Legislative Council

Thursday, 23 August 1990

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 2.30 pm, and read prayers.

PETITION - CHILD SEX OFFENDERS

New Legislation

HON REG DAVIES (North Metropolitan) [2.35 pm]: I have a petition bearing 79 567 signatures which reads -

> To the Honourable the President and Members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.
>
> WE, the undersigned citizens of Western Australia:
>
> REQUEST THE PARLIAMENT OF WESTERN AUSTRALIA TO BRING IN LEGISLATION TO DEAL WITH ALL CASES OF SEXUAL AND OTHER CRIMES AGAINST CHILDREN TO SEE:
>
> 1. that sentences imposed on adult child-sex-offenders must reflect the seriousness of the crime committed, this means longer non-parole sentences,
> 2. that mandatory therapy for child-sex-offenders be a condition, regardless of whether or not a prison sentence is imposed,
> 3. that magistrates have discretion to accept the evidence of a child irrespective of the age of the child, "The question of a child's competence to give evidence to be a matter for judicial determination, and any need for corroboration of a child's evidence should be left to the discretion of the judge, (Child Sex Abuse Task Force recommendation 27, 1987).
>
> Your Petitioners therefore humbly pray that you will give this matter earnest consideration and your Petitioners, as in duty bound, will ever pray.

This brings the total number of petitioners to over 108 000 citizens of Western Australia.

[See paper No 500.]

IRON ORE (MOUNT NEWMAN) AGREEMENT AMENDMENT BILL

Second Reading

HON J.M. BERINSON (North Metropolitan - Minister for Resources) [2.38 pm]: I move -

> That the Bill be now read a second time.

The purpose of this Bill is to ratify an agreement amendment dated 12 July 1990 between the State and the Mt Newman joint venture participants. The agreement contains provisions which will -

> amend the royalty provisions of the principal agreement; and
>
> enable the addition of new mining areas into the principal agreement mineral lease 244SA.

Members will recall that in the second reading of the Iron Ore (Hamersley Range) Agreement Amendment Bill 1990 I foreshadowed the introduction of this Bill to similarly amend the royalty provisions of the Iron Ore (Mount Newman) Agreement Act.

The principles for the proposed new royalty rate structure, the subject of clause 3(1) through to clause 3(7) of the agreement, are essentially the same as those detailed to the House for the Iron Ore (Hamersley Range) Agreement Amendment Bill. An exception with this agreement is that because iron ore is used in steel mills in the Eastern States, the existing royalty concession for "locally used ore" as defined in the agreement will be phased out over a period of 18 months commencing from 1 July 1989. After this period all iron ore producers will be on the same basis for royalties paid on iron ore.

Clause 3(8) of the agreement provides for the incorporation of two additional areas currently held under Mining Act exploration licence numbers 46/6 and 47/19, into the principal agreement mineral lease 244SA. The company proposes to surrender parts of mineral lease 244SA so that following the incorporation of the additional areas the total area of the mineral lease will not exceed the 300 square mile limit placed under the principal agreement.

I now table the plan marked "B", which serves to show the additional areas to be incorporated in mineral lease 244SA; and plan marked "C", which shows both portions of the mineral lease to be surrendered by the company.

[See papers Nos 501 and 502.]

Although the company has no intention to commence mining the additional areas in the near future the foregoing area revisions are part of the company's rationalisation of its mining areas. As with the Hamersley Range agreement, additional areas to be brought under mineral lease 244SA will have current additional proposals, environmental, local content, work force accommodation and additional township services and facilities provisions by way of clause 9A(2) through to clause 9A(16) of the principal agreement as amended by clause 3(8) of the agreement. The amendment proposed by clause 3(9) of the agreement is to update clause 24 of the principal agreement. Other amendments are of a minor nature and are self-explanatory.

I commend the Bill to the House.

Debate adjourned, on motion by Hon N.F. Moore.

UNAUTHORISED USE OF MOTOR VEHICLES - POLICE CHARGES CHOICE

Road Traffic Act Section 89 or Criminal Code Section 390A

HON J.M. BERINSON (North Metropolitan - Attorney General) [2.42 pm]: I move -

That the report of the Committee be adopted.

I undertook last night to obtain some information which was requested by the Leader of the Opposition in respect of the way in which a choice was exercised by the police in charging persons with unauthorised use of vehicles under the Road Traffic Act or under the Criminal Code. As was indicated by Mr Cash, both section 390A of the Criminal Code and section 89 of the Road Traffic Act 1974 have identical marginal notes; that is, unauthorised use of vehicles. Section 390A of the Criminal Code is an indictable offence and we are intending, in the this Bill, to increase the penalties. Section 89 of the Road Traffic Act provides for a summary offence to be dealt with on complaint in the Court of Petty Sessions.

I am advised, when making the decision to charge pursuant to section 89 of the Road Traffic Act or section 390A of the Criminal Code, the police take into consideration previous similar offences and the general antecedents of the offender. The section in the Criminal Code also enables an indictment to encompass all the actions of an accused. The Crown will indict for unauthorised use pursuant to section 390A of the Criminal Code when a series of offences has been committed involving the unauthorised use of motor vehicles. The most common example is an armed robbery where the accused steals a motor vehicle for use in making his escape.

Question put and passed.

Report adopted.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL

Committee

Resumed from 22 August. The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair; Hon Graham Edwards (Minister for Police) in charge of the Bill.

Clause 7: Section 10 repealed and a section substituted -

Progress was reported after the clause had been partly considered.

Hon GRAHAM EDWARDS: Progress was reported on this clause last night to enable me to

obtain advice because the clause was amended during the course of debate in the other place. It is a new clause and it has the effect of relieving the old tenant of any responsibility should a new tenant default. If this clause is deleted from the Bill the effect would be that the old tenant would virtually be a guarantor for the new tenant, and that is the situation which currently applies. The view, however, is that landlords have the opportunity to assess the new tenant and should not continue to have recourse to claims upon the outgoing tenant in the event that the new tenant defaults. It was mentioned last night that the landlord has the provision of reasonable grounds as a means of objection to a new tenant.

Clause put and passed.

Clause 8: Section 11 amended -

Hon GEORGE CASH: Members will be aware that this clause relates to the process of rent reviews. Discussions have been held by members of the small business community and the Building Owners and Managers Association of Australia Ltd about the need to establish less ambiguity in section 11 of the Act. Currently a retail shop lease provides for a market value review of the amount payable during the currency of the lease. The legislation will provide that where parties do not agree on the rent payable, the question shall be resolved subject to proposed subsection (5). However, where a situation arises in which the parties cannot agree on the rent payable as a result of the review, what will be the situation? Will the matter be referred to the registrar and, if it is, is the decision of the registrar open to appeal?

Hon GRAHAM EDWARDS: The situation will be that the matter can be referred to the registrar, but his decision cannot be appealed against.

Hon GEORGE CASH: I anticipated that that would be the answer, given the current wording of the Act and, indeed, the amendments before the Chamber. I advise the Minister that the question of whether a person should be able to appeal against a decision of the registrar is a matter that can be taken up later during the remaining stages of this Bill. The amendment I have on the Notice Paper will seek to address the situation. The Opposition's position is such that it does not believe the registrar should have greater powers than the tribunal. As members would be aware, there are appeal provisions in respect of tribunal decisions. When we debate the relevant amendment, which I will move at a later stage, the Minister will understand the reasons we seek to provide some measure of justice in respect of the decisions of the tribunal to which either party may not necessarily agree.

Hon GRAHAM EDWARDS: I understand the reasons put forward, but the Government does not agree with them.

Clause put and passed.

Clauses 9 to 17 put and passed.

Clause 18: Section 22 amended -

Hon GEORGE CASH: I move -

> Page 15, after line 29 - To insert after paragraph (f) the following -
>
> (g) a party to proceedings before the Registrar who is dissatisfied with the decision or order of the Registrar may appeal to the Tribunal against the decision or order.

The Opposition believes it is important that persons required to appear before the registrar or those who invite the registrar to make a determination should have the right of appeal. When the original Act was framed it was intended that the registrar should not have greater powers than the tribunal. As the registrar is to be very much a mediator, if either of the parties presenting a case to him does not accept his decision, that party should be allowed to appeal to the tribunal against that decision or order. It is a fundamental question of justice because should this amendment not be agreed to the registrar will have greater power than does the tribunal. More than that, it will encourage certain persons to seek an advantage by making representations to the registrar rather than the tribunal knowing that the decision of the registrar cannot be appealed against.

Hon GRAHAM EDWARDS: I understand the argument put forward, but the Government does not agree with it. It is another of those areas where we differ in our attempts to find the balance between looking after the interests of the landlord and those of the tenant. It is

important to recognise that the registrar has a mediating role and in that capacity he does not make determinations or orders. The registrar has jurisdiction to determine matters in specific areas; that is, to grant more time in which a tenant may exercise an option to renew a lease if the circumstances are justified; to disallow a landlord from including a clause in a lease to reduce the period from five years if he is satisfied that the landlord's reasons are invalid; and to arbitrate in rent disputes where other methods of resolving the dispute have not been used or have failed.

The main objection seems to surround the rent dispute section on the basis that the registrar is not a valuer and is, therefore, not competent to arbitrate such matters. However, the registrar will be an umpire between two professional valuers who are in conflict. He will hear the evidence of the professionals and decide on the facts and arguments presented. On the other hand, if he were to sit alone to determine the action he could draw upon advice from a qualified valuer who is a member of the commercial tribunal panel. The Government does not consider that the legislation would be enhanced by the inclusion of this amendment.

Hon GEORGE CASH: The Minister has not fully explained why the Government believes this amendment will not enhance the legislation. I assume it comes from a philosophical base which involves the balance referred to earlier. The matter of whether the registrar is a valuer and should make determinations with respect to the opinions of two separate valuers working for their respective principals could obviously be discussed at length. I have discussed this matter with small business organisations and others and for the time being the Opposition will not pursue this amendment. However, I believe it should be considered when this Bill is reviewed.

The purpose of this amendment is to afford parties who have used the services of the registrar as a mediator the option of appealing to the tribunal if they believe the registrar's decision is unjust or unlawful. If the Committee does not agree to this amendment, parties in a dispute who may be unhappy for one reason or another with the determination of the registrar could be seriously disadvantaged. The amendment is moved with a measure of good faith and certainly in the spirit of offering some balance between both parties when they cannot agree on a particular matter and the registrar has made an arbitrary decision one way or another.

Hon GRAHAM EDWARDS: I understand the argument, but I do not agree with it. When the registrar makes a decision while mediating between two independent valuations, neither party has the right to appeal against that decision. The difficulty I have with what is being proposed is that if an innovative person wanted to take advantage of the appeal provisions, that may unduly bog down and delay the operations in respect of which we are seeking to maintain some informality and easy access. If this amendment is carried - and I hope it is not - I hope that the eventual review will focus on this matter and give it in-depth consideration.

Hon GEORGE CASH: I hope that this amendment, if carried, will be considered by the review committee in due course. To add some strength to my argument that the Chamber should carry this amendment, I refer members to proposed paragraph (f), which says that where -

> the Registrar is of the opinion that because of the importance or complexity of the question, or for any other reason, the question ought to be determined by the Tribunal,

the registrar will have the ability to make a judgment about whether a matter is of sufficient complexity to be referred to the tribunal, and, as such, to then create a situation where appeal provisions are made available to a party who is not happy with the decision. What we are really saying if we do not carry this amendment is that we are not prepared to allow the same situation to exist in respect of decisions made by the registrar alone. It really is a subjective judgment to be made by the registrar as to whether a matter is of sufficient importance or complexity to be referred to the tribunal. Where there is a question of subjectivity, it seems to me most appropriate that there be appeal provisions when disputes occur. While I understand the view put by the Minister, I believe the Chamber should carry this amendment.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows -

Ayes (14)		
Hon J.N. Caldwell	Hon P.H. Lockyer	Hon W.N. Stretch
Hon George Cash	Hon Murray Montgomery	Hon Derrick Tomlinson
Hon Reg Davies	Hon N.F. Moore	Hon D.J. Wordsworth
Hon Max Evans	Hon Muriel Patterson	Hon Margaret McAleer
Hon Barry House	Hon R.G. Pike	*(Teller)*

Noes (13)		
Hon J.M. Berinson	Hon Tom Helm	Hon Bob Thomas
Hon T.G. Butler	Hon B.L. Jones	Hon Doug Wenn
Hon Cheryl Davenport	Hon Garry Kelly	Hon Fred McKenzie
Hon Graham Edwards	Hon Mark Nevill	*(Teller)*
Hon Kay Hallahan	Hon Sam Piantadosi	

Pairs	
Hon Peter Foss	Hon John Halden
Hon E.J. Charlton	Hon J.M. Brown

Amendment thus passed.

Clause, as amended, put and passed.

Clauses 19 to 22 put and passed.

Title put and passed.

Bill reported, with amendments.

BUILDERS' REGISTRATION AMENDMENT BILL

Second Reading

Debate resumed from 10 July.

HON REG DAVIES (North Metropolitan) [3.08 pm]: Just to refresh members' memories, this Bill seeks to amend the Builders' Registration Act in a number of ways. Fines have been increased to $10 000, and in some cases this represents a 2 500 per cent increase. The Bill also includes substantial amendments to the provisions in relation to the board's keeping a register. These amendments are not retrospective. The operations of the Builders Registration Board have been extended to cover the City of Geraldton and the Shires of Greenough, Chapman Valley, Irwin and Northampton.

While it is appreciated that these inclusions are probably altruistically motivated, and I might add that the Opposition intends to support the Bill, at the same time the Opposition seeks some assurances from the Minister. First, consumers have been seriously disadvantaged through poor building practices, and obviously that situation must be rectified. It is unfortunate that the very people who are most at fault - that is, registered builders - are not being taken to task. They are not confronted with any of these fines, yet most of the complaints surrounding the appalling standards of building involve registered builders. It would appear, then, that the only way to achieve any redress in this area is for the Builders Registration Board of WA to impose sanctions such as a suspension or the withdrawal of the builder's licence. We appreciate that the Builders Registration Board has the power to effect these sanctions; it has just failed to invoke them.

The whole area of the register of licensed builders has been amended substantially. A complaint has been received from a country shire council regarding the list of registered builders. Members may recall that the list was previously published once a year in the *Government Gazette*, but that will no longer happen. Another area which needs clarification, because of unusual circumstances, is an instance within the Irwin Shire, which is now

affected by this Bill because it is in the Geraldton region, and which has a large population of crayfishermen. This is a seasonal occupation which requires workers to undertake other employment during the off-season. Much of the building which takes place in the Irwin Shire is done by owner-builders and we are assured that these workers are responsible for some of the best constructed houses in that area. However, this Bill encompasses that district and imposes a $10 000 fine for selling an owner-built house within three years of its construction. There is a further difficulty, in that a person can sell only one owner-built house in a six year period. Of course, this will result in a substantial decrease in the off-season building activity among those who find themselves unemployed for a certain part of the year. It is my belief that special regulations should be considered to cover extraordinary circumstances such as those obtaining in the Shire of Irwin.

The penalty for unregistered builders has been increased 2 500 per cent. The ceiling amount for building extensions which can be performed by unregistered builders - and this was set back in 1975 - is $6 000. This means that the construction of such things as patios, carports, sheds and garages can no longer be undertaken by unregistered builders because of the ceiling, which has not been upgraded for some 15 years. I believe it is now incumbent upon the Parliament to increase this limit to a realistic amount which is in tune with today's economy. Members would appreciate that registered builders are not really interested in that end of the market and their exorbitant quotes, if householders are foolish enough to accept one, ensure huge profits for the uninterested builder. That end of the market should really be retained by those who are competitive and who, at the same time, ensure that the job is done at a reasonable rate. We know that the registered builder prefers to build new homes and does not really want to become bogged down in home improvements, and unless we increase the ceiling we can assume that, once again, it will be the consumer who bears the brunt. The fine for infringing the legislation was previously set at $400. This amount was affordable even for minor contracts. With the new fine set at $10 000 it is not difficult to see that that will become a very lucrative end of the market for registered builders who will effectively displace the small person at the lower end of the market.

In summary, I ask two things of the Minister: Firstly, I ask that the special circumstances which are illustrated by the extraordinary employment pattern in the Irwin shire be afforded some individual consideration; secondly, I ask that consideration be given to the needs of both home owners who require small renovations and those who have to date fulfilled those needs. That matter should be addressed realistically and having regard to today's economic climate. The Opposition supports the Bill.

HON J.N. CALDWELL (Agricultural) [3.15 pm]: It was not my intention to speak on this Bill but I will draw the Minister's attention to two matters concerning builders' registration. I fully endorse what Hon Reg Davies has said, especially in regard to the provision in this Bill which increases the penalties for builders who do not build to a required standard. It is interesting to note that a large percentage of the complaints received by the program "The Investigators" on ABC television relates to builders who default, which only goes to prove that many builders do not keep up the standard.

Last year I was involved in helping a builder to transfer from the Eastern States to live in the City of Mandurah. He was a builder in New South Wales and he attempted to obtain a builder's licence in Mandurah. Apparently the laws relating to the granting of a builder's licence are not the same as between one State and another and, to my knowledge, to this day he has not been able to get that licence. I do not know whether he was a fully qualified builder in New South Wales or whether he had a temporary licence, but I know he was having great difficulty gaining any sort of licence to build his own home in Mandurah, which is what he wanted to do. I wonder whether the Minister would relate this instance to the appropriate Minister to see whether building licences ought to be similar in all States and perhaps transferable between States. I support the Bill.

HON MARGARET McALEER (Agricultural) [3.18 pm]: The aspect of this Bill which interests me mainly is the extension of the Builders' Registration Act to the City of Geraldton and surrounding shires. The second reading speech goes so far as to claim in the very first instance that the Act is being extended to the mid-west region. While those shires are in the mid-west region, I was relieved to find the Act did not embrace the whole of the mid-west region, because many of the shires within that region are very remote and it would be quite unsuitable to have the Act extended to them. For many years, certainly when I first

came to the Parliament, an occasional move was made by various members to have the Act extended to parts of the country, but it was always resisted then by the Government of the day, mainly on the ground that it would add greatly to the expense of people building, especially in remoter areas. Anybody who has had experience of the country areas away from the important centres will know very well that it is extremely hard to get a builder, and when one does it is a very expensive item indeed.

Nowadays that does not apply to the City of Geraldton, which has a great number of builders, but it certainly does apply to many of the outlying shires; indeed, even to some not very far away. In Three Springs or Morawa the cost of employing a registered builder is quite high. Some years ago Hon Neil Oliver worked very hard to initiate an insurance scheme for people who experience problems in dealing with the building trade. At that time no compensation was available either from the Builders Registration Board or any other body for people whose houses fell apart due to bad workmanship. There was a further move then to include Geraldton in the Builders' Registration Act in order that the insurance scheme attached to the Act could apply in Geraldton. The many builders in Geraldton were divided at that time and a great deal of ill feeling was experienced within the trade between those who supported an extension of the Builders' Registration Act and those who opposed it. I am glad to hear that there is unanimity and a welcoming of this extension within the industry now.

However, the Government is being unreasonable in insisting that the Shire of Irwin should be included in the area of this extension. Why has the Government insisted on including this shire in the area when it is strongly opposed to being included? The towns of Dongara and Port Denison are growing rapidly and it is true, as Hon Reg Davies has said, that a certain amount of off-season building is occurring when people who work in the crayfishing industry in the other six months turn their attention to building. The Shire of Irwin would be happy that this creates some employment but it also feels that the rate of growth in the shire will be hampered by its being included in the extension. The building these people carry out is not willingly or easily undertaken by registered builders. People who are building smaller houses do not want to pay the greater costs attached to using a registered builder. The shire argues that it is only 40 miles, or whatever it is in kilometres, from Geraldton and people will always have the option to employ registered builders if they wish to do so. I see no reason why they should be forced to do so.

I am glad that the ceiling for small additions to buildings, such as patios and pergolas is to be raised to $10 000 and will be incorporated in the regulations. The Opposition spokesman would have liked it to be raised to $15 000, which is a more realistic figure.

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

[See page 4078.]

MEDICAL AMENDMENT BILL

Second Reading

Debate resumed from 5 July.

HON BARRY HOUSE (South West) [3.24 pm]: The Opposition supports the Bill which consists of three parts. The first part will enable the Medical Board to review the registration status of medical practitioners affected by the Medical Amendment Act of 1979. If the board is satisfied it will grant full registration to those practitioners. This provision relates specifically to one medical practitioner who was unintentionally affected by this provision and could not be granted full registration. The Bill will remove this unintended result and is supported by the Opposition.

The second part of the Bill addresses the present unsatisfactory situation where top medical staff in teaching positions at universities are unable to practice in hospitals. This was an absurd situation in which a person was considered good enough to teach in our hospitals and universities but was not considered good enough to treat the public. The Opposition supports the intention to rectify this situation which it considers as having two positive effects: First, Western Australian hospitals will be able to attract highly qualified medical staff. At present we cannot afford to attract the best staff. This provision will allow those people to perform clinical practice and therefore top up their remuneration as well as make the State a more attractive proposition for the best medical staff to teach and work here. Second, it will allow those people to be more effective teachers because they will be getting practical experience

without relying only on the theory. Hands on clinical practice is a much better demonstration to students than theory alone. The Opposition supports this provision in the interests of redressing the dearth of highly qualified talent among the staff of the medical schools.

The third part of the Bill will correct the situation which allows an aggrieved person to sue a doctor who is guilty of malpractice as well as the body corporate he or she belongs to. This is ridiculous if one considers the situation in which a doctor may be thousands of miles away on holiday when one of his partners is guilty of malpractice. That doctor could come home to find his business, home and all of his assets have been sold. This Bill addresses that situation. The intention of this change is that only the guilty person can be sued. It prevents any person who is not a medical practitioner, but who is a member of the body corporate, from being sued. This provision was included in the Bill as a temporary fix for an anomalous situation which arose from previous amendments. I understand that there is an intention to review and rewrite the complete Medical Act in the near future. The Opposition hopes that these provisions will be incorporated and clarified in the rewrite. Accordingly, the Opposition supports the legislation.

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [3.28 pm]: I welcome the support for this Bill. The member has outlined clearly the intent of the Bill and that has served to refresh members' memories of its content and the Government's reason for introducing it.

Question put and passed.

Bill read a second time.

Committee and Report

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

GUARDIANSHIP AND ADMINISTRATION BILL

Second Reading

Debate resumed from 11 July.

HON BARRY HOUSE (South West) [3.33 pm]: The Opposition supports this Bill. The legislation had its genesis in 1983, and reached its final stages after extensive consultation since that time. The Bill deals with guardianship, which is a legal definition giving an individual a right to make decisions on personal matters on behalf of some other person. For example, parents are the legal guardians of their children until they turn 18. This Bill addresses the situation where people of an adult age have some form of mental, social or physical disability which prevents them from caring for themselves. Currently the law allows persons to manage the financial affairs of others via the agency of the Public Trustee or via an individual by application to the Supreme Court. That is a rather cumbersome mechanism and involves a finite definition of competence, or incompetence for that matter, where no degree of competence is considered. The situation is seen as existing in black and white, but in reality there are many shades of grey.

The Bill allows some scope for affected persons to manage their affairs where they are able. That is important for their self-esteem and it is important for their caregivers in the management of people affected by such things as Alzheimer's disease and strokes. Currently the emphasis is on protecting the property rights of incompetent individuals, and other human needs are not provided for. I am pleased that this Bill provides protection for the ordinary or personal needs of people. The Bill establishes an independent Guardianship and Administration Board which will be responsible for the appointment of guardians and estate administrators. I have some reservations about the creation of yet another bureaucracy, but this is about my only reservation about the Bill as it stands. The estimated cost to operate the board, which I have gleaned from information from the other place, is $400 000 a year, which I grant is not a significant amount. However, I hope that the additional cost of the board can be justified and maintained within this modest limit.

The board will be empowered to appoint an administrator to manage the estate of an incompetent person, and that administrator may or may not be the same person or private trustee company that is already looking after that person's personal needs.

I am pleased to see there will be a review process after five years. Both guardianship and administration orders will be reviewed by the board, which will take account of any change in circumstances. The board will have the flexibility to adjust orders to meet any unforeseen change in circumstances; for example, if a guardian dies or wishes to be discharged of his or her responsibilities. The protection of an individual's civil liberties against the orders of the board is provided for by a specific right of appeal to the Full Court of the Supreme Court. This is welcomed.

The Bill provides for the appointment of a Public Guardian to act where there is no parent, next of kin, or other suitable person. The role of the Public Guardian also includes the promotion of family and community responsibility or guardianship.

We certainly welcome the sections of the Bill which give guardians the ability to consent to medical or dental treatment and those which provide for the consent of the guardian and the board to procure a sterilisation. Sterilisation is a controversial subject when dealing with mentally handicapped people - I guess all people - but there is an obvious need for that facility to be available in some cases for mentally handicapped people in our society.

The Bill also brings Western Australia into line with other States and many other societies overseas which have enacted guardianship laws. The legislation recognises the concern of society for its members who are vulnerable to exploitation and it addresses the need for their protection and support. It establishes a system which appears to be working elsewhere and which should operate successfully here. The Opposition supports and commends the Bill to the House.

HON MURRAY MONTGOMERY (South West) [3.37 pm]: I support the Bill. The Bill addresses a need which has long been recognised in the community, particularly for the handicapped and those who have been afflicted by whatever disorder and who are not in complete control of themselves, particularly mentally. I relate to this Bill in a personal sense as a member of my family does have some problems. That person is of an age where he is a burden on his parents, but they have dutifully looked after him although he is now a mature person. At some stage the parents must pass on, and I do not know where that person will be accommodated, but his affairs will need to be looked after. This Bill addresses that situation. It gives these afflicted people some means for their affairs to be looked after without burdening other members of the family who may not live close by. It is important that people who have been affected mentally live in surroundings with which they are familiar. A great deal of concern is caused if they are taken out of their familiar surroundings. This Bill supports these people, but it also gives them the opportunity to take over their own affairs again; for example, where a person has been affected by an accident and is temporarily disabled. That will take some pressure off the person's family.

Like Hon Barry House I am also concerned about the setting up of yet another bureaucracy. We should not set up a bureaucracy which will get out of hand. I trust the Government will keep it under control and that we do not end up with a monster which will not overcome the situation and provide the services required. The National Party supports the Bill.

HON MAX EVANS (North Metropolitan) [3.41 pm]: I support the Bill and will comment on it from my professional experience. The Minister's second reading speech states that the review of the mental health legislation was commenced in 1983. I was under the impression that it was prior to 1983. The problem has been with us for a long time and is of great concern to many people. In recent years professionals have found that when they act under a power of attorney for people who become inebriates the power of attorney ceased to exist because it could not be revoked. The power of attorney is valid only for as long as the person has the mental ability to revoke it. The situation prevailed for many years when legally it was not right. It was accepted because there was no way of administering it.

In the old days when a person was certified mentally insane and was incapable of looking after his affairs one applied to the Master of the Supreme Court to have a manager of the estate appointed. The main problem was that the manager of the estate had to go to the Master each year and account for every dollar and cent that had been expended. It was a mammoth task and sometimes it would involve hundreds and thousands of dollars, but only a few thousand dollars were spent on the inebriate. In many cases the Master was so pedantic in dealing with the accounts that one could say he was childish. Professional officers have been looking for an alternative to get around this because they found the costs involved too great.

Prior to 1977 a client of mine who was a senior businessman put most of his assets in the name of his wife to avoid death duty and to minimise his taxation problems. Before he retired his wife became insane and a Master of the Supreme Court was appointed to look after her affairs. When the gentleman retired he was virtually penniless and the Master's ruling was that the assets in the name of his wife and her income could not be used to support him. Had the assets been in the husband's name and he became insane his income and assets could have been used to support his wife. This gentleman loved his wife and took her for a drive every day and if he bought her lunch he had to account for every cent spent. He had a son who was a pharmacist and who wanted his help financially. The assets included a large amount of land north of Mandurah which was increasing in value, but a large sum of money was required to pay the rates and taxes on that land. It was arranged that I would be appointed the manager of the estate and that he would divorce his wife in order to split the assets. At least he received half the assets and he was able to help his son. Fortunately the law caught up with this situation and amendments were made to the Family Court Act to enable assets to be divided between the parties concerned without their having to go through the process of a divorce. However, it was still necessary for me to be appointed manager of the estate before the court would agree to split the assets.

On reading this Bill quickly I am unable to determine who controls the finances. Previously the Master of the Supreme Court had too much control and I am concerned that there may not be enough control under this legislation. In my short life I have experienced three cases of executive estates not being properly handled and investigations having to be carried out. Members can imagine they involved some messy family feuds. No-one checks on wills. In this legislation we are asking for a certain amount of trust. I ask the Minister to establish whether there are any financial controls in the legislation. If there are no controls, consideration should be given to including such controls otherwise the situation will get out of hand.

Sitting suspended from 3.46 to 4.00 pm

[Questions without notice taken.]

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [4.15 pm]: I am pleased with the support for this very important legislation. As members opposite have said, it has been considered for a long time in order to provide a comprehensive system of care for people, both materially and personally, in the event that they are no longer able to take care of those matters. One member referred to Alzheimer's disease and I think Hon Barry House and Hon Murray Montgomery showed compassion and an understanding of the need for this legislation. As an increasingly high incidence of Alzheimer's disease is found in the community and people are living longer, it may well be that this legislation will safeguard even members and give them greater peace of mind in the not too distant future. It is a most important piece of legislation.

Throughout the years some controversial aspects of the legislation have been dealt with thoroughly and I am told this Bill is very comprehensive. It is an example of where, with time and consultation, a comprehensive legislative framework has been produced.

Hon Barry House mentioned the costs involved with setting up another bureaucracy and the problem of containing its expenditure within the suggested allocation. Because this is a sensitive issue, safeguards are necessary at some cost. Administrative support is also necessary. The board responsible for the administration will be very high powered and will be chaired by a Supreme Court judge - an unusually high status for such a position. In response to Hon Max Evans' comments, one of the other two members of the board could perhaps be an accountant.

Hon Max Evans also asked whether financial accountability can be kept at a sensible level, not because of lack of detail, but because of lack of control. I draw his attention to clauses 71 to 82 where the power is provided for the board to take care of those matters and it is expected that the board will arrive at a sensible arrangement. Accounts must be submitted annually to the board. In these circumstances, as with many others, the Government expects the administrative detail that the board will require of guardians and administrators to be kept to a sensible level. Given the nature of the area and based on experience, further input could

be provided if that became necessary. The provisions of the Bill are adequate and sensible; it provides the power for the board to establish the administrative framework for accountability, and accountability is provided for in the Bill as it stands.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1: Short title -

Hon MAX EVANS: I thank the Minister for her very clear explanation in relation to clause 81 dealing with accounts, and the matters which may be addressed by regulation. That is an improvement and represents a great step forward. Supreme Court judges whom I have contacted have been worried about this matter for years. The legislation is very important and the sooner it is enacted the better for the public at large.

Hon KAY HALLAHAN: I thank the member for his comments. I am very glad that his query has been satisfied and that he considers the Act will adequately deal with these matters.

Clause put and passed.

Clauses 2 and 3 put and passed.

Clause 4: Principles stated -

Hon DERRICK TOMLINSON: I rise to consider clause 4 because I am mindful of a restricted number of cases where an individual might have multiple handicaps - a blind, deaf mute, for example - but has a very sound mind.

Hon Max Evans: Helen Keller was one such person.

Hon DERRICK TOMLINSON: That is a case that springs to mind because it has been given a great deal of publicity, but there are not many as dramatic as Helen Keller. Certainly, some individuals are deprived of language, deprived of means of communication, because of their multiple handicaps but who in spite of that have been demonstrated to have very competent minds trapped inside their bodies. Within the principles of clause 4 the presumption is that every person shall be presumed to be capable of -

(i) looking after his own health and safety;

(ii) making reasonable judgments in respect of matters relating to his person;

(iii) managing his own affairs; and

(iv) making reasonable judgments in respect of matters relating to his estate.

I could think of persons who are incapable of (i), (iii) and (iv), and yet capable of (ii), but because of their handicaps they are unable to make quite clear their reasonable judgments in respect of matters relating to their own person. Let us suppose that such persons are brought before the board to have a guardian appointed. How are these persons to communicate their preferences, for example, as to who will be their guardian? While the Bill recognises the rights of the individual and even though the person has multiple handicaps that person is no less a person and, therefore, no less entitled to the rights of any human being.

I wish to ask a serious question even though it might relate to a very small number of individuals: How would the protection of the rights of such an individual be guaranteed by the application of this Bill?

Hon MAX EVANS: I support the remarks made by Hon Derrick Tomlinson. He has made a valid point. What will be the modus operandi of this provision? How can a guardian be appointed without a person knowing what is happening? Difficulties can arise with having someone declared insane. Sometimes people who are insane do not want to believe they are insane and certain things are done, whether good or bad.

What protection do people have? I recall a famous case in recent times of an Oxford professor who is handicapped but has a brilliant brain. He cannot talk. He communicates

through a computer, and more and more people are doing this. I know of one person at the quad-centre who communicates by means of an attachment to his forehead and tapping on a typewriter. He has a brilliant brain. Many quadriplegics cannot talk or move. Can these people be put under guardianship without their agreement? Guardians have control over property, and this point needs clarification.

Hon KAY HALLAHAN: Members have raised very complex and difficult cases, and understandably so. Handicapped people must have a means of communicating their wishes. An example given by Hon Max Evans illustrates that. Although severely handicapped, many people now use newly developed technology to communicate. I would have thought this is one of the great advantages of modern technology. A person expressing his wishes allows a judgment to be made about mental capacity. In those cases, that will be a help. I think that covers the concerns of Hon Derrick Tomlinson. I presume he was worried whether in a case where inappropriate action was taken additional safeguards would be put in place. Any person concerned about a guardianship relationship has right of appeal to the Full Supreme Court - bearing in mind that a Supreme Court judge chairs the board so the appeal needs to go to the highest level to deal with these matters and to show that justice is done.

Hon Max Evans: The judge about whom I spoke made a mistake because he applied to the Supreme Court of which he was a member.

Hon KAY HALLAHAN: I assume other members would be appointed in that case. Appeals are not made to a single Supreme Court judge. Judgments are made about mental incapacity, and this is appropriate for people who cannot deal with their own affairs. In the most extraordinary circumstances - and I take the point that such circumstances can exist - those people have to have a means to communicate their wishes, and judgments will be made about a person's need for protection and assistance under this legislation. Indeed, if something went wrong any concerned person could lodge an appeal to overcome that situation. Perhaps Hon Derrick Tomlinson would indicate whether I am touching on his concerns.

Hon DERRICK TOMLINSON: The Minister is touching on my concerns. I guess in some cases the person to whom one has to appeal would be a Solomon because only a Solomon could resolve the problem. I do not have in mind a person who might use a computer for communication, or a forehead pointer for communication. I was thinking of a person without any communication skills whatsoever. This is where the judgment of Solomon would operate.

I listened carefully to the Minister's statement that any concerned person might lodge an appeal. I assume that, provided safeguards are in place, any concerned person might lodge an appeal on behalf of the individual. Might that concerned person lodge an appeal on behalf of the handicapped or disabled person about who shall be the guardian?

Hon KAY HALLAHAN: The answer to the honourable member's last question is yes.

Hon MAX EVANS: I become more and more concerned as I recall the problems I have come in contact with. We tend to believe that everybody who is appointed as a guardian is deemed to be of honest intent, but there are a lot of dishonest people in the community. I know of a little old lady in the Electoral Office who was persuaded by her niece to sell her house and live with the niece. Once this was done the niece promptly kicked her out. That did not even concern an administrator or guardian! Spastics are another case. I have met one who has a very good brain, but it is impossible to understand him. Is a person advised when a guardian is appointed? Some quadriplegics have half a million dollars in the bank; that is if they do not go out and spend it on a binge before they go back on the pension. The legislation has some very big shortcomings if the fact of the guardianship is not conveyed to the person concerned. People do run off with other people's money.

Hon KAY HALLAHAN: On the one hand the honourable member is presuming mental incapacity, and on the other hand he is presuming a capacity. Clause 44 sets out the criteria a person must comply with to be appointed as a guardian.

Hon Max Evans: I have no problems with that.

Hon KAY HALLAHAN: Clause 44 deals with that conflict of interest, which is most serious.

Hon Max Evans: The nicest people can knock someone off for his money.

Hon KAY HALLAHAN: That is a conflict of interest.

Hon Max Evans: Not at the time; they can be very nice. The guardian appointed at the time may be the right person but can become the wrong person. Does the person concerned know that he has the right of revocation?

Hon KAY HALLAHAN: There is a right of revocation and annual reports must be made to the board every year.

Hon Max Evans: The patient would not know that.

Hon KAY HALLAHAN: The board is aware of that problem. In addition to that the guardianship relationship is reviewed every five years. However, the annual report is important in respect of a conflict of interest, if we are concerned with people spending other people's resources.

Hon Max Evans: Does a person know that a guardian has been appointed? Does he have a right of reply?

Hon KAY HALLAHAN: There are two types of guardianship arrangements in dealing with these circumstances. The first is for a person who is totally incapacitated. That is plenary and the other is limited guardianship whereby a person can express some interest in, approval for, and input into that guardianship. It is a difficult area in some situations. We are dealing with this legislation in 1990 but there was probably a need for it 30 years ago.

Hon MAX EVANS: There has long been legislation to deal with insanity. In the old days the Master of Lunacy declared people insane and there was no real problem. The finer point I make is that under that jurisdiction it was difficult to appoint an administrator. One had to have genuine proof backed up by certified evidence of his case. With the plenary guardianship what evidence does the board require? I can remember Sir Charles Court in the old days in the Supreme Court getting a doctor to declare Mrs UAB insane.

Hon Kay Hallahan: Are you concerned with the administrative structure and how incapacity will be determined?

Hon MAX EVANS: I agree with the principle of non compos mentis. The board might put up a lovely case, but if a person is worth a million dollars it may be worthwhile someone's stretching the truth a bit to get appointed as an administrator.

Hon Kay Hallahan: Clause 43 deals with that. The board must be satisfied that the person being considered is indeed in need of a guardian. The board would call for such evidence as would help it arrive at its decision. I would anticipate that the first thing that it would call for would be medical evidence of functioning. There could be other paramedical fields that might be brought in for other evidence, but certainly the board must be satisfied.

Hon MAX EVANS: I accept the Minister's explanation. I wanted to get it on the record because there will be a lot of funny interpretations. There are genuinely honest people but there are a lot of variations.

Clause put and passed.

Clauses 5 to 56 put and passed.

Clause 57: Definitions -

Hon DERRICK TOMLINSON: One assumes that the purpose of sterilisation is to make a female incapable of becoming pregnant or a male person incapable of making a female pregnant. One must have a certain degree of competence to achieve either of those things. There arises a very fine point on the right of the individual. We have agreed with the principles in clause 4.

The question of sterilisation relates to a level of competence. This is most often discussed in our community where people of otherwise sound physical health and body, but who have a degree of intellectual incapacity, are in the eyes of others deemed to be incapable of carrying out the responsibilities of parenthood. Hence, there is quite often a request by parents for a daughter to be sterilised and quite often a request by what I describe as ignorant members of the community to have a male sterilised because his very fecund presence in the community represents a threat to their daughters. I understand the concerns in those cases.

Let us consider this from the position of the intellectually handicapped but otherwise

competent person. Some of those intellectually handicapped but otherwise competent persons who are the responsibilities of their parents or guardians may want, for all sorts of reasons not the least of which because they fall in love, to procreate. They may have a desire, even though it is in their minds equated with playing mothers and fathers, to have a baby. Are we going to say that because a guardian makes application and an order is given for that sterilisation that that individual will be denied that? My concern is that clause 57 contains no provision for the desires of the individuals to be considered. It refers only to the wishes of the guardian and the powers of others to consent and the penalties which will be imposed upon a person who carries out sterilisation without the conditions of the Bill being met.

What provisions are entertained to protect the rights of an intellectually handicapped person to procreate if that is a genuine desire?

Hon KAY HALLAHAN: It is possible, but it may not happen very frequently, that the board will have to consider matters of this nature. When they do occur, they will be the most sensitive and difficult to deal with in terms of the board's weighing up the pros and cons of what is in the best interests of the individual. Clause 60 contains details of those who will be required to appear for a hearing. They will be given notice in writing which provides plenty of opportunity for the person who is the subject of the application to convey his or her wishes to the board.

This is a longstanding contentious issue. The position contained in the Bill is most improved from past practices. At least now an objective case can be made to the board and the board can be made cognisant of the fact that some people will want to have children and that other well meaning views will not override the views of the individual. This is an area on which the board will always err on the side of caution. The procedures contained in the Bill are superior to those which operate at present.

Hon DERRICK TOMLINSON: I thank the Minister for that explanation and for drawing my attention to clause 60. We are talking about the judgment of Solomon. Unfortunately, the rights of human beings often rely upon the judgment of Solomon. Very few boards, no matter how compassionate, are capable of such judgments. I am uneasy because clauses 57 and 60 contain no provision to accommodate the rights of the individual other than making provision for a letter along the following lines -

> Dear Mary
>
> You are advised that on Friday 16 January a hearing will be held in such and such a court to discuss your sterilisation.

I would like to see a stronger provision put in place which indicates that "Dear Mary" or "Dear Johnny" has the right to be heard.

Hon KAY HALLAHAN: It would have been surprising had we not had some discussion about these clauses. I understand the member's discomfort in the way we are confronting head on what we have left other people to deal with without giving them the means of dealing with it. Under clause 60(1)(e), the public guardian is the advocate on behalf of the person about whom an application is made. Built into that is a safeguard. I guess there has been inordinate care about all the clauses and especially in these clauses to get a balance to overcome an unfortunate outcome contained in a wrong decision. We can do only what is adequate to prevent that from ever happening and maybe, because of the thoroughness of the Bill, it will never happen. The way the Bill is structured should overcome the problems about which the member is concerned.

Hon DERRICK TOMLINSON: I was prepared to let this go without further comment. However, I feel compelled to respond to the mistake which might be made because that mistake once made would be very difficult to rectify. It can be rectified in some cases but one cannot obliterate some of the emotional scars.

This is an extremely sensitive issue, not because of the community's attitudes but because of the rights of the individual. While I accept that the public guardian is the advocate of the rights of that individual, there is no better advocate than the individual, no matter how limited his intellectual or language competence might be.

I accept the Minister's explanation. However, I am concerned that, while the Bill is

ostensibly directed towards protecting individuals who are deemed incompetent in our community, it runs the very fine line of limiting or denying the rights of some individuals.

Hon KAY HALLAHAN: In response to the member's concerns, the Bill is really about safeguarding the rights of individuals and that is the premise on which the Bill has been drafted. Paragraphs (a) to (c) of clause 57(1) clearly outline the procedures that must take place before a person can take part in a sterilisation. Paragraph (b) is interesting because it states that all rights of appeal must have lapsed or been exhausted. Despite the inordinate care in the representation of a person's wishes the rights of appeal have to be exhausted before the sterilisation procedure can be carried out. Although none of us has the wisdom of Solomon, perhaps collectively and within the collective minds of those who drafted the Bill we are as close as we can get to resolving a difficult matter.

Clause put and passed.

Clauses 58 to 124 put and passed.

Schedules 1 to 5 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 Kay Hallahan (Minister for Planning), and passed.

FINANCIAL ADMINISTRATION AND AUDIT AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [4.56 pm]: I move -

That the Bill be now read a second time.

Within the overall framework outlined in the 1986 White Paper "Managing Change in the Public Sector", the Government has made wide-ranging structural adjustments to the public sector. Initiatives have included the introduction of corporate planning throughout the public sector and the planned implementation of program management from 1 July 1990 across Consolidated Revenue Fund Budget dependent agencies.

A major initiative, the Financial Administration and Audit Act, which came into operation in July 1986, made substantial improvements to the law relating to financial management, annual reporting within the State public sector and the role of the Auditor General with respect to the audit of departments, statutory authorities and the Treasurer's accounts. This legislation brought Western Australia to the forefront of public sector administration. A significant aspect of the FAA Act is the strengthening of the accountability of departments, statutory authorities and the central accounts of Government. This embodies the basic principle of accountability; that those who exercise authority should account for the manner in which they have fulfilled the responsibilities entrusted to them.

Departments and statutory authorities are required to prepare, for their Ministers and for Parliament, comprehensive annual reports on their agencies' activities. Responsibilities under the FAA Act, and the scope of annual reports, go far beyond traditional measures of compliance and control. They focus on efficiency, effectiveness and performance against objectives. The Government was pleased to note that the Burt Commission on Accountability expressed satisfaction with the accountability provisions of the FAA Act.

To ensure that the Act continues to adequately provide for modern accounting, financial management and audit practices, and to address the requirement for reporting on subsidiary and related bodies, Treasury initiated a review of the legislation in July 1988. To provide a thorough review, Treasury sought comments from a cross section of Government agencies,

and consulted the Public Service Commission and the Office of the Auditor General on matters which impacted on their central agency roles. Consistent with the Government's undertaking to implement the recommendations of the Burt Commission on Accountability, the scope of the review was broadened in January 1989 to consider the commission's recommendations that the FAA Act be amended to include subsidiary and related bodies; limit the powers of subsidiaries; prohibit secrecy provisions; and provide for ministerial directions.

The Acts Amendment (Accountability) Act and the Treasurer's Instructions issued in July 1989 enacted the commission's recommendations relating to the disclosure and reporting on subsidiaries. I should point out that the Government determined not to proceed with the commission's recommendation that the FAA Act be amended to limit the powers of subsidiaries on the basis of Crown Law advice that a statutory authority which establishes a subsidiary for purposes other than those of the statutory authority would be in breach of its powers.

The Government has adopted the policy that subsidiaries of Government agencies are not to be used to extend the mandate given to the agency by the Parliament. This has been reaffirmed through the issue of Premier's Circular to Ministers No 19/89.

The purposes of the Bill are to -

1. give effect to the Burt commission's recommendations in respect of secrecy - that is, contractual confidentiality - and reporting on related bodies;
2. provide for global appropriations;
3. establish criteria for final reporting by departments which have been abolished;
4. adjust the time frame imposed in respect of the preparation, audit and tabling of annual reports;
5. streamline and devolve certain practices;
6. revise definitions, terminology and schedules to the Act; and
7. make consequential amendments in respect of annual reporting to the Acts referred to in the long title of the Bill, except for the Financial Agreement Act 1928, which is amended by the repeal of a redundant section.

It is not my intention to comment upon every amendment. In recognition of the importance of the Bill, an explanatory memorandum has been prepared. I commend the memorandum to members as a helpful guide to the intent of the amendments to the Act, and as a ready clause by clause explanation of the provisions of the Bill.

I turn to the Burt commission's recommendations insofar as they apply to the FAA Act.

During debate on the Acts Amendment (Accountability) Bill, the Government gave an undertaking that the remaining recommendations relating to related bodies, "secrecy" or contractual confidentiality and ministerial directions would be addressed in Treasury's review of the Act.

The essence of accountability was encapsulated by the 1989 Canadian Royal Commission on Financial Management and Accountability, the Lambert commission, as -

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

A key element of accountability is that responsibility must be linked to control. This philosophy has been adopted in the Act. In order to fully discharge accountability to Parliament, the annual reports of departments and statutory authorities need to encompass the total extent of activities undertaken.

The Bill, through definitions of related bodies and a further identified category of affiliated bodies, imposes an obligation on accountable officers and authorities to report on these bodies in accordance with appropriate Treasurer's Instructions. A related body is one which is both financially dependent on a department or statutory authority and subject to operational control by that department or statutory authority. To account for these responsibilities both financial and operational information concerning the body's activities

should be incorporated in the annual report of the responsible department or statutory authority. An affiliated body is one which is financially dependent upon a department or statutory authority, but is not subject to operational control by that department or statutory authority. This means that accountability extends only to the provision of funding and resourcing, as due to the exclusion of operational control there can be no accountability for operations. In order to establish the relationship between related and affiliated bodies of a department or a statutory authority, it has been necessary to define "financially dependent" and "operational control" in the Bill.

On the issue of secrecy, the Bill proposes, through section 58C, to give effect to the commission's recommendation that no department or statutory authority enter into any contractual or other obligation which would prevent the Minister from providing to Parliament information on any conduct or operations of the department or statutory authority. This provision will apply to all agencies which are subject to the FAA Act and can be departed from only where Parliament passes specific legislation disallowing its application.

I draw to members' attention that the commission's recommendation on ministerial directions has not been taken up in the Bill. In addressing this issue, Treasury reviewed some 900 Statutes and this revealed a multiplicity of references to a Minister. These references vary from an implied ministerial power to direct ministerial power, provided in terminology such as "subject to the Minister", through to explicit authority to exercise wide ranging administrative powers and functions. In many cases these variations are attributable to changes in drafting style over time, while in others the intention was clearly to provide the Minister with specific powers. In addition, the Standing Committee on Government Agencies recommended in its fifth report, issued in March 1985, that certain bodies established by Statute, such as quasi-judicial and trade and regulatory bodies, should not be subject to ministerial direction.

In view of these considerations and in accordance with Crown Law advice that the commission's recommendations on ministerial directions can be implemented effectively only by directly amending each Statute, this issue has not been incorporated in the Bill. Suitable standard provisions empowering Ministers to give directions through enabling legislation have been developed by Crown Law. However, as their adoption will require a case by case assessment, and having regard to the number of Statutes involved, Treasury has stated that it would not be cost effective to implement the commission's recommendation through an Acts amendment Act. Accordingly, the Government has decided the standard provisions will be introduced progressively into all new or amending legislation, except where Cabinet approves otherwise. Consistent with its commitment to accountability, and to complement the provisions precluding secrecy, the Government has adopted a similar policy with regard to an implied recommendation of the commission in relation to ministerial access to records. Where appropriate, standard provisions will be progressively included in individual Statutes which will clearly specify the Minister's right of access to information for parliamentary purposes or for the proper conduct of the Minister's public business.

Turning from the Burt commission to other matters, the Bill introduces appropriate new powers to improve the application of the Act generally and to ensure proper accountability over certain financial management practices. Consistent with the Government's commitment to remain at the forefront of public sector administration, the Bill breaks new ground in fiscal control by introducing the mechanism for "global" or central appropriations. Under this arrangement the Treasurer will be empowered to approve the transfer of a central appropriation, or parts of that appropriation, to other appropriation items within the Estimates of Expenditure.

Such transfers will be limited to the purpose of actual or estimated expenditure that accords with the purpose of both the central appropriation and the item to which the transfer is made. This initiative will give managers the flexibility of managing with "one line" appropriations, and will at the same time improve financial control by ensuring that central appropriations for purposes such as salary and wage increases will be released to agencies only on a demonstrated needs basis. The amendment provides for the subsequent expenditure to be reported by agencies, against their respective programs.

The Bill also addresses an anomaly which presently exists with reporting on departments which have been abolished. The accountable officer position lapses with the abolition of the

department, and in many instances the functions are reallocated to other agencies. The proposed section 65A will enable the Treasurer to appoint a person to prepare a final report on the operations of a department, up to and including the date of abolition.

The Government has instituted a number of initiatives to minimise matters of an administrative nature being referred to the Governor in Executive Council. Proposed section 58(B) will enable the Treasurer to approve "act of grace" payments up to an amount prescribed by regulation, with only matters in excess of that amount requiring the approval of the Governor.

The proposed amendment to section 36(2) will enable the Treasurer to approve the opening of bank accounts by departments where the terms of a bequest or grant specify that the moneys be held at a nominated bank. Advice on this matter from Crown Law is that a fiduciary responsibility rests with the State to comply. Such bank accounts will require the preparation and approval of a trust statement governing their operation.

The Bill contains a number of significant changes to the manner in which proceeds from investment of the Public Bank Account will be treated. Successive Governments have used the flexibility afforded by the Act to hold investment proceeds in suspense accounts pending allocation and payment. However, while the Auditor General made no comment as to the desirability of this practice, he recommended in volume 1 of his report for 1990 that, "The Treasurer amend the current accounting treatment and practice respecting interest earnings of the Public Bank Account to reflect the principles of accountability."

The Government recognises the need for accountability and disclosure in this regard, and in the Bill provides specific authority through section 9 of the Act to create a separate suspense account, specifically to hold the proceeds of investments pending their allocation and payment. The operations of this suspense account will be governed by a trust statement and will be separately published in the Treasury Department's annual report.

In addition, the amendments to sections 39 and 41 will limit the final distribution of interest earnings to either the Consolidated Revenue Fund, the General Loan and Capital Works Fund or the trust account from which the investment was sourced. This will ensure that all interest earnings, other than those paid to source trust funds, are ultimately subject to appropriation by the Parliament.

The Bill also makes a necessary change to the power to make regulations. Crown Law advice on Treasurer's Instruction 409, which prescribes the treatment of proceeds from the sale of public property, indicated that the instruction addresses issues of principle which should be promulgated by regulation. The proposed amendment to section 96 will provide power for regulations to specify that proceeds from the sale of property purchased from the General Loan and Capital Works Fund or borrowings are to be credited to the General Loan and Capital Works Fund or applied against outstanding loan liability, rather than against the Consolidated Revenue Fund.

Turning now to reporting, members will be aware that an inherent feature of accountability is the requirement for reporting to be effected within a time frame which can accommodate the varying needs of the reporting agencies, the Auditor General, Parliament, and other report users. Consistent with this objective, the Act imposes time frames on accountable officers and accountable authorities to present information to the Auditor General for audit, and for the Auditor General to issue his audit opinion on such information. The Bill proposes to adjust these time frames to provide consistency and clarity in their application.

Section 61 of the Act requires the Treasurer to advise Parliament of any inability to table the Treasurer's Annual Statements and the Auditor General's opinion by 31 October. As a consequence of the proposed amendment to section 93, which will allow the Auditor General up to 31 October to issue an opinion on the statements, the tabling date in section 61 is to be amended to 21 November to afford the Treasurer the 21 day tabling period allowed by section 60(3). The Bill also amends section 65 to enable Ministers to grant accountable officers an extension beyond 31 August for the presentation to the Auditor General of financial statements and performance indicators, consistent with the arrangements which apply to accountable authorities.

In volume 1 of his report for 1990, the Auditor General reported that he had experienced difficulties with the planning and execution of his program as a consequence of the present

requirement to issue an opinion on the financial statements and performance indicators within two months of his receipt of that information. The Auditor General recommended that the time frames for the issue of his opinion be amended to provide a period of two months from the latest dates by which departments and statutory authorities are required to present such information for audit or, where an extension of time has been granted by a Minister, two months from the date of receipt by the Auditor General of the information.

The Government has made the changes requested by the Auditor General to ensure that his audit program is not unreasonably impacted by variations in the timing of information submitted for audit. Accordingly, section 93 will be amended to implement the Auditor General's recommendations, with one exception - the time frame of 31 August for the submission of the Treasurer's Annual Statements to the Auditor General. The Government accepts the discipline imposed by the Act in this regard and considers there is no need to extend the time frame applicable to the Auditor General.

A number of amendments provide added clarity and consistency to reflect the original intent. For example, the write-off provisions of the FAA Act were intended to apply only to departments. Statutory authorities were to have continued with the practices that were in place prior to the FAA Act coming into effect. The original definition of public property inadvertently draws statutory authorities within these provisions, and the amendment to the definition is intended to reinstate that original intention.

However, it was noted that a number of statutory authorities do not have the power to write-off through their own enabling legislation. The Bill contains a provision which will empower those accountable authorities and their Ministers to write-off. Amounts which may be written off by an accountable authority under the FAA Act will be subject to limits prescribed by regulation, with the Minister being able to write-off any losses referred by the statutory authority. The removal of the words "other property" from section 45 recognises that write-off is not appropriate where ownership does not rest with a department or statutory authority, and that accountability is to the owner for any loss incurred. To ensure adequate disclosure of losses of other property, suitable reporting requirements will be applied through the Treasurer's Instructions.

A further feature of the Bill is the streamlining and devolution of certain practices.

The requirement that the Treasurer receive copies of approved estimates of all statutory authorities has been removed from section 42, as not all statutory authorities receive funding from the Consolidated Revenue Fund or the General Loan and Capital Works Fund. This amendment is balanced by the introduction of section 58A, which will enable the Treasurer to require both departments and statutory authorities to provide information for the purposes of the Act.

In respect of trust statements, the Government has amended section 10(1) of the Act to remove any doubt as to the requirement that the Treasurer approve each trust statement. At the same time, to reflect that the Act should only address matters of principle, the provisions of section 10(2), which prescribe the contents of trust statements, are being devolved to the Treasurer's Instructions. Members should note that Treasury often requires agencies to prepare trust statements in greater detail than that provided by the Act and this change will not in any way reduce the present control over trust accounts.

Finally, the Bill provides a tidying up exercise by revising certain definitions and terminology and by introducing consequential amendments to schedules to the Act and to various Statutes.

In summary, this Bill is further evidence of the Government's commitment to ensuring that the key requirements for accountability and financial control remain fully effective and relevant to the environment of today. This Act is the first major revision of the parent Act, which came into operation in July 1986. The amendments are based on a very thorough analysis by Treasury of experience over almost four years of operation and also give effect to the Government's commitment, when it introduced the accountability legislation last year, to further implement the recommendations of the Burt commission.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Max Evans.

BUILDERS' REGISTRATION AMENDMENT BILL

Second Reading

Order of the Day read for the resumption of debate from an earlier stage of the sitting.

Debate adjourned, on motion by Hon Doug Wenn.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [5.16 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Merino Rams - Federal Export Decision

HON J.N. CALDWELL (Agricultural) [5.17 pm]: The House should not adjourn until I have brought to its attention the important subject of Australian export merino sheep. In today's *Daily News* it states that the Federal Government has seen fit, to the dismay of the majority of people, to increase the number of rams to be exported. The article states -

> Angry woolgrowers have been shocked by the Federal Government decision to increase the number of top merino stud rams sold to overseas breeders when 3.2 million bales of unsold wool are stockpiled around Australia.

That stockpile, of course, is growing daily and at the moment there appears to be no end to it. If one multiplies 3.2 million bales by approximately $1 000 a bale one understands the enormous amount of money tied up with the Australian Wool Corporation. The article continues -

> "It's absolutely crazy to weaken Australia's biggest rural export earning industry by allowing overseas competitors to increase their flocks and improve the quality of their wool by breeding from Australia's top merino rams," said Queensland Sheep and Wool Council President, Bryan Parkinson today.
>
> Under the Federal Government's latest livestock export orders, this year's allocation of merino stud rams for overseas buyers has risen to 900, 100 more than last year's quota.

That 900 rams does not seem an enormous number, but when one considers that one ram, if used correctly in an artificial breeding program and kept in good condition, can produce half a million lambs, one can see that 900 exported rams have the potential to increase the world's sheep population by 450 million. That is an enormous amount. Not only that, the genetic gain could be quite tremendous. The article continues -

> The decision has caused a deep rift in Australia's $4 billion-a-year wool industry with most stud merino breeders supporting the Federal decision.

I do not believe it has caused a deep rift among the breeders of merino sheep. Only a small percentage of woolgrowers and sheep breeders favour the export of merino rams. I have conducted a survey of the stud merino breeders who are exporting merino rams, and I found that the majority of them are not in favour of exporting merino rams. In fact, in New South Wales it was apparent that 75 to 78 per cent of stud merino breeders were not in favour, and in Western Australia 65 per cent were not in favour, although that figure was not high enough to enable one to say that it constitutes a majority. We must consider also the flock breeders. Thousands of farmers and graziers are breeding sheep and are attempting to sell their wool at this time. The majority of them are against our exporting merino rams, and also the semen that the Federal Government allows to be sent overseas. The article continues -

> The Australian Association of Stud Merino Breeders said two detailed studies had not revealed any harm to the Australian wool industry from exports.

Those studies were carried out when Australia's wool industry was on an enormous high. At that time the Australian Wool Corporation was over $1 billion in credit and there was no problem in selling our wool overseas. The whole industry was a hive of activity. However, the economy of the world has now turned around and we must reconsider this situation. The article continues -

> The biggest buyers of Australian merino rams last year were the Soviet Union, which took 352, and China with 240.

Not only did they take away these merino rams to help their own industry but also they deprived our flock and stud breeders of the opportunity of purchasing those rams because undoubtedly they were able to outbid our breeders at most of the sales. That also annoys the flock breeders of Australia.

We must all ask ourselves whether Australia's export of high quality merino rams has exacerbated the enormous difficulties which woolgrowers now find themselves in. I believe there is a definite possibility that it has, and the export of merino rams and genetic material should cease because of today's disastrous economic climate.

Adjournment Debate - Child Sex Abuse

HON REG DAVIES (North Metropolitan) [5.25 pm]: Members should be aware that this week is Child Protection Week, and in this week, which focuses attention on the right of children to be afforded protection, it is appropriate that the legislators of this State consider crimes of sexual acts against children. Child sexual abuse must rank as the most abhorrent felony for which a member of the human species can be indicted. These acts are criminal acts against children, whose evidence in a courtroom is most often discounted or, more often, whose cases do not even get as far as a courtroom. However, the evidence is there and it is generally perfectly clear to the doctors and to the various care workers.

Child sexual abuse is not an unpalatable by-product of progress, nor is it any contemporary issue. It has probably been going on over the ages. In fact, a 70 year old lady rang the police phone-in operation yesterday to say she was sexually abused as a four year old, and that is still playing on her mind today. The incest taboo may have succeeded in curbing widespread molestation, but nonetheless we are constantly confronted with stories from victims which elicit utter disgust - such bitterness and resentment that even the perpetrators themselves must at times sicken at their own actions.

Child sexual abuse is an issue that until recently has been a taboo subject, a subject that is so odious that the community has generally tended to bury its head and has failed to recognise that this crime - and that is what it is - pervades our society. It is impossible to assess the extent of this sort of activity. Police officers tell me that the number of reported cases has increased some 200 to 300 per cent over the last few years. This does not necessarily mean that the incidence of this activity is on the increase. Rather, it suggests that those who are involved - generally the victims - feel they are now able to come forward and receive help. My impression, after investigation, is that there are programs for offenders but precious little help for the victims.

Today, on the steps of our Parliament, members of the People Against Child Sexual Abuse, led by Mrs Jane Bennett, handed over the last of the petitions which she and her small band of dedicated lobbyists have collected. One of the collectors of signatures, whom we have come to know as Peter from Armadale, has systematically gone around factories and shopping centres to seek support for this campaign, and the petition has been very successful indeed. Today I presented the Parliament with 79 000 signatures. Over the past eight to nine months 108 000 signatures have been presented calling for more appropriate legislation in respect of child sexual abuse cases.

The Government's child sexual abuse unit, which is located in Subiaco, has been responsible for implementing a few of the recommendations of the fairly comprehensive child sexual abuse task force report, but we need to appreciate that the treatment of offenders and victims is not a simple matter. Treatment programs have been thoroughly researched and even agonised over. I have no doubt that the well meaning policies are the best that are currently available to deal with offenders and victims - but mostly offenders, and at low budget level.

The magnitude of this petition suggests that the public is dissatisfied with current strategies aimed at rectifying a malaise which permeates every social stratum of our society. This multitude of signatures is a clear indication to the legislators of this State of a call for a change in direction from a society which now not just acknowledges the existence of this hideous crime but also indicates a new willingness and recognition of the need to increase or to establish the sort of technology which might achieve positive change.

The counselling, the support systems, and probably most importantly the funding, all have to be improved, and quickly. There are programs up and running which seek to provide help to offenders, and we all hope that they will achieve some degree of success, but what the People

Against Sexual Abuse in Western Australia ask is that the victims of child sexual abuse are given ongoing help. This means that funds must be available to employ staff trained in helping people to get over the trauma of their dysfunctional childhood. They want to know that children will be protected against abuse and against recidivist child sexual abusers. This means that the crime must be put in perspective. Children should not be sexually abused. This is a clear statement which I challenge anyone to contest.

This Western Australian petition is a forerunner of a national petition which will be launched by my colleague, Paul Filing, the Federal member for Moore, who will ultimately present the petition in Federal Parliament. The aim is to get a petition with one million signatures on it. There are more than 108 000 Western Australians asking legislators in Western Australia to consider as a priority and to take seriously the need to confront this previously taboo subject and treat child sexual abuse as an important issue - as a crime - to consider our children first, and to meet this challenge head on.

Question put and passed.

House adjourned at 5.32 pm

QUESTIONS ON NOTICE

TOW TRUCKS - SELF-REGULATING BODY
Western Australian Owner Drivers Association - Tow Truck Division Discussions

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

(1) Has the Minister met with representatives of the Western Australian Owners Drivers Association Inc - Tow Truck Division to discuss the establishment of a self regulating body whose objectives will be to maintain an acceptable code of conduct within the tow truck industry?

(2) If so, can the Minister advise of the present situation in respect to the establishment of such a body?

(3) What action has been taken to date to facilitate the establishment of this body?

(4) Does the Government favour the issue of a Certificate of Competency in respect of tow truck operators?

(5) If not, why not?

(6) Will the Minister meet with representatives of the Western Australian Owner Drivers Association Inc - Tow Truck Division to further discuss their earlier proposals?

Hon J.M. BERINSON replied:

The Minister for Productivity and Labour Relations has provided the following reply -

(1) Yes.

(2)-(3)

The Minister for Police is reviewing issues associated with the tow truck industry.

(4)-(5)

Certificates of competency are required only for the operators of tow trucks which come under the definition of "crane" in the Occupational Health, Safety and Welfare Regulations; that is, tow trucks having a load capacity not less than 6 125 kg a crane with a safe working load of not less than 5 080 kg. Most tow trucks are not defined as cranes.

There are no accidents associated with the winching mechanism of the tow truck to justify extension of the certificate of competency requirements.

(6) Yes, if approached.

ROADS - GREAT NORTHERN HIGHWAY
North West Coastal Highway - Maintenance Cost

590. Hon N.F. MOORE to the Minister for Police representing the Minister for Transport:

What has been the cost in each of the financial years 1985-86, 1986-87, 1987-88, 1988-89 and 1989-90 of maintaining -

(a) the Great Northern Highway; and

(b) the North West Coastal Highway?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

The information requested is not readily available. I will supply the details in writing as soon as possible.

STATESHIPS - "JASA COCOS" BARGE
Purchase - Minister's Written Consent

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

(1) Was the written consent of the Minister obtained, as required by the Act, for the purchase of the barge *Jasa Cocos*?

(2) If the answer is yes, on what date?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1)-(2)

Yes, by virtue of Cabinet approval in September 1987 to operate services to South East Asia including Cocos Island and subsequent approval of capital expenditure program.

STATESHIPS - MEDITERRANEAN SHIPPING COMPANY
Slot Chartering Arrangement - Foreign Flag Tonnage Melbourne-Fremantle

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

Does Stateships have a slot chartering arrangement with the Mediterranean Shipping Company which allows Stateships to use foreign flag tonnage between Melbourne/Fremantle or other Eastern States destinations thus overcoming the current cabotage restrictions?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

The use of foreign flag ships in coastal trades is permitted only with the approval of the Commonwealth Department of Transport under single voyage or continuous voyage permits properly issued under the relevant legislation. Stateships has been issued with such single voyage permits from time to time for Mediterranean Shipping Company vessels and for vessels of other shipping lines for moving cargo from Melbourne to Fremantle.

STATESHIPS - MV "ROBERTA JULL"
Delivery Delay

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

(1) Has there been a delay in the delivery of the MV *Roberta Jull*?

(2) If the answer is yes -

(a) when was the vessel due to be delivered; and

(b) when will the vessel be delivered?

(3) Has Stateships chartered another vessel in place of the MV *Roberta Jull*?

(4) If the answer is yes -

(a) what is the name of the chartered vessel;

(b) for what period is the charter; and

(c) what daily rate applies to the charter?

(5) Which broker negotiated the charter of the replacement vessel and what rate and amount of brokerage was paid?

(6) Which other brokers were approached by Stateships to provide a vessel?

(7) If no other brokers were approached, why not?

(8) Have specific cargoes been fixed for this vessel, and if so, what is the estimated profit or loss on the venture?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1) Yes.

(2) (a) The production schedule delivery date on execution of contracts was 2 April 1990. Extensions of time to which the builder is entitled have varied the contractual delivery date to 16 August 1990.

(b) The vessel is expected to be delivered on or about 27 August 1990.

(3)-(4) MV *C.Y. O'Connor* has been temporarily deployed in the east west trade to substitute for MV *Roberta Jull*. MV *Ocean Credit* has been chartered for two voyages (approximately 30 days each) to substitute for MV *C.Y. O'Connor* in the South East Asia trade. The charter rate is $US3 750 per day.

(5) South West Chartering in conjunction with Scottish Ship Management Brokerage rate 3.75 per cent total. The final amount will be determined upon completion of contract.

(6) None.

(7) It is not sound commercial practice to approach the market through more than one broker, as this creates a suggestion that there is more than one inquiry with inevitable increase in the rates by shipowners.

(8) The *Ocean Credit* is servicing the cargoes which would otherwise be carried by *C.Y. O'Connor* and is expected to achieve budgeted financial result for that vessel.

STATESHIPS - SOUTH WEST CHARTERING CO
Relationship

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

(1) What is the relationship between South West Chartering Co and Stateships?

(2) What amount of rent is being paid by South West Chartering Co to Stateships for the space occupied by South West Chartering Co at Stateships premises at north wharf?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1) South West Chartering is a tenant in Stateships office at North Quay, Fremantle.

(2). $5 880 per annum.

"IRENE GREENWOOD" - POST CHARTER HIRE REBATE

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

(1) What was the rebate amount in relation to post charter hire for the *Irene Greenwood*?

(2) Was any fee paid on behalf of Stateships or any other organisation to South West Chartering Co as a brokerage or other fee?

(3) If so, will the Minister provide details?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1)-(2)

The member is referred to answers given to Legislative Council questions no 44 and no 54. I am advised that there have been no other payments on behalf of Stateships or any other organisation.

(3) Not applicable.

"IRENE GREENWOOD" - SALE
Macholl and Specht Brokers, Hamburg

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

I refer to the Minister's answer to question on notice 273 of 30 May, 1990 in which the Minister advised in part that Southwest Charter sold the *Irene Greenwood* on behalf of the owner Partenreederei Stephan Reeckmann.

(1) Is the Minister aware that informed shipbrokers claim that the vessel was sold by Laeisz and Co's regular brokers Macholl and Specht of Hamburg?

(2) Why did the Minister claim the vessel was sold by Partenreederei Stephan Reeckmann?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1) No.

(2) I am advised by the Western Australian Coastal Shipping Commission that Partenreederei Stephan Reeckmann was the partnership reflecting the ownership of the vessel at the time of sale.

PORTS AND HARBOURS - HILLARYS BOAT HARBOUR
Boat Pen Construction - Marine and Harbours Department Revenue

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

(1) How many boat pens have been constructed, to date, at the Hillarys Boat Harbour?

(2) What is the estimated cost of the construction of these pens?

(3) What was the annual revenue received by the Department of Marine and Harbours for the financial years ended 30 June 1988 to 30 June 1990?

(4) How many boat pens are currently leased at Hillarys Boat Harbour?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1) 381 pens have been constructed by the Department of Marine and Harbours.

(2) $1 980 265.

(3) 1988-89 - $572 412
1989-90 - $614 930

(4) The leasing of boat pens tends to be seasonal and varies throughout the year. The peak number of pens leased for 1989-90 was 313. The current number of pens under lease is 203.

PORTS AND HARBOURS - HILLARYS BOAT HARBOUR
Handicapped Persons Fishing Ramp Extension

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

(1) Is the Minister aware that the fishing platform erected for the use of the disabled in the north western part of the Hillarys Boat Harbour needs to be

extended to enable disabled persons fishing from the platform to more easily land their catch and not lose fish as they are currently dragged across the rocks?

(2) Did the former Minister for Transport request that the Department of Marine and Harbours extend this ramp?

(3) If so, why has the extension not occurred as yet?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1)-(2)

Yes.

(3) The priority for the extension of the platform is currently being considered against other important Marine and Harbour projects in the Budget process.

PORTS AND HARBOURS - HILLARYS BOAT HARBOUR
Breakwater Storm Damage Repairs Cost

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

What was the cost of repairing storm damage to the various breakwaters at the Hillarys Boat Harbour in the financial years ending 30 June 1988, 1989 and 1990?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

30 June 1988	-	$3 242
30 June 1989	-	$95 203
30 June 1990	-	$2 854

WESTERN AUSTRALIAN MARINE AMENDMENT ACT 1987 - PROCLAMATION

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

(1) Has the Western Australian Marine Amendment Act 1987 been proclaimed?

(2) If not, why not?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1) No.

(2) Due to the mobility of commercial vessels between differing State jurisdictions, the Department of Marine and Harbours is still involved in consultations for the preparation of suitable regulations relating to construction and fitment of equipment on commercial vessels.

ACTS AMENDMENT (EVENTS ON ROADS) ACT 1988 - PROCLAMATION

615. Hon GEORGE CASH to the Minister for Police:

(1) Has the Acts Amendment (Events on Roads) Act 1988 been proclaimed?

(2) If not, why not?

Hon GRAHAM EDWARDS replied:

(1) No.

(2) Subsidiary legislation by way of regulations and the compilation of appropriate administrative forms has necessitated frequent interaction between those instrumentalities affected by this legislation. It is envisaged for this legislation to be proclaimed before the end of this year.

FISHERIES AMENDMENT ACT 1986 - SECTIONS 4 AND 6, PROCLAMATION

616. Hon GEORGE CASH to the Minister for Police representing the Minister for Fisheries:

(1) Have sections 4 and 6 of the Fisheries Amendment Act 1986 been proclaimed?

(2) If not, why not?

Hon GRAHAM EDWARDS replied:

The Minister for Fisheries has provided the following reply -

(1) No.

(2) By-laws for management of the Abrolhos Islands are still being finalised.

FERRIES - LANDING FEES
Jetties Amendment Regulation 70A - Rottnest Island Passenger Statistics

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

(1) What were the total receipts from landing fees (regulation 70A, Jetties Amendment Regulations) in the period 1 July 1989 to 30 June 1990?

(2) What is the total number of passengers which this amount represents?

(3) What were the total annual numbers of passengers carried on Rottnest Island ferries in each of the financial years -

(a) 1986-87;

(b) 1987-88; and

(c) 1988-89?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1) Total fees payable amounted to $47 393. Of this amount $85 has been received. The outstanding amount will be received shortly.

(2) 236 965 passengers.

(3)

1986	-	184 991 passengers
1987	-	296 846 passengers
1988	-	298 561 passengers
1.7.88 to 30.6.89	-	285 040 passengers

Until 1988 the figures for passengers are available only on a calendar year basis.

CLARKE, COUNCILLOR STEWART - CANNING RIVER REGIONAL PARK INTERIM MANAGEMENT COMMITTEE MEMBER

632. Hon GEORGE CASH to the Minister for Planning:

Is Councillor Stewart Clarke, Mayor, City of Canning, a member of the Canning River Regional Park Interim Management Committee?

Hon KAY HALLAHAN replied:

Yes.

ROADS - MARBLE BAR-WOODSTOCK ROAD
Expenditure - Upgrading

635. Hon N.F. MOORE to the Minister for Police representing the Minister for Transport:

(1) How much money was expended on the Marble Bar-Woodstock road in each of the last five financial years?

(2) Does the Government have any proposals to upgrade this road?

(3) If so, what are the proposals?

(4) If not, why not?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1) The following funds were expended on Marble Bar-Woodstock Road in each of the last five financial years from the Australian bicentennial road development program and matching State Government grants -

1985-86	$191 750
1986-87	$198 000
1987-88	$132 071
1988-89	$118 649
1989-90	Nil

(2) No.

(3) Not applicable.

(4) The road is the responsibility of the Shire of East Pilbara. I understand the shire had other higher priorities for road funding.

TOURISM - $1.1 MILLION ALLOCATION
State Tourism Regions

644. Hon MARGARET McALEER to the Minister for Police representing the Minister for Tourism:

With reference to the $1.1 million to be distributed among the State's 10 tourism regions -

(1) Will the Minister give details of the allocation of the funds?

(2) Are specific amounts to be allocated to the tourist bureau and information centres within the regions and under what formula?

Hon GRAHAM EDWARDS replied:

The Minister for Tourism has provided the following reply -

(1) Recognised marketing organisations, which are primarily the regional travel associations, will receive approximately $250 000. The tourist bureaux and information centres which are responsible for information dissemination and providing booking services will receive approximately $750 000. Distribution will be very much dependent on final budget allocation; however, it is expected to be similar to last year.

(2) Specific amounts have been determined under established formulae determined by the Country Tourism Review Board as follows -

Marketing organisations are eligible for a base grant up to a maximum of $14 500 plus up to an additional $14 000 on a $1 for $1 basis.

Tourist centres are eligible for a base grant, dependent on category, of up to a maximum of $6 000 plus a further $7 000 on a $1 for $1 basis.

TRAFFIC ACCIDENT - BROWNELL CRESCENT-HOYLE ROAD INTERSECTION, MEDINA

651. Hon GEORGE CASH to the Minister for Police:

(1) Did a traffic accident occur at approximately 10.45 pm on Friday, 10 August 1990 at the intersection of Brownell Crescent and Hoyle Road, Medina?

(2) Did the Perth accident section receive a call advising of this accident?

(3) If so, what action was taken?

(4) If not, how were the police advised of the accident?

(5) Were any injuries suffered as a result of the accident?

Hon GRAHAM EDWARDS replied:

(1) Yes.

(2) Yes - from St John Ambulance.

(3) Rockingham Traffic Office notified and attended - inquiries continuing.

(4) Not applicable.

(5) Yes - driver suffered minor head injuries and lacerations (not life threatening).

QUESTIONS WITHOUT NOTICE

AIRPORTS - JANDAKOT AIRPORT
Fire Fighting Units Withdrawal

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

(1) Does the Minister support the withdrawal of fire fighting units from Jandakot Airport?

(2) If so, is the Minister confident that metropolitan Fire Brigade units are competent and sufficiently resourced to enable them to deal effectively with an aircraft emergency at Jandakot Airport?

(3) If the Minister does not support the withdrawal of that equipment from Jandakot, will he join with the Opposition in making a bipartisan approach to the Federal Minister to have the fire fighting units retained?

Hon GRAHAM EDWARDS replied:

(1)-(3)

I am quite concerned about the withdrawal of the fire fighting units. We are considering the matter, and I am happy to consider the offer made by the Leader of the Opposition of a bipartisan approach.

TYRES - DUMPING, COUNTRY AREAS
Planning Department Role

485. Hon MARGARET McALEER to the Minister for Planning:

I refer to the increasing incidence and indiscriminate dumping of tyres in country areas within driving distance of the metropolitan area, and ask the Minister, in view of the fact that tyres have been dumped at Toodyay in an area which is zoned both rural and residential, whether she sees any role for her department in resolving what is becoming an increasingly dangerous situation?

Hon KAY HALLAHAN replied:

Issues of this nature would initially and most usefully be dealt with by the local council dealing with land use under its planning schemes. As the member has raised it, I will seek further advice. This matter has not come across my desk, so it may have been referred to someone else, or it may be in the hands of the local shire.

FORESTS - STATE FORESTS
Revocations

486. Hon P.G. PENDAL to the Minister for Planning representing the Minister for the Environment:

I gave some notice of this question yesterday. I refer to the proposed revocation of State forests Nos 1 and 45 and to the partial revocation of State forests Nos 4, 15, 30 and 41, and ask -

(1) For what purpose in each of the stated cases is revocation being carried out?

(2) Have local authorities in all affected areas been consulted and, if so, have any responded negatively to the proposals?

(3) Have any other community and/or commercial interests who have had or may have an interest in such revocations been consulted and, if so, with what response?

(4) In future will the Minister treat such revocations in the same administrative and parliamentary way that reserves Bills are handled; that is, by providing the Opposition with explanations about why land is to be redesignated, and about the attitudes of local people?

Hon KAY HALLAHAN replied:

Yesterday, when the member gave fairly late notice prior to question time, I sought advice and was advised that this question refers to a notice of motion given by the Minister for the Environment in another place. I understand the Minister will give a full explanation of the proposal when the motion is discussed in that place. I had not sought further information because I thought there might have been some informal discussions, and I had not checked with the member who asked the question about whether he still required that detailed information. Given that it is Thursday, I suggest that the question be placed on notice and we should then have a full explanation for him by next Tuesday.

FORESTS - STATE FORESTS
Revocations

487. Hon P.G. PENDAL to the Minister for Planning representing the Minister for the Environment:

I thank the Minister for that information, and ask her, by way of making my point, to ensure that my question is conveyed to the Minister so that I, as the Opposition spokesman on this matter, will know what the proposed revocation is intended to achieve, because I am being asked by other parties to provide an Opposition response in another place. Will the Minister immediately expedite the official response to enable the Opposition to properly examine it before the debate begins?

Hon KAY HALLAHAN replied:

Yes.

PRISONERS - MOBILE WORK CAMPS

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

(1) Has the Government given any consideration to the establishment of mobile work camps for prisoners in this State?

(2) If not, in view of the apparent success which this system is having in the Northern Territory, particularly in regard to the establishment and maintenance of walk trails, will the Minister give consideration to this system and report to the House on the value of such a system operating in Western Australia?

Hon J.M. BERINSON replied:

(1)-(2)

I have not given consideration to this concept, although I would expect my departmental officers to have some knowledge of it through their regular contacts with the administrations in other States. Members will be aware that in recent times especially there has been a significant effort to develop community based correctional services, and we will be adding to those very shortly with the provisions for home detention. Nonetheless it is important to keep any further prospects under review. I am happy to seek advice on this matter and subsequently advise the Leader of the Opposition.

MOTOR VEHICLES - THIRD TAIL-LIGHTS

489. Hon MARK NEVILL to the Minister for Police:

(1) Will the Minister investigate having the third brake-light on cars restricted to half the intensity of the other two brake-lights so that people's vision is not dazzled at night?

(2) Will the Minister indicate whether there is any intention to make those third brake-lights compulsory in Western Australia?

Hon GRAHAM EDWARDS replied:

(1)-(2)

The latter point has been discussed already as part of the attention to road safety matters by the Minister for Transport, the detail of which escapes me. I am a very strong supporter of the third tail-light which is raised higher than the other lights at the back of a vehicle. My understanding from the studies that have been done on this matter indicates that the third tail-light gives a driver following that vehicle a clearer and quicker indication that the driver of the vehicle in front is applying the brakes.

Hon Reg Davies: Are you talking about stop lights?

Hon GRAHAM EDWARDS: Hon Mark Nevill is talking about the lights that come on when the brake is applied. I understand that the extra light is successful and I will ascertain the current position in relation to its use.

The first matter, the intensity of the tail-lights, is not something I have noticed because I tend to drive at a safe distance behind the vehicle in front. I recommend that practice to Hon Mark Nevill. Seriously, I am not aware of its brightness being a problem, but I will give the matter some consideration and see whether any work is being done on it.

SEX - SAFE SEX PAMPHLET

State Advisory Committee on Publications - Distribution Restrictions Decision

490. Hon GEORGE CASH to the Minister for The Arts:

I refer the Minister to a recent decision by the State Advisory Committee on Publications, the members of which unanimously decided to recommend that the distribution of the pamphlet on safe sex be restricted. Can the Minister advise the House of the reasons for the decision by the committee?

Hon KAY HALLAHAN replied:

I understand that the basis of that decision was the explicit nature of some of the information in the pamphlet.