. I agree that the legislation was not set up to do that and it does not say that it is set up to do that. It is all too easy, having set it up, to think that the council solves all problems. That is my point, and my opening words were to the effect that if the Bill said that we would not support it and would say it was wrong. Areas exist in which it is quite plainly inappropriate to look to the tripartite scheme as a solution to one's problems because interests will be left out which do not fit within those three groups.

Society does not merely consist of Government, employers and employees; there are many other people in it. That is one example. The other example is that peak councils suffer from the same problems as Parliaments. In many ways one can say that this place is a tripartite council because it represents the people.

Hon John Halden: We have always said that.

Hon PETER FOSS: It is said that the council represents the people, being a representative body of everybody in the community - employers, Government and employees. In fact, we go further than that, but even as a Parliament we have the problem that we do not necessarily know the wishes of all our constituents. A tripartite council as a peak body may see things only from the view of the more senior people involved in that body. Take employers, for instance. The peak bodies tend to have much heavier representation from large organisations, certainly on the executive, than they do from small organisations. Many organisations are not represented at all. Many employers are not represented by peak councils, so we cannot assume that having got the view of the peak council of employers we have the view of all employers because every chance exists that we will not have.

This is a good start and one certainly should not do anything without speaking to those bodies. However, it is not the end. The other problem I have mentioned is that some people are not represented by peak councils if members of bodies treated as peak bodies are not truly representative of them. Some people have chosen not to be members of peak councils and therefore are not part of the constituency of that peak council. That applies equally to unions which do not represent non-union labour, which is becoming an increasingly larger part of the community. That is one of the good things that has happened in recent years. If that excellent trend continues then all the more will it become necessary to find ways to ascertain the wishes of non-unionised labour.

The one area that is probably fairly well represented on the council is the Government. I am not worried about that particular constituency being properly represented, although I do hark back to the workers' compensation legislation of last year and recall a suggestion that perhaps the Government did not know what was happening in the discussions that took place and that had it known a little more we would not have faced the delay we faced before the legislation was eventually passed. As an institution we are supportive of the council, but with qualifications, I suppose with a caution that it should not be seen as a solution to everything.

We have two other problems with this Bill. First, we believe that it should be reviewed by the Parliament in a shorter period of time than has been proposed. The second problem relates to the council's proceedings. I have heard from people who claim that they have been unable to obtain copies of the minutes of meetings not only of the council but also of the committees. The Government suggests that if a person phones and asks for a copy of the minutes of a council meeting, he will be given a copy. However, the experience of people has been the contrary. That is a matter of some concern because it is important that the proceedings of this tripartite consultative council be as public as possible, and that people who wish to know what the council is up to are able to find that out. That is the reason we have suggested that people should be able to request that their names be put onto a mailing list so that they can receive those papers. That would be advantageous for two reasons: First, it would provide a voluntary list of people who are interested in the proceedings of the council, and I would have thought that would be a useful thing for the council to have. If people are interested in what the council is doing, they should be sent not only the minutes of the proceedings but also any other background information or papers that they may need in order to contribute to the proceedings.

Hon John Halden: Are you suggesting that is not available at the moment?

Hon PETER FOSS: My experience - and admittedly it was over a year ago - is that people who want the minutes of committee meetings are not able to obtain them because they are told that they are confidential.

Hon John Halden: I am not aware of that. That is not the case with council minutes. They are available.

Hon PETER FOSS: I would like the Parliamentary Secretary to check on the situation with committees, because I believe there has been a difficulty with committees. The

Parliamentary Secretary will know that if a person wants to have a say in a decision that is made by the council, the time to get in is before the committee makes its recommendations. He does not wait until such time as the committee has reported, the decision is made and sent to the council for rubber stamping and final imprimatur, and then try to have a say.

Hon John Halden interjected.

Hon PETER FOSS: We must remember that this is not a Government body. It is a consultative council; it should not be a decision-making body.

Hon John Halden: It is not.

Hon PETER FOSS: I know it is not, but the fact is that if it passes resolutions there is a good chance that some of those resolution will end up as legislation or as Government decisions. We agree that a resolution of the council has no legal effect; it is not a decision. However, a person who happens to be on the wrong end of a resolution of the council will have every chance of being also on the wrong end of a Government decision or legislation which does not meet with his requirements. That is the problem that people face. People would like to know as soon as possible what is happening. The process of consultation should be open. I cannot see how we can have a process of consultation when someone tries to keep secret until the last possible moment what is happening. The council is supposed to be a way of consulting people, and to me that means that the council should tell people as soon as it possibly can what it is thinking about before it reaches a conclusion. If the council keeps secret its proceedings and does not let anyone know until a decision has been made, then we have the reverse of consultation; we in fact have closet decision-making. That means that the theory behind the establishment of this consultative council will be destroyed.

That attitude of not wanting people to know what the committees are doing verifies in many ways my concern about the Tripartite Labour Consultative Council. That council can almost be regarded as a deliberative body, because even though the decisions it makes are only consultative, they end up all too often as being the decisions that are adopted. Therefore, the council is seeking to protect that process as if it were a deliberative rather than a consultative process. The mentality that says that people may not see the committee minutes is a mentality that says that people may not see the process by which the decision is arrived at; and in that case the process is deliberative rather than consultative. The Parliamentary Secretary's analogy of local government is a good illustration of what is happening but a bad illustration of how the council should be used. The Parliamentary Secretary has hit the nail on the head - and I wish I had thought of it myself - and has stated exactly the attitude that has developed, and which I believe is a wrong attitude. The council should regard its processes as consultative rather than deliberative, and everyone should be able to share in every part of that process, not just the committee or council members.

Hon John Halden: We have not established that the committee meetings are confidential. Secondly, I am concerned about the proposed amendment because I do not believe it achieves what you want it to achieve.

The PRESIDENT: Order! Apart from the fact that you are not supposed to interject, you are not supposed to interject about proposed amendments.

Hon PETER FOSS: I appreciate the Parliamentary Secretary's concern. I think he is wrong, but if he is correct then we must address that question. I am always willing to hear from the Parliamentary Secretary suggestions about how we may more accurately deal with the concerns that we have. Now that he knows the concerns we have I hope they will be addressed. It may be that some of these things have happened through an administrative breakdown or an administrative zealousness by someone who is not aware of the intent of this legislation and that the consultative process should be free and open to all. If that is the case, I would prefer to see the legislation contain within it the philosophical basis on which the council should operate, because that will decrease the chance that it will depart from that philosophical basis.

One of the concerns expressed about our suggestion that the council send copies of its papers to those people who ask for them is that it may be expensive and people may request unreasonable amounts of paper. I believe we can deal with the detail of that matter in Committee, but I want to make this point. I do not really imagine that people would vexatiously ask to receive lots of papers from the consultative council. I do not think that

anyone would ask for those papers who does not genuinely want them. It is a theoretical possibility that, just to annoy the council, someone could ask for papers to be sent to him. However, I must say that is a fairly unusual proposition. I think most people would probably ask not to be sent papers, rather than ask to be sent them.

The PRESIDENT: Order!

[Debate adjourned, pursuant to Standing Order No 61(b).]

House adjourned at 6.00 pm

QUESTIONS ON NOTICE

INDUSTRY - HEALTH AND SAFETY INCENTIVES

1215. Hon MURIEL PATTERSON to Hon John Halden representing the Minister for Productivity and Labour Relations:

Since the need for the implementation of environmentally safe industry and work practice is vital to the maintenance of a healthy and secure community, will the Government consider offering industry incentives to encourage the incorporation of environmental safety measures into its planning for the future - incentives: eg, payroll tax exemptions for a period of time; fuel concessions etc?

Hon JOHN HALDEN replied:

The Government is committed to improving health and safety not only at the workplace but the community generally. Since 1983 the State Government in respect of workplaces has continually assisted and encouraged industry in this regard by -

repeal of outdated and anachronistic legislation. A single Act and set of regulations - the Occupational Health, Safety and Welfare Act and Regulations - replaced four separate Acts and 21 sets of regulations;

abolition of unnecessary bureaucracy and charges associated with registration of all workplaces;

reduced the number of classified plant items subject to regular inspection from approximately 33 000 units to approximately 5 500 units; and

provided more resources for occupational health and safety on a per worker basis than any other State.

Continuing in this regard, the Government is giving consideration to the abolition of stamp duty on workers' compensation premium as identified in the draft report "Reform of the Stamp Act and its Administration".

TRANSPORT - NATIONAL REGISTRATION AND ROAD CHARGES SCHEME
Small Vehicles

1230. Hon E.J. CHARLTON to the Minister for Police representing the Minister for Transport:

(1) What position will the Western Australian Government adopt with respect to the question of inclusion of the small vehicle (less than 4.5 tonnes) fleet in the national registration and road charges scheme?

(2) Will the State Government continue to support the Premiers' Conference agreement, if fuel excise is not reduced to the amount needed for road construction and maintenance?

(3) Does the State Government support the use of average distances for the calculation of the mass distance charge under the scheme?

(4) If not, what mechanism does the State Government support to calculate the charge?

(5) Is the Government aware of when and how the required consultation process will be undertaken by the National Transport Commission?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1) Several options were presented by the Commonwealth-State overarching group in its final report for the recently cancelled November special Premiers' Conference. Western Australia has not yet determined a final position on these alternatives, but options which

offer the State the greatest autonomy with respect to charging, funding and expenditure appear worthy of closer examination. There may, however, be some regulation aspects which would benefit from a national approach.

(2) Western Australia is a signatory to the heavy vehicle agreement signed at the July special Premiers' Conference. However, the Government is keen to ensure that increased charges for heavy vehicles should only be introduced following a full assessment of the need for reductions in general taxation levels on the road transport industry. The Premier has written to the Prime Minister along these lines and is currently awaiting a response. The Western Australian Government's position on this matter will be determined when the Commonwealth's views are known.

QUESTIONS WITHOUT NOTICE

POLICE - TACTICAL RESPONSE GROUP
Collard Affair Inquiry

764. Hon GEORGE CASH to the Minister for Police:

(1) Has the investigation into the tactical response group's involvement in what has become known as the Collard affair been completed?

(2) If so, will the Minister advise the House of the result of that investigation?

Hon GRAHAM EDWARDS replied:

(1)-(2)

My understanding is that the report by the police internal investigations section has been completed. I am not aware whether the matter will now be referred to the Ombudsman.

ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF GOVERNMENT AND OTHER MATTERS - DOWDING, PETER AND PARKER, DAVID
Petrochemical Industries Co Ltd Lies - Attorney General's Knowledge

765. Hon PETER FOSS to the Leader of the House:

In view of the fact, firstly, that all the witnesses to the Royal Commission into Commercial Activities of Government and Related Matters have given evidence which shows that Peter Dowding and David Parker lied to the public over the Petrochemical Industries Co Ltd project and, secondly, the evidence that he played a part in ensuring that Mr Hodge did not reveal this to the public, will he -

(a) deny that he knew of, or assisted in, the perpetuation of this lie and stand down until the Royal Commission reports; or

(b) resign?

Hon J.M. BERINSON replied:

No to both. This is an absurd question to put to me, apart from its being grossly unfair and insulting. I have indicated on numerous other occasions that I am happy to take and to respond to any questions relating to the Royal Commission, but at the appropriate time. As I have said many times, it is impossible to respond on an ad hoc, day by day basis to matters which are being dealt with in detail and thoroughly by the Royal Commission. As members will recall, I have also said that I am very happy to wait on and abide by the view of the Royal Commission on the evidence it hears. I am not prepared, by any means, to accept Hon Peter Foss' view of the evidence which the Royal Commission hears. Hon Peter Foss has a special interest which does not go to identifying the truth or the merits of evidence, but to playing the usual game of politics for which we are here. I do not blame him

for doing that, but I will not accommodate him in it and he should not expect me to. His reference to the inferences to be drawn from Mr Hodge's statement is totally incorrect.

MAIN ROADS DEPARTMENT - PVC AND WOODEN GUIDE POSTS

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

(1) Is the Main Roads Department aware of the availability of PVC extruded posts which can be used as an alternative type of marker post to the wooden marker posts?

(2) Do Main Roads Department tender specifications for highway marker posts provide for either PVC extruded marker posts or wooden posts?

(3) If not, why not?

(4) In which areas of Western Australia have alternatives to wooden marker posts been used and what material are these alternative marker posts?

Hon GRAHAM EDWARDS replied:

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

(1) Yes.

(2) No.

(3) The cost of PVC guide posts is two to three times that of jarrah guide posts. The general use of PVC guide posts is therefore uneconomic.

(4) PVC and fibreglass guide posts are used in parts of the Kimberley region because of their resistance to termites. In the Pilbara region trials are being undertaken using guide posts manufactured from waste plastic. The possibility of using second-hand PVC water piping recovered from underground mine workings in Kalgoorlie is also being investigated.

BILLS - PRIORITY LIST

767. Hon J.N. CALDWELL to the Leader of the House:

(1) Will he provide to the Liberal Party and the National Party a list of the Bills which will be given priority this session?

(2) When does he anticipate providing that list?

Hon J.M. BERINSON replied:

(1)-(2)

I have already gone into quite extensive detail with the Leader of the Opposition and the Leader of the National Party about the matters which I would propose to have completed by the end of this session. I do not have the detail with me and I prefer not to rely on my memory. I am happy to indicate that to the member separately if it is not convenient for him to obtain that information from Hon Eric Charlton.

SCHOOLS - PRE-SCHOOLS
Rural Integration Program

768. Hon MARGARET McALEER to the Minister for Education:

What is the criterion for replacing country preschool classes with the rural integration program?

Hon KAY HALLAHAN replied:

The rural integration program has been introduced into schools to ensure that students in their early years will not be left without any early childhood experience because of a decrease in the number of students in that age bracket at country preschools. I do not have the numbers criterion with me and as

there are so many different formulas within the Ministry of Education I would not like to provide the member with the wrong one. I am happy to follow it up for her. The situation has arisen where some of the schools which would have been involved in the rural integration scheme next year have been able to maintain their preprimary teacher because the numbers of students enrolling have taken the schools above the cut off point. I do not know whether those schools fall within the member's region, but we have been able to allay the anxiety that some members have had in that regard. It might be useful if the member would indicate a particular school. If she is unable to do that I will obtain the briefing note on the program for her which she might find useful.

SCHOOLS - KUKERIN SCHOOL
Rural Integration Program

769. Hon MARGARET McALEER to the Minister for Education:

I indicate to the Minister that I am interested in the school at Kukerin, which is in my region. I am also interested in other schools within the Agricultural Region which will be affected by this scheme.

Hon KAY HALLAHAN replied:

Kukerin is one of the schools which will not be involved in the program next year because apparently the number of students at that school will be sufficient to sustain that additional staff person. Kukerin was one of the good news schools.

PERMANENT BUILDING SOCIETY - UNSECURED DEPOSITORS
Withdrawable Shareholders - Sharing 10 per cent of Deposits Agreement

770. Hon MAX EVANS to the Leader of the House:

Will he advise the registrar of building societies to work with the Administrator of the Permanent Building Society to apply to the Supreme Court for a scheme of arrangement to obtain agreement for unsecured depositors to share 10 per cent of the deposits with the withdrawable shareholders so that it can be done with their consent and not stolen by retrospective legislation?

Hon J.M. BERINSON replied:

I am happy to consider any possibility of a helpful kind, and any comment of a helpful kind, which Hon Max Evans has to offer. It is not a comment of a helpful kind to refer to the Building Societies Amendment Bill, which was defeated on Tuesday, as an attempt to steal money from everybody. I can well understand the embarrassment of Hon Max Evans, Hon Peter Foss, and all of the members opposite who have made a decision with the most drastic effects on a large number of withdrawable shareholders of Permanent Building Society. With due respect to those members, they will not get out of that situation by insulting the withdrawable shareholders, having assured that they will lose the whole of their investment. That is the classic case of rubbing salt in the wound and I really do not know why Hon Max Evans should adopt that approach.

Hon Max Evans: I made a genuine suggestion.

Hon J.M. BERINSON: I will come to that; in fact, I have already dealt with it. What I am now dealing with is a comment not deserving of any respect and, indeed, one which is insulting to the withdrawable shareholders much more than it is to the Government, in suggesting that in their efforts to have themselves dealt with fairly and reasonably in all the difficult circumstances involved, they were engaged in some sort of conspiracy with the Government to steal other people's money. That is an appalling approach to a serious matter. Not only that, but it is utterly inconsistent with what members opposite said during the debate itself.

Hon P.G. Pendal: No it is not.

The PRESIDENT: Order!

Hon J.M. BERINSON: I was going to give the Opposition some credit; the member should not cut me off at this point.

The PRESIDENT: Order! I am deliberately delaying the situation so that people can remember precisely what we are about. We are on questions without notice, when people are supposed to be seeking and receiving information. It is not a time for commenting on a piece of legislation that has already been dealt with by this House, and while the Attorney General has not transgressed, I suggest he is getting dangerously close to doing so.

Hon J.M. BERINSON: I will make sure that I do not, Mr President, by indicating to the House that I will not refer to the Bill or any other piece of legislation at all in the remainder of my reply, and I will be brief even then. What I will refer to, though, is general statements made by members opposite, if not in this House then outside, in attempted justification of their decision on the Bill which sought to provide some relief to withdrawable shareholders.

Point of Order

Hon W.N. STRETCH: The Attorney General has indicated his intention to make a general statement on matters both before this House and outside it. I suggest to him through you, Mr President, that that could be better handled by way of a ministerial statement at the completion of question time.

The PRESIDENT: The Attorney General's words were ill chosen, I suppose. He said he was going to make a statement.

Hon J.M. BERINSON: But I thought I said I would make a statement which related not to the Bill, but to statements made outside.

The PRESIDENT: I am aware of that. We will not get into semantics now. The point is that the Attorney General should be answering a question, and that is what he is doing.

Questions without Notice Resumed

Hon J.M. BERINSON: That is precisely what I am doing. I am answering that part of the question which was so insensitive as to suggest that efforts to provide some measure of relief to withdrawable shareholders of the Permanent Building Society amounted to the same thing as an attempt to steal money from other depositors.

The only comment that I had intended to add - and I would have been finished long ago if not for some of the objections - was that at least some members of the Opposition in past times have shown some sensitivity to the issue. They have referred, for example, to the difficulty of arriving at a judgment about efforts to assist withdrawable shareholders. They have talked about difficult questions of competing interests and of issues that needed to be put into the balance. Surely it is self-evident that, if what we were talking about was some people stealing money from others, there would be nothing to put into the balance. There would be no sensitive questions and no competition of interests; the issue would be clear cut. That members of the Opposition have at least conceded that the issue was not clear cut, that it was sensitive and difficult and did involve competing interests, is a direct refutation of all the implications of Hon Max Evans' question.

PERMANENT BUILDING SOCIETY - WITHDRAWABLE SHAREHOLDERS
Claiming as Depositors Legal Advice

771. Hon MAX EVANS to the Attorney General:

We had evidence today that three persons applied for a savings passbook with no mention of withdrawable shares. The persons checked today with Mr Tony Travers of Mr Woodings' office and were told that they are withdrawable shareholders. Mr Metaxas has also been advised of that today. Will the Attorney General instruct the Registrar of Co-operative and Financial

Institutions to obtain legal advice immediately to say if they may claim as depositors and not lose their money as shareholders; and will he instruct the Administrator of Permanent Building Society not to advise the shareholders of their position until he has proper, clear advice as to where these people stand who have never applied for shares? The point I was making in my speech was that they did not apply as depositors, because it is a clear case that, in the words of Mr Metaxas, they put an "I" for investors or an "S" for shareholders. That is how it has been defined. Will the Attorney General instruct him to obtain legal advice to see whether those people can claim as unsecured depositors?

Hon J.M. BERINSON replied:

I have no authority over the administrator.

Hon Max Evans: I said Mr Metaxas.

Hon J.M. BERINSON: Hon Max Evans also said the administrator. When I asked him what he said, he said, "Will you instruct the administrator." I particularly asked Hon Max Evans to clarify that position, and I clarify it in turn. I repeat: I am not in a position to instruct the administrator. Without having that authority I will nonetheless convey the thoughts which Hon Max Evans has offered and I will also do that in respect of the registrar.

I must say that although I do not pre-empt what action either the registrar or the administrator may take, and although I would certainly not try to anticipate what is the legal position of various investors in Permanent Building Society, it would really be creating an enormous and probably insupportable burden if the registrar or anyone else were to attempt to adjudicate on the legal rights of the 12 600 withdrawable shareholders affected. Every one of those cases - and not simply these three, which makes it sound simple - must be dealt with on its own facts and its own merits, and it was not the least of the reasons for the Government's anxiety to provide some overall relief that we attempted to cover the position in the general way which we did.

I must add a comment to that, and it arises from the tone of part of Hon Max Evans' question, which expresses some surprise - perhaps even dismay - that some people, having contacted the Opposition today, have indicated that they thought they were just entering the society as ordinary depositors and now find themselves in the position of being withdrawable shareholders. We have said repeatedly, and the registrar and the administrator have said repeatedly, that there is a huge number of withdrawable shareholders out there who would not have the faintest idea, if not for the current problems, that they were in fact shareholders and not depositors. I am certainly not going to get back into a debate on the Bill, but even apart from repeated statements in that debate, members will surely recall the numerous occasions in discussions outside the Parliament where that very problem was alluded to. It is not going into any confidential discussions to remind Hon Max Evans that he and other members of the Opposition who asked for a briefing on this matter were told quite explicitly that there were a large number of withdrawable shareholders with a considerable amount of investments who were precisely in that position. They were told then and have been reminded many times, both before and since that briefing, that it became a practice in Permanent Building Society, especially in the later period, simply to issue a withdrawable shareholder passbook -

Hon Max Evans: These people do not even have that. They just have a normal passbook. They have no recognition whatsoever of withdrawable shares.

Hon J.M. BERINSON: We have three problems like that now. I am saying we are very likely to have thousands of problems which are analogous to that and arising in the circumstances I have indicated. That was one of the particularly worrying aspects which led the Government to make the decision which it

did. That was fully known to the Opposition, so it is no good being surprised about it today. It is no good trying to suggest that the problem faced by so many people can be dealt with by legal process one at a time. It cannot happen. People cannot afford it and we have nothing to indicate that the evidentiary requirements would be satisfied. For example, we could well find that, notwithstanding the fact that people were issued with passbooks which looked like ordinary passbooks, they were invited in their applications to sign a form which dealt with withdrawable shares. We do not know. We cannot go through 12 600 cases to find this out. It follows from that that these one at a time proposals to overcome this 12 600-fold problem will not lead to any satisfaction. It will certainly be no comfort to the people concerned who will not receive back the money of which they have been deprived.

PERMANENT BUILDING SOCIETY - WITHDRAWABLE SHAREHOLDERS
Claiming as Depositors Legal Advice

772. Hon MAX EVANS to the Attorney General:

Will he instruct the Registrar of Co-operative and Financial Institutions to obtain legal advice immediately to ascertain whether they may claim as depositors and not lose their money as shareholders?

The PRESIDENT: Order! The member cannot ask the same question again.

Hon MAX EVANS: The Minister did not answer it.

The PRESIDENT: The Minister replied for 20 minutes and must have answered it.

Hon J.M. Berinson: I did answer it. I said that I would not instruct him, but that I would advise him.

EMPLOYMENT - JOB CREATION
Minister for Employment and Training's Role - Economic and Resource Development Projects

773. Hon N.F. MOORE to the Minister for Employment and Training:

(1) Does the Minister for Employment and Training have a role in the creation of jobs?

(2) If so, what is that role?

(3) What economic and resource development projects will commence during the next 12 months which will provide additional jobs in Western Australia?

Hon KAY HALLAHAN replied:

(1)-(3)

Economic development comes within the Minister for State Development's portfolio. I asked that Minister for information and he provided material which will be of interest to members. Following yesterday's interjections, I provide information which relates to just one sector of development.

Hon N.F. Moore: That is not the answer.

Hon KAY HALLAHAN: The Minister for State Development has provided the following list -

Alumina production enhancement at Worsley; Marillana Creek Iron Ore; Brockman No 2 detritals; Hismelt, direct smelting; LNG, Train 3; Hadsen Gas Gathering; Nickel/Copper, matte Radio Hill; and the Cossack Oil field.

That gives members some information regarding interjections made yesterday. I said that a number of projects were under way.

Hon N.F. Moore: You did not know any! It is a pity that you had to ask another Minister.

Hon KAY HALLAHAN: I told members that a number of projects were under way, and I have now specified those projects.

EDUCATION MINISTRY - SIX DISTRICT SUPERINTENDENTS OF EDUCATION
Redundancy Packages - Resignation and Reinstatement

774. Hon DERRICK TOMLINSON to the Minister for Education:

Did one of the six district superintendents of education who accepted voluntary redundancy resign previous to being offered voluntary redundancy, and was that person subsequently reinstated so that he could apply and qualify for voluntary redundancy?

Hon KAY HALLAHAN replied:

I am unaware of any such series of events.

BUSES - SCHOOL BUS SAFETY INSPECTIONS
Police Department Transfer

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

Has the Minister had further discussions regarding the school bus safety inspection service which is to be handed over to the Police Department at the beginning of 1992?

Hon KAY HALLAHAN replied:

That matter is still being negotiated.

TAFE - EMPLOYMENT AND TRAINING DEPARTMENT AMALGAMATION
38 Positions - Voluntary Redundancies

776. Hon DERRICK TOMLINSON to the Minister for Education:

How many of the 38 persons holding positions which will be affected by the amalgamation of the Department of Employment and Training and TAFE to create the new department of employment, vocational education and training have already been offered voluntary redundancies?

Hon KAY HALLAHAN replied:

The member will have to be more specific about which 38 positions he refers to.

TAFE - EMPLOYMENT AND TRAINING DEPARTMENT AMALGAMATION
38 Positions - Effects on

777. Hon DERRICK TOMLINSON to the Minister for Education :

Can the Minister confirm her answer to question 1816 in another place that 38 positions will be affected by the amalgamation of the Department of Employment and Training and TAFE to create the new department of employment, vocational education and training?

Hon KAY HALLAHAN replied:

I suggest that the member provide me not only with the answer but also the question so that I can see the context of what is being discussed.

PERMANENT BUILDING SOCIETY - REGISTRAR OF BUILDING SOCIETIES
Status of Investors Determination

778. Hon GEORGE CASH to the Attorney General:

Is he satisfied with the methods employed by the registrar of building societies to determine the status of depositors, withdrawable shareholders and non-withdrawable shareholdings in the Permanent Building Society?

Hon J.M. BERINSON replied:

I am not sure that I grasp the full significance of the question.

Hon George Cash: I shall repeat it so that you cannot use that as an excuse.

Hon J.M. BERINSON: I would have thought that the Leader of the Opposition would know me well enough to know that I do not seek excuses to avoid questions; and also that I do not answer -

Hon George Cash: You have not answered them before.

Hon J.M. BERINSON: - questions without notice when I believe they should be more properly put on notice. That was what was on my mind in my preliminary comment; I wanted to ensure that I understood the question correctly.

As I understand the position, it is not the role of the Registrar of Building Societies to determine the status of particular investors. As I understand it, that is a question which the administrator would have to determine in his administration of the society.

Hon Peter Foss: Is he going to liquidate it?

Hon J.M. BERINSON: I prefer not to anticipate that, but I can say that some definite response from the administrator to that general question should be available fairly soon.

On the original question, I have answered that to the best of my present knowledge in respect of the respective areas of authority of the registrar and the administrator, but I will take an early opportunity to check that further. If I am mistaken, I will take an early opportunity to correct the position.

PERMANENT BUILDING SOCIETY - REGISTRAR OF BUILDING SOCIETIES
Status of Investors Determination

779. Hon GEORGE CASH to the Attorney General:

This is a supplementary question. In view of the Attorney's answer, can he indicate to the House the methods which were employed by the registrar or the administrator to determine the status of those people?

Hon J.M. BERINSON replied:

I have not gone into the details of administration, but I would think it is self-evident that the status of individual investors could be understood only by the registrar and the administrator, and from the records of the Permanent Building Society.

Hon George Cash: Are you aware of the claims that the records are not accurate?

The PRESIDENT: Order!

POLICE - TACTICAL RESPONSE GROUP
Collard Affair Inquiry - Police Officer Resignation

780. Hon MURIEL PATTERSON to the Minister for Police:

Regarding the unfortunate incident with Rhonda Collard and Frank Nannup involving the tactical response group earlier this year, did Police Officer Collard resign from the force after Police Commissioner Bull made a public apology?

Hon GRAHAM EDWARDS replied:

No.