WESTERN AUSTRALIA

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LEGISLATIVE COUNCIL

Thursday, 22 October 1998

Legislative Council

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THE PRESIDENT (Hon George Cash) took the Chair at 11.00 am, and read prayers.

SPEED LIMIT TRIAL

Amendment to Motion

Resumed from 21 October on the following motion -

That -

(1) This House supports a trial to increase the speed limit to a maximum of 130 kilometres per hour on specific roads in remote areas of the State of Western Australia.

(2) The trial should be conducted over a 12-month period, be fully monitored by the Road Safety Council of Western Australia, and appropriate data to be compiled both prior to and during the trial.

To which the following amendment was moved -

(1) In part (1) of the motion, delete "130" and insert "120"; and

(2) Delete in paragraph (2) the words "and appropriate data to be compiled both prior to and during the trial." and substitute -

subject to the following conditions -

(i) the trial be carried out only on roads designated for the trial following consultation with Main Roads, the Road Safety Council, local government authorities, and other appropriate bodies;

(ii) the trial be carried out only during daylight hours;

(iii) the trial be limited to cars, including four wheel drives and utilities, and motorcycles, but does not include trucks or semi-trailers, omnibuses as defined in the Road Traffic Act, or any vehicle towing a trailer or caravan;

(iv) probationary drivers are not to be included in this trial;

(v) the trial to be fully monitored by Main Roads, and appropriate data to be compiled both prior to and during the trial, and this information to be supplied to the Road Safety Council; and

(vi) the trial be implemented as a trial conducted over a 12-month period to increase the speed limit to 120 kmh in line with the limitations placed by this motion.

HON RAY HALLIGAN (North Metropolitan) [11.04 am]: I shall make a small contribution to debate on this amendment to the motion. I agree with trials of this nature, which are particularly important in determining the speeds which should be travelled on particular roads under certain conditions. I have been driving now for 43 years, and I do not suggest that I have necessarily driven well during that period; nevertheless, I have always tried to drive to prevailing conditions. It is important to recognise that any speed limits placed on any roads are an upper limit. Unfortunately, a few people believe that they must travel at the maximum speed irrespective of conditions.

Over the 43 years in which I have tried to control a car, I have driven in a number of countries - Papua New Guinea, Nauru and Fiji - and most States of Australia. I have seen in Australia and overseas, in the South Pacific countries at least, considerable changes in road conditions. In the early days - I am not sure of the construction process used - roads tended to break up very easily after a little rain, and even more so when large vehicles had traversed them. We found that road surfaces and edgings changed. When only horses and buggies travelled along roads, and with the progression to some of our earlier vehicles, no doubt of English origins, the tracks were not very wide. Wide roads were not needed. Of course, nowadays, with modern vehicles and the larger articulated vehicles, wider roads are very much needed. The methodology used in the construction of roads and the cost cutting available through various technologies has probably also allowed the width of roads to be increased. We find that the edges of roads are much improved. In early days, roads would break away if one's wheels touched the edges, and one could find oneself in serious trouble in such circumstances. Road surfaces have progressed from simple tar and gravel to something termed hot mix. It has been recognised that although this surface is smooth and easy to ride upon, it can cause problems in wet weather. On some bends and slopes, grooves are placed in the surface to allow grip.

Vehicles have changed in size, shape and complexity and, fortunately, in many instances, incorporate improved safety features. I refer to not only vehicles, but also the tyres on which we ride. Nowadays many tyres are rated to particular speeds. Some of the more elementary tyres, even the cross-ply tyres, are now rated in excess of 100 kilometres per hour. The steel-belted radial tyres start with a rating of about 140 kmh. Nowadays vehicles and the componentry on those vehicles, including the tyres, should place drivers in a much safer position than they have ever been before.

Hon Tom Stephens: At the beginning of your comments you said you would take up a short time. Do you have any idea of how long that will be? Will you be filibustering in this process?

The PRESIDENT: Order! That is not a reasonable question. Members may speak for as long as they are entitled to.

Hon Tom Stephens: I hope that is not the members' intention. If it is, we will remember this situation when we get to government business.

The PRESIDENT: Order! I do not want to interrupt the debate but I must say to the Leader of the Opposition that his comments could almost be interpreted as a threat. If the Leader of the Opposition wants to discuss the management of the House, that is a matter for him to discuss with members of the House management committee. My job is to see that every member gets an opportunity to speak if they request it.

Hon Tom Stephens: Is the Leader of the House organising more speakers on this motion?

The PRESIDENT: Order! The Leader of the Opposition.

Hon Tom Stephens: She has a motion that should be dealt with.

The PRESIDENT: Order! The Leader of the Opposition will come to order. If he has something he wants to discuss with the Leader of the Government in this place, he should please go outside and discuss it, and not interrupt the House.

Hon RAY HALLIGAN: In some of the countries in which I have driven over the years, particularly those in the tropics, conditions change dramatically throughout the day. Invariably there is rain from four o'clock in the afternoon, although it can also rain in the morning. At other times during the day the conditions are somewhat dry. At all times, particularly with some of the road surfaces, one must be conscious of the conditions and also the driving habits of other people on the road. Other situations must also be taken into consideration by the driver, namely, the local fauna. I can recall a time when I was driving in New Ireland, which is part of Papua New Guinea, on a coronus road, which is crushed coral that has been compounded to make a very good surface. I was driving along that road in the rain at what I thought was a reasonable speed and, because the road was reasonably straight, the visibility was about 500 metres. In that area the kunai grass grows near the edge of the road to a height of five or six feet. While driving along that road in the rain, I saw something come out of the grass, cross the road and go into the grass on the other side. I thought it was a pig, and I knew I still had plenty of time to stop should other pigs follow it across the road. I found that this pig's kin were following behind and at regular intervals a second, third and fourth pig crossed the road. I did not feel the need to slacken speed at that stage because after a similar interval no other pigs came out. Unfortunately, the fifth pig must have been held up somewhere along the way, and it emerged after a longer interval.

Hon Tom Helm: These were walking pigs and not flying pigs?

Hon RAY HALLIGAN: It may well have been. It certainly did not go over my car, but went under it.

Hon Tom Helm: It sounds like flying pigs!

Hon RAY HALLIGAN: I assure Hon Tom Helm that it is a fact. Fortunately, it did not interrupt my driving habits and did not cause the car sufficient damage that I had to stop. Again, fortunately, the situation in that area was not as it is in some other areas where, if a pig is killed, the owners tend to be somewhat irate with the driver of the vehicle that caused the damage. It is particularly important to drive to the conditions, irrespective of the weather, the road width or the surface, but also one needs to take into consideration the surroundings and the other users of the road, whether they be pigs - flying or otherwise - or goats. One might suggest that some other drivers could also be included in those categories. All these things must be taken into consideration.

Bearing in mind how people might take that latter group into consideration when driving and the speed at which they might be driving, I hope that within the training of drivers at a very early stage they will be taught not just to control a vehicle but also how to drive it. People receive their licences because they demonstrate they can control the vehicle but not necessarily drive it on the roads. More emphasis should be placed on how to drive on the roads rather than how to control a vehicle. Day in and day out people, particularly in the metropolitan area, tend not to be conscious of what is going on around them. I am sure everyone will agree that safety is paramount when anyone uses the road system, but people do not appear to be doing a great deal about how they drive on the roads.

On that particular issue, driving in Nauru was quite an experience. It is a small island that has a sealed road. As it was close to the water, the authorities tried to make sure that maintenance costs were lowered by putting in steel electric light poles

instead of timber poles, because there was little timber on the island. The indigenous people, particularly the young ones, tended to buy motorbikes and, because there was little recreation for them on the island, they tried to create their own speed limits. They used to test one another to see how quickly they could get around the island. Unfortunately, some tended to find these steel poles and make a mess of not only their motorbikes but also themselves. A number of young people were killed on that island, which was a great pity but, again, they were not driving to the conditions. Also, because it was one of the wealthier islands in the South Pacific, as a result of its phosphate deposits, some people bought exotic sports cars. One person bought a Ferrari. I do not know what he intended to do with it on an island where the road was only 8 kilometres long. I am led to believe that this person never had the opportunity to test the car. Many people on Nauru suffer from obesity, and the story is that this person was unable to test it because he could not get through the door. He sold the car, for considerably less than he had paid for it, to someone who happened to be in the right place at the right time.

I agree with this trial. I also agree with the amendment, and the conditions proposed by the amendment. I am sure that given the condition of many roads up north and the safety features in modern vehicles, and provided that motorists drive according to the conditions, many drivers can travel with safety at the limit to be tested. I support the amendment.

HON TOM HELM (Mining and Pastoral) [11.21 am]: I do not want to take up much of the time of the House, but I am bit confused about where the Government is going on this matter. There appears to be some sort of consensus to go down this track, and I am glad that Larry Graham, the member for Pilbara, is at the back of the Chamber.

The PRESIDENT: Order! Hon Tom Helm knows that he cannot mention who is in the Chamber when they are outside the Bar of the House.

Hon TOM HELM: I have mentioned people who are in the Chamber before, but one lives and learns.

I have to mention his name anyway. I have driven with a lot of people and Larry Graham is one of only two people with whom I have driven who can drive safely at any speed and on any road in the north west, whether dirt or sealed. The other is John Mossenton, a union organiser for the Metals and Engineering Workers Union. They illustrate the top end of the scale of people who know how to drive safely at speed in the Pilbara.

I have been lobbied by both those people, because until recently I felt strongly that we should maintain the current speed limits because people are dying in traffic accidents, and the scientific evidence appeared to show that excess speed was killing them. However, I have driven in the Northern Territory, which has an open speed limit, and I now feel that we can safely increase speed limits and, by doing so, save lives. I believe that the conclusions drawn from the scientific evidence are flawed and more evidence needs to be gathered to allow those people to review their decisions. That is why the Labor Party will agree to a trial.

We need to make people more aware of the conditions that prevail. On some country roads in the south of the State, both dirt and sealed, we need to reduce the speed limit and those roads should be identified. The Labor Party has gone down the track of a speed limit trial for roads in the north west.

It is nice to see a proposal to change the status quo from Hon Greg Smith, who is viewed as a big C - meaning a conservative; it must be a revolutionary step for him. Then again I am reminded that his reason may have something to do with his run-in with the traffic police.

Hon Ken Travers: It was not an original thought on his behalf.

Hon TOM HELM: That is not the point; he should get some recognition for initiating this trial. I hope members opposite will not attempt to filibuster because they do not want to take a position. That is usually the case with the conservative side of politics. I hope members opposite will make a decision, and will not prolong the debate. We want to get on with the trial.

HON J.A. SCOTT (South Metropolitan) [11.25 am]: The Greens (WA) have mixed feelings about the motion. I do not support the speed trial as outlined. However, at least one of my colleagues feels we should give it a trial. I hate to spoil the boys' party here, but there are reasons that a trial might be reasonable - nowadays cars are safer and road conditions are mostly better. However, motorists travel more miles and there are many more cars on the road than previously. The incidence of crashes relates very much to those points as well as to speed. One thing that we cannot deny is that a higher speed equals a greater impact when one runs up against something. If the impact is greater there will be more injuries.

Hon Simon O'Brien: Especially in the Kombi!

Hon J.A. SCOTT: Especially in a four-wheel drive vehicle. Many people think that four-wheel drive vehicles are incredibly safe because of their size, whereas they are unsafe vehicles.

Several members interjected.

The PRESIDENT: Order! I am trying to listen to Hon Jim Scott. If members want to interject on each other they can leave the Chamber.

Hon J.A. SCOTT: I have driven a lot of miles on many of the roads to which members have referred. At times there are few people on the roads, and when one is driving over vast stretches of land without seeing other vehicles, one might think that all is well. However, many factors are involved in this issue. The amendment moved by Hon Kim Chance refers to dawn and dusk, which are the worst times to be speeding; firstly, because of the position of the sun and, secondly, because that is when kangaroos are out and about feeding and crossing roads. It is probably the worst time to travel at speed on a country road. It is probably better to travel at speed at night rather than at dawn and dusk. Hitting a kangaroo at 130 kmh will cause a considerable impact, and affect one's ability to steer if it comes through the window - not to mention the effect on the kangaroo.

The argument that somehow motorists who drive faster will be less fatigued because they will get to their destination sooner is fallacious. Fatigue at 130 kmh is a lot more dangerous than it is at 110 kmh. Further, travel at 130 kmh involves a greater petrol use. If one is travelling a very long distance, that would involve perhaps one more stop for petrol and any time made up by travelling at 130 kmh would be lost. Anyone who has overtaken a row of trucks and realises he is running out of petrol will reconsider stopping because the trucks will pass him again in the next five minutes. It does not take slower vehicles very long to catch up every time one stops for petrol.

We are talking about putting in place higher speed limits on roads that are currently marked with a limit of 110 kmh. Some of the more sweeping bends will have a 100 kmh limit on them and it will be dangerous to drive around those bends at 130 kmh. Trial sections of roads will need to be reviewed taking into consideration a range of road conditions - for example, the time of day and so on, which will be hard to police.

The different types of motor vehicles will also need to be considered. How will police distinguish between which vehicles are capable of being driven at 130 kmh and which ones are not? Once again, I refer to four-wheel drive vehicles. Some four-wheel drives will have mud tread tyres on them and so on. In some instances, they will be able to be driven in a reasonably straight line at 130 kmh. However, that will not be possible if they are fitted with special tyres. It will be dangerous to drive them at that speed around corners. There are so many variables to consider. We will be introducing a very difficult measure to police.

In the ideal situation, with the ideal car, no kangaroos and the right road conditions, people may be able to get away with it. The right road conditions are not the most important issue; the most important issue is the nut behind the wheel. He is the most important variable of all those conditions. I have experienced driving on country roads, including some highly dangerous ones. I remember driving on a back road to Green Head which has high gravel ridges from wheel tracks. In my rear vision mirror I could see a car and caravan driving up behind me at a high speed with the caravan fishtailing wildly. I thought I should get out of the way so I pulled right off the road and let it go past. Around the next bend I came across the driver with his caravan over the edge of a deep precipice and the car hanging on the edge. He and his family were sitting in the car looking stunned at their destroyed caravan. They were probably thanking their lucky stars that they did not follow the caravan into the ditch. I recall also that the driver had a stubby in one hand as he passed me.

I realise that does not relate to an open and good road. However, some people will believe that because the sign says they can drive at 130 kmh, they are able to drive at 140 kmh or 150 kmh and they will do it. They will be encouraged to do that. I am concerned about that because I think most people drive a little over the limit on those roads anyway; they drive at whatever speeds they think they can get away with.

Hon B.K. Donaldson: No-one is suggesting that caravans be part of this trial.

Hon J.A. SCOTT: I am not suggesting it either. However, I suggest that the bush heroes who have never been anywhere will drive their four-wheel drive macho cars with knobbly tyres and so on at high speeds of 130 kmh or 140 kmh. They will be out of control because they do not really know what they are doing. They do not understand that those vehicles with those tyres are not designed for that kind of driving.

Hon M.J. Criddle: Surely they are breaking the speed limit, are they not? That is totally unlawful.

Hon J.A. SCOTT: If there is a speed limit of 130 kmh and people know that their cars are capable of reaching that speed, they will drive at 135 kmh or 140 kmh.

Hon M.J. Criddle: I hope not.

Hon J.A. SCOTT: Most people drive a little over the top speed limit anyway. The member knows from driving around Perth that many people drive at speeds in excess of 60 kmh. We must deal with realities; not with what should be happening out there. The new speed limit will be difficult to police. We will be asking traffic police to decide on the types of vehicle that should pass the muster. However, what will they decide about different types of tyres? They will have to decide whether a four-wheel drive vehicle is able to travel around bends at 130 kmh when 110 kmh was the limit set previously at which a four-wheel drive vehicle should be driven.

Another major concern to be taken into account when considering whether we will pass this motion is rainy and windy

weather. Large vehicles can be badly affected by strong gusts of wind. When the weather is really wild, those vehicles sway on the roads. Are we suggesting that it is okay to drive those vehicles at 130 kmh under those conditions? I do not think we are. At the end of the day it comes back to the person behind the wheel. If this motion is passed, this trial may result in increased accidents, and those accidents will be more serious than they would have been otherwise. Further, it will result in an increased load on traffic police to decide whether a vehicle that is travelling at 130 kmh fits within the requirements and definitions of the proposed trial put forward by Hon Kim Chance. It is dubious whether there will be any benefits from the trial. The drawbacks will include greater fuel use, which will be good for some people but not good for the planet. It will result also in a more severe impact on wildlife and more serious accidents. I do not support this motion. However, I understand that some of my colleagues have adopted a different position on it.

HON NORM KELLY (East Metropolitan) [11.38 am]: As I said in my earlier speech, the Australian Democrats will be opposing this motion for the reasons that I have outlined already. I agree that the amendment which has been proposed by Hon Kim Chance is a more reasonable alternative. He has picked up on what has been already assessed by Main Roads on how a trial should be conducted; that is, light vehicles only, no probationary drivers, etc. However, we are required to consider how many vehicles and people this trial will affect.

We are talking about a small number of vehicles indeed, if we eliminate all vehicles travelling at night, all heavy vehicles and vehicles already travelling at 110 kmh or less from the annual average number of vehicles travelling on these sections of highway per day. Although it is not currently legal to travel at up to 120 kmh, it is almost condoned; people know they will not be penalised for travelling at that speed. Looking at those factors, we realise that on stretches such as between Karalundi and North West Coastal Highway and between Goldsworthy and Roebuck Plains such a proposal would affect about 20 vehicles a day. That is why we must consider the costs of setting up and monitoring this proposal as opposed to how wide-ranging those benefits would be. I will not re-enter the arguments about why there may be some minimal benefit in reduced fatigue, but it is something that members should consider. For those reasons, the Democrats will be supporting the amendment by Hon Kim Chance, but we remain opposed to the overall motion.

HON M.D. NIXON (Agricultural) [11.41 am]: The amendment is very much like the curate's egg; I support some of the many issues in it, but I also oppose others. If members recall some of the comments that have been made in the House, there is no doubt that all members hope to achieve safety on our roads. However, the argument has been about the best way to achieve that. Broadly and philosophically that comes back to whether members believe in a free society in which people should make their own decisions and make good decisions, an arrangement they believe is the best way to achieve road safety, or whether it can be best obtained by introducing a police state in which people are controlled to the last degree. There is no doubt that nearly every member agrees that the best way to achieve safety is for people to drive according to the conditions; that is the important goal to achieve.

Adopting the figure of 120 kmh instead of 130 kmh as the trial speed would make the trial less effective. Unless there is a major difference in the speed, it will be difficult to obtain any significant statistics from the trial. The other important factor is that it must be policed no more strictly or less strictly than it was prior to the trial or the trial will not be accurate. If the speed were increased to 120 kmh and then policed severely, not only might the trial be destroyed, but also the number of accidents might increase.

Many factors must be taken into account. The trial is to be conducted in an area in the north west in which the traffic density is sparse. The argument can be made that on a freeway, traffic travels at roughly the same speed, which prevents the danger of having to overtake. This is not a factor on roads which have a low density of traffic. Certainly in the north, the fact that vehicles can travel at different speeds does not in itself create a danger to road users. The limit should remain at 130 kmh because that is a fairer trial. The use of Main Roads' statistics which are then given to the Road Safety Council is a plus. Although it is arguable that it is safer to travel when conditions are clear and people can see further, it interferes with the trial if it does not continue at night. Unless the trial is conducted under similar conditions, it is less likely to be an accurate indication of the difference that would result.

Limiting the trial to cars, including four-wheel drives, utilities and motor cycles, is a very good move; trucks and semi-trailers should not be allowed to travel at the greater speed. For this trial to be effective, carrying it out over a 12-month period is required.

HON B.M. SCOTT (South Metropolitan) [11.44 am]: This is a serious issue before the House. As a woman member of this Parliament who grew up in the country and saw a number of my friends killed in road accidents - and someone close to my family, along with four other law students, killed in a road accident - I want the opportunity to speak briefly on this subject.

In 1994 the Minister for Transport invited me to chair a taskforce on traffic calming in Western Australia to look at engineering and additions to roads. That taskforce looked at the engineering of the road, the road hierarchies and the speed hierarchies to follow them. It concluded that traffic calming was about better use of the roads, better driver education and safer roads. A select committee of the Parliament was established on road safety as well and both committees' reports commented extensively on road safety, reducing the road toll and improved driver education. Out of the report on road

traffic calming in 1994 the recommendation was taken up by Government to establish the Office of Road Safety, which was an initiative which I strongly applauded. I have praised the previous Minister for Transport on a number of occasions for his leadership and initiative in bringing together five government ministers to pool their resources and to have an office that attacked the road toll as a major issue. By doing so, an all-out effort to reduce the horrendous road toll with which this State is faced was coordinated across five government agencies. In 1994 there were 210 recorded deaths, the majority of which occurred on country roads.

There is a difficulty with Parliament extending the speed limit, even though it is suggested for a trial. In the past four years this Government has put a lot of resources across agencies, through the Office of Road Safety and through the report that was produced under my chairmanship, to change the speed culture in the community. To flag now the suggestion of increasing the speed limits on some country roads sends out the wrong message to, in the main, young drivers. The road statistics indicate that males are predominant in road crashes and road deaths. I have done a lot of research into speed crashes and speed limits and it is difficult to accept the sorts of comments that drivers will drive at a speed at which they feel safe. Most 17 to 25-year-old drivers would feel extremely safe on roads around my home in East Fremantle at anything from 60 to 100 kmh. From the research, the impact at those speeds causes horrendous injuries and causes death if a pedestrian is hit. The road trial being canvassed is to be carried out on remote roads in the north west, and perhaps those roads are safer. A lot of world research has been undertaken into engineering and making roads safer. The engineering aspect has been covered.

There is no doubt that the car manufacturers play on the risk-taking factor that is predominant in young men's growing years; that is, to test their skills and to test the cars to see how fast they can go. All of the promotion on new cars is dominated by how fast a car can go. I fear greatly that a higher speed will send the wrong message to the very group who mainly comprise our road statistics.

The speed culture is extremely important. We spent much time considering how to change attitudes. I have mentioned that the Office of Road Safety has been established - a great initiative of the Government - to pool the resources of several agencies and to work on changing attitudes. High-profile media campaigns have been brought in from other States and they have had a significant impact on the image of road safety. Members might recall one of the first television advertisements from Victoria which depicted a small child getting into a car, not belting up, being thrown around at great speed and being killed on impact. In Victoria, it was suggested that that advertisement was far too violent for families and small children to see and that it should be taken off, but research certainly indicated that it had an impact on parents and young children and their awareness of the importance of belting up. We must begin our road user and driver education at a young age and it needs to be properly funded.

At the moment, the State gathers $20m from infringements arising from camera surveillance and the like, and one-third of that amount goes into the Office of Road Safety. I have been a great proponent of the idea that at least two-thirds of that funding should be poured back into the Office of Road Safety so that we can better skill our young drivers and, across the board, introduce school road user and driver education support initiatives in conjunction with local government - for instance, the RoadWise program - and improve driver training. Recently, the Minister for Transport published a good initiative which examined upgrading driver training skills. There is no doubt that we must look at the competence of novice drivers and expose them to different road surfaces. We must make sure that they understand the road regulations, road courtesy and basic car maintenance.

I grew up on a farm in the country. My father never allowed me to leave the property unless the water level, tyres and so on were checked. I am still conscious of that. I even note whether the tyres on my children's cars are bald. Statistics show that out of the 35 000 reported road crashes in the State in 1994, 24 500 were because of driver error. There is no doubt that the argument that we have much safer roads and much better vehicles has some merit, but it flies in the face of the hard statistics. Simple matters such as whether brakes are in order or whether tyres are bald must be thoroughly checked before one leaves on a trip to the country or anywhere else for that matter.

We are putting ourselves in an unreal comfort zone when we say that drivers will drive as fast as they feel comfortable. That frightens me when we talk about pedestrian fatalities and road crashes.

Hon J.A. Scott: Some people had the idea that speed limits were as fast as a car could go.

Hon B.M. SCOTT: That is true. If there is to be a trial, there must be a thorough analysis of the relevant section of road so that we have at least a year or two of detailed statistics which we can match during the trial. I have great difficulty in accepting that the trial should not be in place at night, because night falls at different times. It would have to be a specific time of night. Road safety audits should be done. In our report we suggested that engineers should be trained in road safety audits. The 1994 AUSTROADS report suggested that road safety auditors should be accredited so that road surfaces can suit the density of usage.

I have great difficulty in supporting the motion, but I am prepared to do so provided that it contains some specific monitoring before, during and after the trial so that Parliament can have a true indication of the effects of a speed increase. I feel

strongly that we are sending out the wrong message, especially to young drivers, which is undoing much of the good work that was done in the past five years.

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [11.56 am]: I shall make a brief contribution because the area that we are talking about is in my electorate and I have had a long interest in the matter. For the information of the House, I will ask for leave to go beyond 12 o'clock so that I can finish my remarks and so that Hon Murray Criddle can sum up and reply to the debate and we can resolve the matter.

I support having graduated speed limits in certain zones on country roads. About 10 or 12 years ago, I wrote to all the local authorities in my district, the Mining and Pastoral Region, to ascertain their views on increasing the speed limit above 110 kilometres per hour. There was a deal of support for an increase above that speed, although there was not an overwhelming view that we should do it in a big hurry, and I noticed some reticence from some shires. I guess that it depends to a large extent on the roads they have.

Because a graduated speed zone system is already in place, it would not be out of the question to allow 120 kmh zones within it. For example, that would mean the road, say, from Fitzroy Crossing to Halls Creek was not a 120 kmh zone; one would say that within it there are stretches of road which can have a maximum speed limit of 120 kmh, but there might be parts of that road where one is required to go slower. That is the system that we have now. We either increase or decrease speed depending on the circumstances of a part of a road. It is important to get across the message, if we want the trial to go ahead, that we are not arguing for an increase in the speed limit to 120 kmh across the board but that we are arguing for 120 kmh to be part of the graduated speed limit system. Hon Tom Helm has already said that there is an argument for a reduction in some areas, and I do not disagree with that either.

I could not agree with the original motion which proposes 130 kmh. That is too fast, particularly for people who do not have the necessary experience to drive cars at that speed. Although we have heard that modern motor cars are vastly safer than cars of an earlier era, many people still drive older cars. Obviously, the proposed speed limit would not be restricted to people driving new cars. I can support 120 kmh.

I have difficulty with the idea of having a trial during daylight hours only, because I am not sure when daylight starts and finishes in different parts of the State. Courts might need to decide when it was daylight and when it was not.

Hon Kim Chance: It is already defined by the Road Traffic Act; between sunrise and sunset.

Hon N.F. MOORE: But that is in different parts of the State.

Hon Kim Chance: Courts take evidence on that matter from the Bureau of Meteorology.

Hon N.F. MOORE: In summer, daylight hours in the north are fewer than they are in the south. Between six o'clock and seven o'clock in the north it might be against the law, and between six o'clock and seven o'clock in the south it might be within the law.

Hon Kim Chance: That is already an issue because of over-width vehicles.

Hon N.F. MOORE: That is unnecessary anyway, because driving at night, as Hon Jim Scott has said, on some roads is no more dangerous than driving during daytime. I also agree that probationary drivers should not be included in the trial. My daughter has just become a probationary driver, and in no way will she be driving at 120 kmh, inasmuch as I can help it.

Hon Ken Travers: You just never know!

Hon N.F. MOORE: Indeed. It is important that my constituents know my views on this trial. I support the amendment but cannot support the original motion. The trial is worthy as part of the graduated speed limit system in Western Australia.

HON M.J. CRIDDLE (Agricultural - Minister for Transport) [12.01 pm]: I welcome this debate because, as I have said publicly, it presents an opportunity to consider road speeds across the State. The Road Safety Council is currently travelling around the State looking at speed and other issues, not the least of which are seatbelts and alcohol.

The PRESIDENT: Order! One hour having elapsed from the commencement of the House, it is usual for me to ask whether leave is granted for the continuation of the debate. The Leader of the House has indicated that he wishes to seek leave to continue this debate. However, Standing Order No 61(a) requires that at noon on Thursdays we move to consideration of committee reports. Therefore, the Leader of the House must suspend standing orders to allow this debate to continue to its conclusion in order to overcome Standing Order No 61(a).

Suspension of Standing Orders

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [12.02 pm]: I move -

> That so much of standing orders be suspended as is necessary to permit debate to be continued until conclusion.

HON CHRISTINE SHARP (South West) [12.02 pm]: Given that committee work is an important part of the responsibility of this Council, I regret that the hour a week we have to deal with the numerous committee reports, including a report of my committee to which I wish to speak, should be lost. Little enough time is allocated in this place for debating such matters. Therefore, I will not support this motion.

Question put and passed with an absolute majority.

Debate Resumed

Hon M.J. CRIDDLE: I assure Hon Christine Sharp that I will be extremely brief. I understand the urgency of the matter she wishes to debate.

The Road Safety Council has travelled the State carrying the message of road safety. Speed was discussed in its consultations, along with seatbelts and alcohol; these are three important issues in road safety. This amendment has been debated by all and sundry in depth. I have been interested to listen to all opinions. This amendment comes close to meeting a consensus across the Council. I will take this proposition back to the Road Safety Council, which obviously has grave concern about lifting speed limits. Between the Road Safety Council and the ministerial council, we will make decisions based on debate here and in the community.

Hon Norm Kelly stated that if we have a trial, strict guideline must apply. Main Roads has identified three areas in the State where trials could be conducted with a 120 kmh limit. Some work has been done in that regard. It is important that continuing research be monitored, and we must identify issues which arise from this trial, if it goes ahead. I am keen to see the debate concluded. Interestingly, members asked me about stopping distances. An average car with the best possible tyres and braking system, travelling at 50 kmh, takes 23 metres to stop; at 90 kmh - picking out various speeds at random - 59 metres to stop; and at 130 kmh, 108 metres to stop. All those stopping distances are likely to double in wet conditions.

Hon Mark Nevill: It is far less with a tree in the way.

Hon M.J. CRIDDLE: Indeed; that is one of the dangers of lifting speed limits, not wearing seatbelts and consuming alcohol before driving. I am keen to see this debate concluded.

Amendment put and passed

Motion, as Amended

Question put and a division taken with the following result -

Ayes (25)

Hon Kim Chance	Hon Max Evans	Hon Barry House	Hon Ljiljanna Ravlich
Hon J.A. Cowdell	Hon Peter Foss	Hon Murray Montgomery	Hon Christine Sharp
Hon M.J. Criddle	Hon N.D. Griffiths	Hon N.F. Moore	Hon Tom Stephens
Hon Cheryl Davenport	Hon John Halden	Hon Mark Nevill	Hon Ken Travers
Hon Dexter Davies	Hon Ray Halligan	Hon M.D. Nixon	Hon Giz Watson
Hon E.R.J. Dermer	Hon Tom Helm	Hon Simon O'Brien	Hon Muriel Patterson *(Teller)*
Hon B.K. Donaldson			

Noes (4)

Hon Helen Hodgson	Hon J.A. Scott	Hon Norm Kelly	*(Teller)*
Hon B.M. Scott			

Question (motion, as amended) thus passed.

COMMITTEE REPORTS - CONSIDERATION

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair.

Standing Committee on Ecologically Sustainable Development - Second Report - Management of and Planning for the use of State Forests in Western Australia: The Regional Forest Agreement Process

Resumed from 15 October on the following motion -

> That the committee recommends the Legislative Council endorses the findings and recommendations of the Standing Committee on Ecologically Sustainable Development - Second Report, and requests the Minister for the Environment to reconsider the Regional Forest Agreement process in light of the committee's approach.

Hon CHRISTINE SHARP: Last week, I described the interesting experience I had last year working in a round table

situation on forest issues. I wanted to share that experience with the Chamber because the report of the Standing Committee on Ecologically Sustainable Development on the Regional Forest Agreement process is based on a conflict resolution and non-adversarial approach. It is also based, certainly on my part, on the sincere belief that it is possible to move on with regard to this issue, that there are reasonable people on all sides of the debate, and that the level of conflict that we are seeing at the moment is not inevitable.

The ESD committee took particular interest in the evidence that was given to it about the Regional Forest Agreement process in Queensland, in particular the evidence from Ms Virginia Young, a national lobbyist for the Wilderness Society. At page 56 of the committee's report, Ms Young said -

> *"We have had dialogue facilitated through an independent arbiter involving the timber industry and the conservation movement. Almost as soon as these talks began we discovered that, rather than having the entrenched positions and conflict attitudes that had characterised relationships between the conservation movement and timber industry elsewhere in Australia, there was a real prospect for dialogue and problem solving.*
>
> *Generally, the Wilderness Society has not been closely involved on technical committees, reference panels and steering committees. It has been intimately involved with all those aspects in Queensland in the Regional Forest Agreement process. In no other State in Australia has it had the confidence that it could influence the outcomes of these RFA processes and see real change. That has come about because of the attitude of the industry in Queensland."*

She said at page 57 -

> *"I can understand why the conservation movement here [in W.A.] has had no confidence in its process. There was no capacity, as there was in Queensland, to be fully involved. We participate in all of the technical committees. We are on the reference panel and the Steering Committee. The Steering Committee of course becomes a rubber stamp once you are on it. The real decision making structure comes below that at the level of the reference panel, on which all stakeholders are represented." . . .*
>
> *"We have the extraordinary situation in Queensland where there has been no public attack on the timber industry for two and a half years because we have had dialogue. We do not attack people with whom we are having dialogue."*

She said at page 58 -

> *"I do not think it is lost on either the Commonwealth Government or the State Government that what is happening in Queensland is historic. We really are paving the way and breaking out of the paradigm of conflict and simply having warring parties, with the need for some intermediary in the middle to make some kind of political best guess decision, which is really all that has happened so far."*

As a result of this conflict resolution approach, the essence of what the committee is proposing about the Regional Forest Agreement is contained in recommendation 8 of the committee's report, which states -

> That the Government seek to enhance acceptance of the RFA process and thereby to promote resource security in a political and social sense for native forest-based timber industry.

The committee is saying that it is in everybody's interests, not only in the interests of the conservation movement, or of any one side of this debate, that the Regional Forest Agreement process become a way of resolving issues and bringing about acceptance of where the timber industry is going in this State. The committee heard evidence from the timber industry about how it was concerned to achieve resource security. The committee did some research into that matter and discovered that in a statutory and legalistic sense, the timber industry already enjoys a remarkably high level of resource security and cannot really ask for a lot more. The real issue is that the timber industry does not have widespread social acceptance. The timber industry knows deep down that although it may have legal resource security, until it receives that kind of recognition and endorsement from the community, it will not have that deeper sense of resource security, and that inevitably one day it will be facing a massive reduction in its access to the state forest. It knows that, as a result, it is living in a very unstable situation. Therefore, the committee is saying in essence that it is in everybody's interests, and particularly in the interest of the timber industry, that we move into a conflict resolution approach which will provide a basis for the widespread acceptance of the management of our natural resources in this area; and that if we do not adopt that conflict resolution approach, there will be massive conflict.

I have seen maps of logging plans for the 1998-99 season, and I can tell from the colours on those maps that it will be a long, hot, difficult summer for all concerned. Many of the blocks that will be logged have been the focus of strong community support for their protection from logging; for example, the Giblett, Hester, Lowden, Kerr, Lane-Poole and Wattle blocks. Many people in the south west are preparing for non-violent resistance, and to be arrested, and for the fact that that may result in a criminal conviction and record. They are bracing themselves for a very difficult summer of opposition. I feel

that I have a duty to the many people whom I represent who feel that, if we do not change the approach in this regard, over the next months this will become a conflict between warring parties.

This opposition is not just from radical extremists. The opposition to the Regional Forest Agreement process has come from an enormously wide cross-section of people. The committee has been informed that over 28 000 submissions were made on the RFA. I gather the figure is now slightly more, but that is the official figure provided to the committee. Although I do not know the breakdown of that it would make sense that the majority of those submissions would be critical of the process.

Hon Derrick Tomlinson interjected.

Hon CHRISTINE SHARP: No, the Department of Conservation and Land Management's public options paper.

Hon Derrick Tomlinson: There has not been a report?

Hon CHRISTINE SHARP: No. The report has not been finalised and the committee is reporting on the process before finalisation, in order to make suggestions to the process. That is what we are debating now. A long list of groups and organisations have spoken out with concern about the Regional Forest Agreement. That list includes almost every single conservation group in the State and in the south west, and many scientific organisations such as the Royal Society and the National Biodiversity Council. It also includes a remarkably long list of local government shire councils including Denmark, Bridgetown, Greenbushes, Busselton, Mandurah, Stirling, Cambridge, Mosman Park, Nedlands, Peppermint Grove, Perth, Swan, Claremont, South Perth, Subiaco, Vincent, Bassendean, Wanneroo, Cottesloe, Bayswater, Belmont, Kalamunda, Mundaring, Serpentine-Jarrahdale and Fremantle.

Hon Barry House: How many forestry industry workers live in Peppermint Grove or Nedlands?

Hon CHRISTINE SHARP: Hon Barry House would agree that the forests are part of our state heritage and are of great interest to people throughout the State and the world.

There is also a long list of Aboriginal people who have spoken out. Aboriginal people were asked specially to be involved and a committee was formed as a reference group to the Regional Forest Agreement process. However, a few months ago that Aboriginal committee broke with the agreement process, because it felt it was not being listened to. There are many other forest user groups apart from the timber industry, such as the beekeeper section of the WA Farmers Federation, and the WA Beekeepers Association, Then there are tourism organisations such as the WA Tourism Commission and Tourism South West, the WA Small Business and Enterprise Development Association and other groups. There is the National Trust of Australia, and a wide range of political parties, comprising people from every party in this State; as well as many other prominent organisations including the Anglican Social Responsibilities Commission, the Christian Centre for Social Action, Dame Rachael Cleland, Wesfarmer Investors and Shareholders for the Environment, Janet Holmes a Court and other people. The most prominent of the people on the list was Mick Malthouse. His statement created a considerable beneficial influence on some of my colleagues in this place. This opposition is not radical, it is right across the board; and it represents the majority. A survey that was commissioned recently showed that 87 per cent of the people surveyed disapproved of clear felling of old growth forest.

The committee's report is not seeking to take sides and to make one side right and the other side wrong. Rather, its focus is to develop common ground so that everybody can move on; it is not based on conflict. The committee's report is unanimous. As members know, the committee is comprised of five members - one member from each party represented in the Legislative Council.

Another important part of the committee's recommendations that is based on this conflict resolution approach is recommendation 10. As I stated the committee believes that acceptance of the RFA process is important, and therefore the timber industry should be the central concern. Recommendation 10 states -

> That the Minister for the Environment seek to enhance acceptance of the RFA process by establishing and adequately funding an accord process to assist in the Minister's review of the RFA process thus far and in preparation of the Agreement itself.

The committee feels that accord process can be simple and non-cumbersome and involve representatives of all the major stakeholders - the timber industry, the Australian Workers Union, the conservation movement, indigenous people, the Institute of Foresters, the Forest Protection Society, the Department of Conservation and Land Management, local government, the tourism industry and other non-timber forest-based industries. In other words, everybody who is centrally concerned with the outcomes of this process should be involved.

Recommendation 12 states that the outcomes of the accord process be transparent and publicly available. Members will note that the accord process includes the Department of Conservation and Land Management. However, the committee has recommended that CALM should be removed from its role of lead agency in the Regional Forest Agreement process. It should be involved in the accord as an equal player; it should not be the lead agency. The committee felt there would be,

and, there is, great difficulty in CALM playing the role of the adjudicator in these matters. I am of the opinion that is one of the reasons that the conflict in this issue has become so entrenched. It is extraordinarily difficult to deal with conflicting values on the use of our state native forests - for example, whether to woodchip them or to put them into reserves. Those extreme positions are hard to bring together on common ground. I do not wish to belittle the difficulties involved. However, it becomes almost impossible to reach any common ground when the agency which is given the task of creating that common ground is in a position in which it would find it virtually impossible to develop the role of a neutral mediator. Conflict resolution must be mediated and that mediation must be undertaken by an agent that is seen to be impartial and fair to all sides.

The committee noted the financial basis of the Department of Conservation and Land Management. In recent years CALM's revenue generation has increased to the extent that 93 per cent of the revenue that is self-generating is obtained by logging royalties. As only 20 per cent of its income comes from the Treasury, overall logging royalties provide 72 per cent of the department's financial base. This financial base enhances the plausibility of the perceived conflict of interest under which that department is operating. Thus, put simply, CALM cannot solve this conflict because it is too involved in the interests of this matter. Therefore, our committee has recommended that it should be removed as lead agency.

Hon Derrick Tomlinson: I do not understand one thing. Can the member explain to me why CALM receives the royalty revenues from the forests when it is a state resource?

Hon CHRISTINE SHARP: Since CALM took over from the forests department, there has been both a State Government and a departmental shift towards the department becoming self-funding. I believe in 1986 the revenue generated by the department in its first year was something like 46 per cent, and two years ago that had gone up to 80 per cent. Therefore, if one considers the history of the department over the last 12 years, it has been towards very much increasing its emphasis on revenue generation. Of course, when one is in the business of logging forests, it is quite obvious where a significant portion of that will come from. However, in regard to CALM's revenue generation, we have also seen in the last two or three years significant incursions into other areas by this department, in particular towards the commercialisation of our national heritage in national parks and nature conservation reserves through the generation of tourism activities. We are also seeing now a very active role of property disposal by that department and, in particular, of great concern, the disposal of our radiata pine plantations.

Hon Derrick Tomlinson: What puzzles me is that CALM, as the manager of a state resource, receives the timber royalties when the resource is a state resource. Is there some hypothecation of the revenue to CALM? Why does it become the beneficial owner of the state forests?

Hon CHRISTINE SHARP: That is a very good question, and I hope somebody, such as the minister who represents the Minister for the Environment, may be able to exactly answer the member's question.

The committee's findings and recommendations involve serious issues for the long-term sustainability of our State's most beautiful and most loved ecosystems. To experience the full majesty of old-growth karri forest is, as we all know, a special experience. My understanding of this experience is that when we go into our old-growth karri forests and we are uplifted by the feeling of being in such an area, it is an inkling for ordinary people, like me, of a special level of spiritual consciousness whereby we actually begin to perceive the connectedness of all being. Being in old-growth forest is able to penetrate the ordinary, everyday minds of most of us and wake us up to who we are and where we are on this planet in a way that very few other experiences are able to. That is perhaps why some people describe the forest as a cathedral.

Our committee has made a special note of the community's love of the karri forest. Technically, in the Regional Forest Agreement that forest is called karri main belt. It seems that the proposal is for no additional reservation of that type of forest because it is considered to be ordinary and already well represented. However, I say that it is in fact extraordinary.

Many other practical, scientific and urgent questions are covered under the RFA process. One other matter that I will specifically mention that is of great concern is the sustainability of the long-term availability of jarrah saw logs. At current cutting rates, jarrah saw logs will be gone by 2027, according to the RFA information.

On the other side of the community, there are many old-timers down in the south west who have worked in the timber industry as fallers who have been involved on a practical level in the forest, and they are aghast and worried sick, I think I could say, about the level of overcutting which is going on at the moment and the profligate waste of first-grade jarrah timber which we will so sorely regret in the future. Every year we are seeing thousands of hectares of jarrah forest intensively logged. Two years ago it was over 22 000 hectares. I noticed in the recent annual report that came out two weeks ago that due to the glut in jarrah at the moment from overcutting, this has gone down to 18 000 hectares in the last financial year. However, that is still a huge amount of jarrah forest, and recovery rates from this in terms of sawn timber have not improved for decades. The timber industry is still operating as if this resource is infinite.

The Regional Forest Agreement, contrary to popular understanding, is not just about reserves. Many of the big decisions about how the timber industry will come to terms with the necessary 40 per cent reduction in jarrah logging to bring it back

to sustainable yield projections within the next five years do not rate a mention in the reporting of the RFA. Therefore, these major decisions about ecological sustainability are being held back from public discussion.

In commending this motion to the House for its support, I simply say that I guess that for all my life the concept of progress has been a very popular concept. As a student of philosophy, I took a great interest in the notion of the concept of progress and whether such a notion was a fantasy, whether it was an illusion, or what it actually meant. I came to my own position that I agree with and accept the concept of progress. However, it is not about continual economic growth at the risk and hazard of our natural environment and, indeed, of our own long-term viability as a species. That is not what the concept of progress is about. The concept of progress is about our own inner growth; it is about our own development as human beings. We all need to grow on this issue; we all need to move on. We must stop the war and start the peace talks. Then the Regional Forest Agreement may live up to its name; it may be an agreement instead of being a regional forest war.

Hon DEXTER DAVIES: I rise to speak in general support of the comments by Hon Christine Sharp. However, I intend to move an amendment to the motion. A substantial shift towards the recognition of what needs to be done in the RFA process has been achieved through the report as it has been handed down. It does not ask for any more than that the RFA process be agreed to. In all the investigations I was involved in on all sides of the argument, from the timber millers and the operators through to the other side of the argument that can be considered to be at the other extreme, there were no objections to the RFA process. I have often stated, and am on record as saying, that I thoroughly support that process. Whether that process has been followed is at the heart of the question.

One of the main areas to be considered out of the recommendations in the report is that there be a draft RFA report to be considered before it is signed. In the spirit of the agreement it was agreed that a regional forest agreement document would be produced to be considered by the public. That expectation should be met to achieve the spirit about which Hon Christine Sharp was speaking. If this problem is to be solved, we must be seen to be following the process with the stated intent. Most of the problem stems from the feeling of people that they have not had that opportunity. Given the opportunity, there was great willingness on both sides of the argument for the problem to be solved. That applies also, as I said, to the timber millers with whom there is room for improvement and a recognition that we cannot continue cutting down forests willy-nilly. Practices have improved. In fact, some mills have met those expectations. There are some wonderful examples of value adding in timber mills; people have spent enormous amounts of money going down that line. That is to be encouraged and is what the RFA process is all about. I feel strongly that opportunities for groups to be able to criticise the process will prolong the argument forever. The opportunity is there; the RFA process is there; it does not have to be signed off until 2001. I would not advocate that it goes the full distance. However, a lot of the work is being done now. If the report came out for scrutiny, I am sure that the process of including everyone can be achieved. As Hon Christine Sharp said, the report that has been tabled is not on one side or the other. It does take into consideration the needs of the timber industry and the needs of forestry. It has not been specific about the areas to be reserved. It has provided a framework where that common ground can be found.

I am aware that 100 per cent of the people in this debate will not be satisfied at the end of the day and anyone who thinks that way should probably be doing something else. However, there is a great deal of common ground with the people we spoke to everywhere and we can get those people with common ground to achieve an outcome that is good for the forest and tourist industries and good for the conservation movement. That will mean compromise on all sides rather than taking extreme views in trying to achieve that. I move an amendment -

> That all words after the words "Second Report" be deleted.

The words to be deleted are -

> and requests the Minister for the Environment to reconsider the Regional Forest Agreement process in light of the committee's approach

The first sentence simply repeats the first part of the motion. It is not this committee's place to tell the minister what she should do. The report has been put forward to be considered and that is my amendment.

Hon CHRISTINE SHARP: I am prepared to accept and support the proposed amendment to my motion. I agree that the second half of the sentence is a reiteration of what is implicit in the first part of the recommendation. I agree also that the second part infers that the minister is not considering the committee's report. I would sincerely hope that the minister is indeed really and genuinely considering it and I do not wish to assume that she is not. Therefore, I accept the proposed amendment.

Hon LJILJANNA RAVLICH: I also support the amendment. Hon Dexter Davies said he did not want to direct the minister on this matter. However, the first line of the substantive motion is clear, that the Legislative Council endorses the findings and recommendations of the second report of the Standing Committee on Ecologically Sustainable Development. Many of the recommendations in that report are direct recommendations to the minister. I hope that the minister will adopt the same pragmatic approach to this contentious issue as the members of the committee adopted. I put on record that this is one

of the hardest things that I have had to do since coming to Parliament, probably because I had a low base of knowledge of the forestry industry. However, one of the things that struck me about this issue was that over many decades it had become a very polarised issue and people were not prepared to give ground. One of the early concerns that I had was that because the chairperson is a member of the Greens (WA) party, I thought that this would be an impossible task because it was always my intent that we steer towards a positive middle ground. I put on public record that we have managed to do that and have managed to produce an excellent report. One of the things that surprises me is that we can send people to the moon, we can clone sheep, we can attach the hand of a dead person to a living human being, yet we do not have the capacity to be able to effectively manage our forests. One has to ask why. The committee, in its report, has come up with something that may be workable and is a positive step forward in forest management.

It is a unanimous report supported by all parties. There were concerns about the process; there are no two ways about that. The quantity of consultation should not be a substitute for the quality of consultation. Not many people have raised the issue of the quantity of consultation; they have had grave concerns about the quality of information. The Australian Labor Party's position is clear on this matter. We would like to see a situation of balance between the environment and jobs. We are not of the view that one must be sacrificed entirely for the other. The history of the debate is long and it is unlikely to go away. However, it is one which I hope the respective interest groups can shift a little from their position so that they can work towards the middle ground. Certainly, the most positive outcome of the committee's work was that that is exactly what the report endeavoured to do. The committee made a number of key recommendations on the establishment of an accord process.

What the committee did not want to do or imply was that it expected the whole RFA process could be redone, that all the money spent on research should be found again for the technical experts to go back out and do the job again. That was never the intent of the committee and I would be surprised if anybody thought that should be the case. However, the committee recognised early that if the RFA is to work in the long term, the channels of communication must be open and they must function in a very effective way, otherwise the old problems will remain. Therefore, that situation must change. In that regard we made a number of recommendations. I am disappointed to note that the Government has done nothing in regard to them. Recommendation 10 recommends that the Minister for the Environment seek to enhance acceptance of the RFA process by establishing an adequately funded accord process to assist the minister's review of the RFA process thus far and the preparation of the agreement itself. That is critical from the point that we are at now to the time that the RFA is signed. It is imperative that those key parties come together, that the lines of communication are open and that basic agreements are actually formed. For a start, we must have an acceptable agreement between the key players on what is old growth forest. If we do not move from that fundamental step, we will have a very grave problem indeed. There are certainly other problems but quite clearly we need to get the fundamentals right before the agenda can be progressed.

In recommendation 11 we recommended that the accord process include representatives from at least the timber industry, the Australian Workers Union, the conservation movement, indigenous people, the Institute of Foresters Australia Inc, the Forest Protection Society, the Department of Conservation and Land Management, local government, the tourist industry and non-timber forest-based industries. In recommendation 12 we recommended that the outcomes of the accord process be transparent and publicly available. We did that because there is a perception that the Regional Forest Agreement process had not been anywhere near as transparent or publicly available as the process should be. We thought that if those people came together, then quite clearly their determinations, agreements and whatever outcomes of their meetings should be made transparent. I am particularly disappointed because it is fundamental to moving forward, just as members of our committee had to put maybe their prejudices aside in reaching the middle ground and a position from which we could move forward and bring those groups together. We had hoped that by this stage the respective stakeholders could have been notified, that the accord process could have been put in place and funded appropriately, and that at least a number of meetings could have been held. Quite clearly that is not the case. A major concern of mine is the fact that we have gone to all this effort and nothing has happened.

I am satisfied with the motion that the Legislative Council endorse the findings and recommendations of this report. In view of the fact that this report makes some very clear recommendations on what actions the minister should take and how certain outcomes should be achieved, I implore the minister to read the report, take note and act on its recommendations. Failure to act will mean that the agenda for the future of the forest industry will not go forward. It will continue to be fraught with problems at an enormous cost to investment in the State, to the environment and to workers. It will have an adverse impact across many sectors. The situation could so easily be rectified with a little bit of goodwill and commitment by the minister. My real concern is that this report has been public since August. I am not sure how far the Government is from the signing of the RFA process but I am concerned that there has been no action since the tabling of this report. There does not seem to be any movement from the minister on the establishment of the accord process and the appropriate funding of the process in the interests of Western Australians. I hope that the minister gives this the consideration it requires and that members opposite take the required action so that we can put a stop to the difficulties that have occurred historically in the timber industry.

This all sounds a little simplistic. However, at the end of the day we must start somewhere. I congratulate the chair of the

committee because I think the committee has set an example in trying to steer the right course of action. If only the Government and the key stakeholders were prepared to do the same, we would be getting some movement in the right direction. I certainly hope that is the case for Western Australia and its people.

Hon DERRICK TOMLINSON: I support the amendment of Hon Dexter Davies. I confess to being in the situation that Hon Ljiljanna Ravlich described herself as being in before she became a member of the committee; that is, with imperfect knowledge of forestry. In fact, I would go so far as to say that it is one of many subjects of which I am ignorant.

Hon N.D. Griffiths: There will be no dispute.

Hon DERRICK TOMLINSON: The member will not get an argument from me on that. I support Hon Dexter Davies to confirm the authority of the Chamber. Standing Order No 337 states -

> After tabling, the Clerk shall send a copy of a report recommending action by, or seeking a response from, the Government to the responsible Minister. The Leader of the Government or the Minister (if a member of the Council) shall report the Government's response within 4 months.

Members sometimes overlook the authority of this Chamber. Sometimes we need to reassert the authority of the Chamber. The words that Hon Dexter Davies has moved to delete are redundant in the light of Standing Order No 337. Whether we agree with the spirit of the report is not relevant to the amendment. I confess that I am very impressed that a committee comprising, I think, not simply membership of this, that or the other party but the whole spectrum of political values in this place, has reached consensus and produced a unanimous report which directs that certain matters be reconsidered by the minister.

The standing orders quite clearly direct that the minister shall respond. I sincerely hope that the minister responds within four months and does not delay for four months. My understanding is that some indication is that the signing of the RFA agreement may be imminent. I support the amendment by Hon Dexter Davies, mainly to reassert or confirm the authority of this Chamber.

Hon NORM KELLY: I have found it very worthwhile working on this committee on this particular inquiry. By being able to work with members from all parties represented in this place, it is good to see that through a long and sometimes tortuous process we have been able to present to the Chamber a unanimous report with recommendations that we believe will strengthen the RFAs in this State. Western Australia has a long history of inquiries from royal commissions and judicial inquiries to various parliamentary committees inquiring into forest management practices in the State. As far back as the turn of the century there were concerns about over-cutting of native forests. It seems crazy that almost a century later we are still having the same argument. At least that argument is at a far higher scientific level now. Even so, it is disappointing to see that over the past 20 years or so the decision making process to resolve industry versus conservation pressures seems to be moving apart rather than coming together in some form of agreement. The reason for RFAs in various parts of the country is to resolve those conflicts between conservation and industry concerns.

Debate adjourned, pursuant to standing orders.

Sitting suspended from 1.00 to 2.02 pm

ADDRESS-IN-REPLY

Motion

Resumed from 21 October.

HON GIZ WATSON (North Metropolitan) [2.02 pm]: I did not intend to take this opportunity to speak, but I felt compelled to respond to interjections made by Hon Barry House during a speech made by Hon Christine Sharp. The sentiments expressed by Hon Barry House are often levelled at members of the Greens (WA).

The PRESIDENT: Order! If Hon Giz Watson intends to raise an issue that relates to comments made in debate on the second report of the Standing Committee on Ecologically Sustainable Development she is anticipating something that is on the Notice Paper.

Hon GIZ WATSON: I am referring to comments made during a speech by Hon Christine Sharp on an amendment to the Address-in-Reply. I am also aware that Hon Barry House will respond to this morning's debate, but I will not preempt him.

Hon Barry House asserted that the Greens were extreme, negative, anti-progress, power seeking, economic troglodytes, and selfish; and, furthermore, that our interests in conservation were merely a sham. I take exception to those comments, and I wish to provide a contrary picture to that. I do so on behalf of not only my parliamentary colleagues and me, but also of many committed conservationists who have put enormous amounts of effort and time - largely unrewarded in any financial sense - to present an alternative vision of how we need to live in our world to ensure that we are living in a sustainable manner.

The first proposition made by Hon Barry House was that the Greens are extreme. We make no secret of the fact that we present a fairly major alternative vision of the priorities that must be addressed in the community and on how we make decisions. However, if members feel that arguing for a peaceful and just society is extreme, I am happy to be labelled as an extremist. One of the issues that I have had a long commitment to - as do many of my colleagues - is an alternative means of resolving conflicts within our community and an alternative method of making decisions. That is indeed radical thought when one considers how debate is conducted in places such as the Parliament. Our conduct is based on an adversarial approach to practically everything. It is based on scoring points and one-upmanship. I do not subscribe to that method because it does not achieve the best results for the community. Constantly looking for the fault in everything, and taking the opportunity to ridicule alternative points of view does nothing to assist our own understanding of differing points of view. That is very much the basis of the Greens' philosophy. I am sure that, by now, members - particularly those who work with the Greens on committees - will understand that that is a fundamental tenet of how we do business. If that is extreme, I am quite happy to be labelled extreme by presenting a different method.

Another issue which the Greens espouse consistently is the need to make decisions not just for the benefit of human wellbeing and society, but based on our fundamental obligation to manage for the diversity of life, whether on a local or global level. Again, this is a radical concept, but it is not new. It has been talked about for at least 20 years - certainly in academic circles - as a new approach to living in a sustainable manner. I do not yet see that idea being taken up thoroughly by members of other political parties. Again, if that is an extreme view, it is one that I encourage other members to adopt.

The Greens also promote a precautionary approach, rather than an emphasis on profit and self-interest. Obviously, certain people will think that this too is extreme. Again, if that is an extreme view, it is one I am happy to hold. I move on to the next comment made by Hon Barry House that Greens (WA) are economic troglodytes.

Hon N.D. Griffiths interjected.

Hon GIZ WATSON: That is an extraordinary accusation. Our position is different from other political parties to date and our emphases are in different areas. However, I believe the current balance is way out of whack on the individual and the individual's rights to profit. The obligation to balance that against social responsibilities and a communal view of society has been severely neglected. We are about redressing that balance. We are also about putting the picture that all people have the right to share in the resources of the planet, not just about those who can make the most profit. Perhaps, again, that is an extreme view. However, I believe that out there in the world there is a great deal of support for that view. On the matter of being extreme, I note some of the extremities of the current Government. Earlier today we heard of matters concerning the management of our forest heritage. Eighty-six per cent of the population have clearly said that they oppose further logging of old growth forests. It is extreme to continue to support that logging in the face of that overwhelming opposition. That is an example of extremism. In a world where it is broadly acknowledged that uranium mining is an insidious and poisonous activity in which to partake, it is extreme for we in this State to be considering opening dozens of uranium mines. To me, that is extreme and I have every sympathy for people who go to extraordinary lengths to oppose those industries setting up in this State.

Hon Barry House also raised the claim that the Greens are negative. That is extraordinary. I have never worked with a more positive group of optimists in my entire life. Perhaps what is sometimes interpreted as being negative is the fact that we tell some painful truths that people might not want to know about; the fact that there are limits to growth and limits to how much we can indefinitely exploit resources, whether they be forest, mineral or fish resources. There are limits to how many people can be supported in Western Australia. Limits are imposed upon us as a human species. However, we choose generally, in our decision-making and our choices, to ignore those limits and hope that everything will be all right in the long term. One of the things that does set the Greens apart from other political parties is that we believe that unless we acknowledge those limits and do that now, we will be making decisions that will have enormous implications, not only in our lifetime but also for our children and grandchildren. It is essential that we think in terms of several generations. That is often interpreted as being negative because it means, "I am sorry, you will have to think about doing this some other way." However, it is perhaps time that we were all a little bit more honest about what are the limitations with which we must work.

We have been accused of being anti-progress. That is an interesting proposition. I guess what that comes down to is how one chooses to measure progress. The criteria that we choose concerns the quality of life, qualities of equity and justice and the quality of sustainability. It is not just about the bottom line dollar. It is not just about economic turnover and how wealthy people are. There are many other values by which we can measure our progress as a community. As I said yesterday in the debate on social dysfunction and justice, much of the social unrest is a result of a so-called progress leaving behind an enormous component of our community, particularly our young people. They do not see that what is defined as progress in the mainstream media and by economic rationalists has anything to do with what they see to be their future. Until we start to look at progress in qualitative terms rather than quantitative terms, as a community we are on the wrong track.

I would also like to comment on the assertion that the commitment to conservation is a sham. I take great exception to that, having spent many hundreds or thousands of hours of my time in voluntary conservation work; and thousands of people do that every weekend. They are young people, old people, people from all walks of life who have a deep commitment to

conservation work, who make submissions on various projects and are involved in land care. All those people, I would say, are part of a green movement and they have a deep commitment which has nothing to do with a sham commitment to conservation. It does a huge disservice to suggest that we have some other agenda and we are not serious about conservation. I take a deal of offence at that. I would like to know the numbers of other members who have spent time physically doing work, rehabilitating tracks - whatever - and can then stand up and say, "I am sorry, the Greens do not have any commitment to conservation." That is an extraordinary claim.

Hon Barry House also mentioned comments in the Governor's speech concerning youth and how the Government was responding to the needs of youth, particularly the cadet and other suggested programs to assist youth in WA. I have had the opportunity to work with young unemployed people, both in a voluntary capacity and also in a government training scheme. The limited attitude to youth that what they need is more discipline and healthy outdoor activities and then everything will be all right is exceedingly narrow and outmoded in this day and age. I have worked with long-term unemployed youth on various projects and had the opportunity to get them involved in the work force again. It is not just a matter of providing a disciplined structure and telling them what to do. It is about listening to where they are coming from, understanding how they view the world and working on shared objectives rather than saying, "Go and polish your boots and get off to cadets because that will make you a better person." I am not saying that people should not go to cadets if they want to. However, that attitude demonstrates an exceedingly limited understanding of where the youth of today are actually at. They have a much greater need for a participatory rather than a prescriptive approach. It is essential that we react in a more creative way in dealing with young people. They are not silly. They probably know a lot more than we knew when we were young. It is essential that at all levels we consider empowering them to shape the world which they will inherit, rather than tell them that they will be lining up in parades and having what I consider a fairly limited participation in activities.

I reiterate that I fully support the motion of Hon Christine Sharp which was rejected by the Council in the vote. Her comments were put well and when seen in context reflect our newly composed Council. The Council reflects a much broader viewpoint than was previously the case. There was no intended insult at all to the Government but merely the intent to comment in a very legitimate way on the Government's proposed agenda. Everybody knows that is what the Governor's speech is about. It is totally appropriate and within the powers of this Council to comment on the Government's agenda. I was deeply disappointed that our colleagues in the Australian Democrats showed their conservative streak and did not choose to support the motion but to vote with the Government. It would have been appropriate for the Council to have passed the motion and to have illustrated clearly to everybody that this is a new Council which is not afraid of being critical when criticism is due.

I always have a problem when dealing with the Governor as a representative of the Queen. I look forward to the day when Australia is a republic and we no longer have to go through formalities that are perhaps not appropriate in this day and age.

Debate adjourned, on motion by Hon Muriel Patterson.

COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT BILL

Third Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [2.23 pm]: I move -

That the Bill be now read a third time.

HON NORM KELLY (East Metropolitan) [2.24 pm]: The progress of this Bill has been quite tortuous for probably all members involved in the debate. I want to see the Government enter into some genuine negotiation, which I believe has been lacking so far in the progress of this Bill through Parliament, to arrive at some sort of agreement that will benefit all owners, landlords and tenants in this State. There is a crying need for the reform of the Act. The Government has started working in the right direction with this Bill. The Australian Democrats argue very strongly that that is only a part-way step.

The PRESIDENT: Order! I must remind the member that the third reading is a very narrow debate. It is really an opportunity for the member to tell the House why the Bill should or not be read a third time. I think that basically the member is doing that but I remind him of the position.

Hon NORM KELLY: Thank you, Mr President. I am glad that you reminded me because the Bill has been so heavily amended that one must question whether it should be supported. During the debate, the Minister for Finance mentioned that if we were to pass a particular amendment, we might as well toss out the whole Bill. That shows a total lack of commitment to retail shop tenants in this State. I understand that in the other place the Government may choose to strike out all we have done in this place.

Hon Peter Foss: I would bet money on it.

Hon NORM KELLY: Yes, and I can understand some of the ideological differences the Government would use to support its actions. Among the amendments that we have achieved in this place, there are a number of workable changes that the Government has stated publicly it supports. I would be amazed if the Government did not approve some of those changes.

Hon Peter Foss: What will you do if the Government does not?

Hon NORM KELLY: That is something that we may have to address at a later stage. That is why I asked whether we should support the Bill. I have had many representations from organisations and individuals who have come to me saying that if certain amendments that we have made in this place do not go through in the final form of the Bill, we might as well toss out the Bill altogether, because the contents of the current Bill are minimal and simplistic in comparison. Before there is further debate, I want to see the Government and all parties enter into genuine consultation.

Hon Peter Foss interjected.

The PRESIDENT: Order! This is a third reading debate, as the Attorney General knows. I want to draw it to a conclusion.

Hon NORM KELLY: This Bill has been in the public arena for a long time. The Government is still basing its arguments on discussions from years ago. It has not entered into genuine consultation while the Bill has been progressing, to get a good idea of what is needed in commercial tenancy legislation in this State. I hope that the minister in the other place will come to the negotiating table with an open mind.

HON KEN TRAVERS (North Metropolitan) [2.28 pm]: I am pleased to see this debate drawing to a conclusion. I hope that the Bill, with the amendments that have been passed, goes through this place and is accepted in the other place. I want to cover one issue. I invite the minister, when he responds, to clarify a matter that came up in debate during the committee stage.

The PRESIDENT: Order! The member cannot do that. His comments are restricted to why the Bill should or should not be read a third time. The minister will not be responding, as there is no response at all. I must put the question. I am sure the member can find some words, however, to pose a question, but I can guarantee that it will not be answered in this debate.

Hon KEN TRAVERS: Members will remember the debate about the limitation in the Bill of 1 000 square metres of retail floor space. In committee a number of members contended that driveways and the like would not be included in the calculation of the floor area. I hope that that is the intention of the Bill and is the case. Some concerns have been raised with me by members of the public who have been following the debate, that they cannot quite see that in the Bill. A number of cases have come before the Commercial Tribunal of WA in which it has been clearly indicated under the previous legislation that the sealed driveway area -

The PRESIDENT: Order! The member is now outside the scope of the third reading. I am trying to be as fair as I can; however, I cannot let the member go into other areas. He has raised a particular point, and that has been well recorded. The next opportunity the member will have to raise these other issues that apparently have come forward will be in the adjournment debate tonight if he wants to put on record certain concerns. This is a narrow debate.

Hon KEN TRAVERS: I do not intend to take up much more of the House's time. Mr President, I appreciate your guidance on that matter. I will take the opportunity during the adjournment debate to raise that issue, because when we vote on the third reading of this Bill members need to be clear about what we are passing and the changes we are seeking to make to the legislation. Some of the areas that we feel are not being picked up by the Commercial Tribunal at this stage are covered in the Bill and the amendments that have been made to it. I hope that when we pass this Bill that will be the case and that the Bill will address some of the problems that have occurred in the Commercial Tribunal in the past of people not having their cases heard because they were deemed to fall outside the terms of the current legislation. By passing this Bill, hopefully we will remedy those deficiencies.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.

BAIL AMENDMENT BILL

Second Reading

Resumed from 10 September.

HON N.D. GRIFFITHS (East Metropolitan) [2.33 pm]: I am pleased to at last be able to speak to the Bail Amendment Bill because I and my colleagues in the Australian Labor Party strongly support this measure. It is a law and order measure. It is important that these significant law and order measures be bipartisan. The Opposition is not in the business of delay. I will not mention the member in the other place who falsely accuses us of delay but who lets matters hang around, in the case of one matter, for up to a year. We are not in the business of delay. We want to expedite worthwhile law and order measures, and that is part of our role this afternoon. This Bill involves a tightening of bail conditions in appropriate circumstances. Unfortunately, it is a reactive measure rather than a reflective measure. It is the Government being dragged once again, yelling and screaming, into doing something about a serious issue in our community. Notwithstanding that, it is a reasonable measure. The Government is entitled to our support on this, and it is getting it.

I will deal with some matters in the Bill so that the House can understand the process. The Bail Act is not the best drafted Act that I have come across. It is not one of the greatest works of art of this Parliament, but so be it. The process commences with section 13, jurisdiction to grant bail. That section commences with the words -

> Jurisdiction to grant bail for any appearance described in the first column of Part A of Schedule 1 is vested in the judicial officer or authorized officer specified in the second column of that Part opposite thereto . . .

Therefore, we have a section which says, "Here is the jurisdiction and here is the person who is going to exercise that jurisdiction." However, to ascertain that, it is necessary to go to schedule 1. Schedule 1 sets out those matters with respect to which bail is relevant and by whom bail may be granted, as section 13 foreshadows.

A significant part of the first schedule with respect to what the Bill seeks to deal with is part C. Part C concerns the principles governing the grant or refusal of bail, and with respect to this Bill, the relevant section is section 3A of part C, which deals with bail where a serious offence is committed while a defendant is on bail for another serious offence. The Bill addresses matters with respect to that.

I will take up one issue with the Attorney General, and it is a matter of administration rather than of law. However, it will become an important part of administration when, as I trust, this Bill is passed, both in this House and in due course in the other place. That matter is this: With respect to that small category of alleged offenders with respect to whom the tightening process will apply, a different regime will apply in one part of the State as compared with another part of the State. The phrase "urban area" is defined in the Bill in two parts: One provides an explicit definition, and the other permits a degree of prescription; that is, other areas can become urban areas down the track.

In the non-urban areas it will still be all right for a police officer to grant bail. A good reason exists for that, because the administration of the State is just not in place to cater for the obvious needs of people in outer areas. I have no difficulty with that. Similarly, I have no difficulty, in urban areas, with judicial officers being the persons who grant bail. In an ideal world it is not appropriate for police officers to be involved in the granting of bail. "Ideal" is probably too strong a word, but in the relatively isolated parts of the State we have to take the world as it is.

Hon Peter Foss: "Utopia" might be the word - in a utopian world.

Hon N.D. GRIFFITHS: I am a great fan of *Utopia* and its learned author, albeit he is deceased, but a very saintly gentleman, as the minister would be aware. His views of the world are misconstrued by many. However, I will not go into that, because I want to get this legislation passed.

The concern is that in the urban area a person who is part of this narrow category - I do not need to go into the minutiae of the clause, because that probably will arise in the committee stage - may find himself without the benefit of being able to make an application for bail from the time a court closes on Friday or, in the case of the East Perth court, on Saturday morning, if, for whatever reason, a person cannot be brought down to the East Perth court. In this day and age there should be no difficulty in a magistrate, or a number of magistrates, being rostered to take applications for bail during the weekend.

Hon Peter Foss: Saturday is okay; Sunday is the day.

Hon N.D. GRIFFITHS: It is Saturday morning for East Perth. What about Saturday afternoon and Saturday night? We cannot have people incarcerated without having the capacity to make an application for bail if that can be avoided. I cannot conceive of why we cannot have an administrative regime in place so that there is a capacity to deal with that. In that respect an order of the day that we will be dealing with shortly will no doubt go some way towards accommodating what would otherwise be a weakness in the law.

Applications for a restraining order can be made by telephone in certain circumstances. Currently, under section 86A of the Justices Act, a videolink may be used for remands and adjournments. The phrase is "a videolink or other device". Section 86A(1)(c) reads -

> a videolink or other device exists whereby, at the same time, justices in one place can see and hear . . .

It is a matter of seeing and hearing, not only the simple use of a telephone. Therefore, if we put in place an administrative regime to allow this narrow category of persons to make application for bail, as the law stands, they must make application for bail without relying on a video link. I am not talking about a large number of people; however, I am concerned that any person could be incarcerated without the capacity to make application for bail relatively quickly. Nothing is worse than an innocent person being locked up. The bottom line is that we are dealing with accused persons.

With that one qualification - an administrative matter which I am confident can be addressed with goodwill - this measure has my wholehearted support. I note in the context of my concern when the Bill is intended to come into operation; therefore, I trust it can be sorted out before the new bail regime is invoked. We still await a major Bill to overhaul the Bail Act. This is a small Bill designed to meet a few specific areas.

Hon Peter Foss: The other one is mainly procedural, not a major one.

Hon N.D. GRIFFITHS: Yes. We have waited for that measure for a considerable time. I looked forward to addressing the Bail Act in total in the none-too-distant future.

HON HELEN HODGSON (North Metropolitan) [2.42 pm]: The Australian Democrats support this Bill with a couple of reservations. It was interesting to hear Hon Nick Griffiths' comments as our reservations go to the heart of the treatment of innocent people. It is acknowledged in our system of law that a person is innocent until tried and found guilty. Our research on this Bill indicates that bail has been around for far longer than I thought it had: The original Bail Act was a statute of Westminster in 1275 and prescribed categories of persons to be, and not to be, bailed. I bring that to the Attorney General's attention knowing his interest in legal history. Bail is the granting of temporary liberty to a person charged with a criminal offence. The Bail Act determines the circumstances under which that application is to be handled. It ensures that rules guide when and how a person is bailed. The basic premise of our legal system is a presumption of innocence, and for persons charged with an offence to have the matter brought before a court of law. Bail will ensure that the alleged offender returns to court so the charges can be heard and upheld or dismissed.

A major factor in bail is that if the court considers the accused person at risk of flight, it may refuse bail. It must work both ways. The accused person must be treated as innocent until the charge is proved, but one must also ensure that the person comes before the court to have the charge addressed. Conditions have always been placed on the granting of bail. If the conditions are breached, it is appropriate to revoke the bail. However, presumption of innocence is the key to a system of bail.

This amending Bill will limit the ability for persons in certain categories to qualify for bail. Firstly, people on early release orders will be affected by the Bill; namely, people already found guilty in the justice system and who have served some custodial sentence and been released early. They are given the privilege of being returned to the community ahead of the term of their sentence; therefore, bail is a privilege rather than a right and the restriction does not strike to the heart of the presumption of innocence.

The second main limitation relates to the breach of a bail condition when a bail application has already been granted. That restriction will usually relate to restraining orders. Again, good reasons usually lead to the application of conditions to bail. With a restraining order, as often violence is involved, if a person breaches conditions of bail, stricter rules should apply in determining further applications. For these reasons, and the fact that generally restraining orders apply to violent situations - in accordance with amendments made in this Chamber last year - it is appropriate that a person at risk of being violent and breaching a condition should be subject to tight limitations. The Australian Democrats support the aspects of the Bill associated with restraining orders.

The third restriction is limiting bail for persons already on bail for a serious offence. My problem is that such a person has not been convicted of anything; he has only been charged and not yet brought before the courts. The matter has not been proved. However, the Bill states that if the person comes to the attention of the justice system a second time, he or she will not be given a chance to be considered for bail in the way most other people would be considered. I have problems with that aspect. Essentially, it will remove rights from a person who has not been proved to have committed a serious offence. For that reason, I have foreshadowed a couple of amendments.

The House must weigh up the serious impacts on the right of all individuals accused of a crime; I emphasise that these people are accused, not convicted. We have some serious community concern about the justice system. However, we cannot react to the concerns by prejudicing people's right to be presumed innocent. Also, we have discussed in this place in the past few months the problem of overcrowding in the prison system and the risks posed for remand prisoners. These prisoners are often not permitted to mix with the general population and do not access the work programs and other methods of keeping occupied. I refer to the Auditor General's report on prisons in which comment was made about risk factors for remand prisoners as opposed to the general prison population. Also, overriding the presumption of innocence could have a psychological impact on people imprisoned on remand because they may be innocent and have not had a chance to put their case. They may become totally alienated from the justice system, which may have a psychological impact, increasing the harm factors.

What happens if a person is denied bail because that person is already on bail for a serious offence, and one finds that person is not convicted of the original offence? Also, what happens if the time of this incarceration because bail was refused exceeds the term of imprisonment for the original offence? A person could be imprisoned when, under the normal application of the justice system, he or she would not have been imprisoned or would have been imprisoned for a shorter period. Therefore, the Australian Democrats have trouble supporting that aspect of the Bill.

The second matter about which I have some concern is the definition of "serious offence". Although two of the proposed amendments to the schedule cause me some concern, I have foreshadowed an amendment to only one of those amendments. The first issue is whether a person must be charged on indictment in order for burglary to be considered a serious offence. The reason for my concern is that the decision about whether to treat burglary as a summary offence or an indictable offence is generally based on factors which are fairly flexible, although there are some guidelines. Under the first proposed amendment, if a person had committed a burglary which the community does not consider to be very serious and which

would be treated as a summary offence, that summary offence would be deemed serious enough to prevent that person from making a bail application. However, the factors that determine whether burglary is treated as a summary or an indictable offence are not sufficiently clear cut for me to be willing to foreshadow an amendment to deal with that concern.

I do foreshadow an amendment in respect of the stealing of a motor vehicle. A serious offence currently includes the stealing of a motor vehicle where dangerous or reckless driving is involved. I agree that is a serious offence. However, the amendment will reduce that offence to simply stealing a motor vehicle. If a woman's partner took her motor vehicle without her permission and she did not know that he had it and reported it stolen, and if her partner was picked up while he was driving that vehicle, technically that could be considered to be stealing a motor vehicle, and the woman could choose to lay charges. It could be simple as that - no violence or aggravating factor - and that person would be facing a charge for a serious offence for the purpose of the Bail Act. Although it is appropriate that a charge of dangerous driving be considered serious enough to affect a person's bail application, I do not believe it is appropriate in the case of simply stealing a motor vehicle; for that reason, I have foreshadowed an amendment.

We generally support this legislation, because we are aware of the concern in the community that people who have been convicted of an offence and have been released early, or who have breached the terms of their bail conditions, are committing further crimes, and of the need to protect the community in those situations. However, I am opposed to those measures in the Bill which strike at the heart of our justice system - namely, the presumption of innocence - and I will address those matters at the committee stage.

HON CHERYL DAVENPORT (South Metropolitan) [2.53 pm]: I support the Bail Amendment Bill. Some of the proposed amendments deal with matters that I raised during the debate on the restraining orders legislation last year. I have gone to people within the legal profession, particularly those who deal with family law and domestic violence cases, to seek their views on these amendments. The Women's Legal Services, which raised many of the concerns that I outlined during the restraining orders debate last year, believes that this Bill will be a major improvement and is very pleased that these amendments have been put forward. However, I alert the Attorney General to the fact that while we agree that these amendments have been designed to reassure the public and to keep certain offenders off the streets, one of the problems in this area is that the Ministry of Justice does not inform the police about a detainee's parole status. The Women's Legal Services believes that the police should be able to ascertain from a computer record whether a person who is before the courts is already on parole, because it will make no difference how tough we make the Act if the people who grant bail are not aware of the status of a person who is before the courts. Therefore, that lack of communication between the ministry and the police must be addressed.

I also asked the Domestic Violence Council of Western Australia for its opinion on this legislation, because the members of that council have gained a lot of experience over the years in dealing with issues of this nature. I have been asked to place on record some comments by Jennifer Gardiner, who is a lecturer at the School of Social Work at Curtin University, and a former president, and currently a committee member, of the Domestic Violence Council. She states that the council supports the refusal of bail on the ground of the seriousness of the alleged offence, and that -

> To date, one of the difficulties in preventing recurrences of domestic violence has been failure by police and courts to consider violence against a female partner as serious.

This relates to the issue that we dealt with during the restraining orders debate about the need for change in the culture of the police with regard to determining whether an offence is serious. She states also -

> **All assaults occasioning bodily harm and threats to harm in the context of a relationship should be considered serious. To address the safety of the victim and her family, all bail applications relating to domestic violence should be heard by a magistrate.** This will have the effect of detaining the perpetrator for some hours, which will allow the victim time to make arrangements for her safety.

That is pretty much commonsense, and raises some questions about what is determined to be a serious offence in the case of domestic violence.

The second reading speech refers to the capacity to specify protective conditions in bail in favour of people who may not be named in the complaint relating to the alleged offence; for example, children living with the complainant or victim. Ms Gardiner states that that is supported by the Domestic Violence Council. She states also that it welcomes the statement made by the Attorney General in the second reading speech that -

> It is legislative policy that it should be possible for the court to circumscribe an accused's activities so that the police can act once the accused starts along the path that can lead to a breach of the peace. Protective conditions are imposed to enable police action before serious harm or alarm occurs.

She states also -

> The present situation, where all police can do is ask for further conditions to be imposed or request that bail be

> revoked, is not sufficient. The proposal that a breach of protective conditions will become a serious offence with a penalty of $10,000 or 3 years imprisonment is supported.

Ms Gardiner states also that the council supports the broadened range of bail conditions, which may include mandatory counselling, but that -

> . . . 'anger management' is not appropriate in sex offences or violence against women (nor in virtually all acts of violence). The use of the term in the Second Reading Speech is viewed with concern as it indicates that the Attorney General (as do many in the community) understands physical and sexual assaults against women as an issue of anger rather than more appropriately an issue of power and control. To avoid giving incorrect support for anger management as a treatment modality the term should not be used. Perpetrator treatment is the preferred term.

Hon Peter Foss: It is not actually in the Act, is it?

Hon CHERYL DAVENPORT: No, it is in the second reading speech. The council supports the mandating of attendance at perpetrator behavioural change programs. A weakness of this is the failure of the criminal justice system to monitor attendance, non-violence and/or failure to breach in these situations. Effective monitoring and breaching processes need to be enacted or enforced in some way. These are the major issues as ascertained from my contacts, who work long hours in this area. In the area of domestic violence this Bill is considered to be a vast improvement on the current Bail Act. I support the Bill.

HON PETER FOSS (East Metropolitan - Attorney General) [3.01 pm]: I thank members for their useful contributions. Hon Nick Griffiths raised the point of the administrative need for a person to be brought to a bail hearing as soon as possible. Members will be interested to learn that I am currently investigating the possibility of establishing a bail court to operate 24 hours a day, seven days a week. These courts have failed in every other State of Australia where they have been tried. I am looking at why they failed. I believe we may be able to address the matter, provided I get together all the people whose cooperation is necessary. We need magistrates and lawyers who are willing to appear at all hours of the day as a person appearing before the court would normally wish to have some form of legal representation. We also need the police to know they can bring these people before the court. We will try to extend the court hours first and see how we go. If that works, in due course I will take the matter further on each occasion. It is only longer hours at the moment. We are looking to start at 7.00 am and work through to the usual time and then start again at 4.00 pm and go through to 7.00 pm. If that works and the right number of people turn up, I will look at having a court which will sit longer hours. I do not want to start something which will fail as it has done in other States of Australia.

Hon N.D. Griffiths: That is one solution.

Hon PETER FOSS: Yes. The next matter Hon Nick Griffiths raised concerned video and audio. It is an excellent idea and he should raise it when we debate that matter. It had not occurred to me. If we can have a magistrate on duty by telephone, why not allow him to deal with bail as well? In this debate we have elevated the presumption of innocence beyond what it is. As the name suggests, presumption of innocence is an evidentiary matter, not a state of being. Whenever people are charged some disabilities come with it. Often people are arrested, and once they are in custody consequences flow. If a person decides after being arrested that he will leave police custody without permission, it is an offence and consequences flow from that. It does not matter whether he is later found guilty or innocent of the original offence, he has still committed an offence. The giving of bail releases people from the consequences of being charged with certain types of offences. Once it was unusual to release people from those consequences. However, as time has passed we have come to presume that people are entitled to bail. The Bail Act says one is presumed to be entitled to bail. An interesting article appeared in *Brief* written by Judge Healy. It suggested that even the golden rule has been in existence for only 80 to 90 years. Prior to that, the idea of an evidentiary threshold was quite common. Once that was reached, if it called for some sort of explanation, people were expected to give an explanation. That has been further and further elevated. I would hate to see it taken beyond an evidentiary matter into some other type of right. If a person is charged, our society says consequences flow from that and that is necessary for the protection of the public.

Hon Helen Hodgson's point that this piece of legislation changes that presumption is quite wrong. The change took place when clause 3A of Schedule 1, Part C was included. It removed the argument that says that, instead of a presumption of entitlement to bail, there is a requirement for one to have exceptional circumstances. The matter was decided by the Parliament when it inserted that clause 3A. This picks up something we need to pick up. When clause 3A was inserted, it did not take into account that the people who had to make that decision were police officers. Police officers are not judicial officers. Through clause 3A we have asked policemen to make judicial decisions. Not surprising they have found it hard to do that. It is not their role and under their standing orders effectively they are told if somebody wants bail, give it to him and get him out the door. I am not criticising the police as individuals or the Police Service as a group. They are not judicial officers and the Parliament has asked too much of them in asking them to make judicial decisions. The usefulness of police being able to grant bail is the immediacy of getting people out of custody. If somebody should be granted bail, it is ideal for the police to be able to grant that bail. It can be done without hesitation and does not inconvenience the citizen or the police. However, when a judicial decision needs to be made, it would be better if it was made by somebody who is trained

to do so rather than the police ,who are one of the protagonists. Once the decision to grant bail is made, when the person comes before the court on the return of his bail it is difficult to then refuse further bail. The Government has said that that decision should be made by a magistrate instead of a policeman or a justice of the peace. This does not change the onus; clause 3A changed the onus some time ago. The Government is recognising that it is easier to bring a person before a judicial officer and have him dealt with in the metropolitan area than in the country areas. We would impose an intolerable burden on the police and the citizen if we were to extend it further that than unless we were able to make some other arrangements as suggested by Hon Nick Griffiths.

At some stage I may have to bring the matter of burglary before the Parliament. We overdid the matter with the circumstances of aggravation. Burglary in company was added when the legislation was last amended. That has meant that every single burglary is aggravated burglary and is not only indictable but is required to be indicted. It has the effect of discounting the seriousness of aggravation. I will probably introduce legislation to remove burglary in company from aggravated burglary. A huge range of bad behaviour now comes within one description. Most burglars operate in company. That went a bit too far. In fact, it does not make a huge difference, although I happen to support that it should be for all burglary, not just burglary in company.

I very much welcome Hon Cheryl Davenport's remarks. I am pleased to know that people directly involved with domestic violence are supportive. It is not exactly a coincidence, because I spoke to the Women's Legal Services and many other people in the area of domestic violence. The measures in the Bill are as a direct result of those suggestions. I apologise if the second reading speech referred to anger management, when plainly it is a matter of dealing with that whole mode of behaviour. The legislation does not say "anger management". I accept the point. As I previously suggested I would like Hon Cheryl Davenport to visit South Australia and see how domestic violence is handled there. Under these provisions we are also considering tying in a domestic violence court with the Family and Children's Services program so that a magistrate can preside who will become familiar with cases and will therefore see repeat offenders. One of the big problems for the women is that they come back time and time again, but each time see a different magistrate to whom they must repeat the explanation of their situation. Cases always arise as though they are there for the first time, so magistrates tend to be less than strict on the offenders.

The other thing is we hope we get a better venue. We think we will use the Children's Protection Court in the Children's Court area, which has separate waiting rooms for the two parties and a much more close and intimate atmosphere than the Central Law Courts. It is very difficult for many women to give an account of what has happened in their domestic situation in front of a vast number of people assembled there for traffic offences, drunken driving, breaking windows, etc. It is extremely embarrassing for them.

Hon Ken Travers: It is an impressive building at the best of times.

Hon PETER FOSS: That is so. The Children's Protection Court is much nicer.

Hon Cheryl Davenport: Are you suggesting that it could be used as a domestic violence court?

Hon PETER FOSS: Yes.

Hon Cheryl Davenport: Is the South Australian set-up the only one?

Hon PETER FOSS: As far as I am aware. It seems to be well ahead of the rest of Australia in its treatment of domestic violence.

Hon N.D. Griffiths: You should pay for this trip.

Hon PETER FOSS: I might do so. I am very keen to have the South Australian model working here. I have convinced the police and magistrates to go over there. I have been shuffling people there to get the general idea. It is a matter of attitude.

Hon N.D. Griffiths: You should have the cooperative Opposition go over there.

Hon PETER FOSS: I will certainly look at that. Hon Cheryl Davenport raised the attitude of magistrates to domestic violence which seems to be that if a victim is not dead or in hospital it has not happened. Much domestic violence is a matter of control; it does not even involve physical violence. That is why we are looking to protect people with respect to protective conditions. At page 13 of the Bill subclause (4) reads in part -

> (c) in the case of a condition imposed for a purpose mentioned in clause 2(2)(c) or (d) or Part D, treat any alleged breach of the condition as a serious matter even if the conduct alleged to amount to the breach in itself appears to be trivial; and

That is the law. We are trying to draw the court's attention to it, because it does not seem to know that. To continue-

> (d) consider whether any alleged breach of a protective condition or order that has occurred shows that the purpose of the condition or order has not been achieved and that the defendant should be kept in custody.

It is important to consider the purpose of the conduct rather than the nature of it. For instance, if someone had been told not to go into a street he could say that driving down the street was not a big deal, but the purpose of the order was to keep him out of the street.

Hon N.D. Griffiths: This is not revolutionary.

Hon PETER FOSS: It is certainly not; nevertheless it is included. I thank all members for their support. I will deal with the reservations of the Democrats in Committee. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clause 1: Short title -

Hon N.D. GRIFFITHS: In canvassing amendments standing in the name of Hon Helen Hodgson on the Supplementary Notice Paper, I think the Australian Labor Party will be on the same side as the Government on this matter. Irrespective of what the Government does, the ALP does not go along with those amendments. We will vote against them because we want this Bill, in the words of the second reading speech, "to address community concerns, community perceptions and operational efficiencies in the system of bail". We are not interested in watering down what we consider to be a worthwhile measure.

Clause put and passed.

Clause 2: Commencement -

Hon HELEN HODGSON: This clause reads -

> This Act comes into operation on such a day as is, or days as are respectively, fixed by proclamation.

We have debated this issue in the past and I note that last year with respect to the Commercial Arbitration Amendment Bill the minister undertook to find out whether there should be a rule about when commencement clauses should be applied and provide us with information about why a commencement clause was required. Given that comes into place within 28 days, by default, why might commencement be delayed beyond 28 days? Are there other reasons that proclamation is required for this Bill?

Hon PETER FOSS: Not only may it be beyond 28 days but also it may vary from part to part. As the member will have noticed it is divided into seven parts which, although supportive of each other and enmeshed, are different propositions. In particular, as it will have a major effect on the operation of the police and the magistracy, once the legislation is passed by the Parliament, it will cause a number of changes in operational procedures for the police and require seminars to explain to people how to deal with it. Some of those procedures will have more of an effect than others. It is a classic situation in which not only proclamation but varied proclamation is called upon.

Clause put and passed.

Clauses 3 to 5 put and passed.

Clause 6: Section 16A inserted and transitional provision -

Hon HELEN HODGSON: I move -

> Page 4, line 19 - To delete the line.

I indicated in the second reading debate why these measures were inappropriate for a person on bail but not yet convicted of any offence. The deletion of this line will ensure that a person who has not yet been convicted of any offence will go through the normal procedures rather than the more stringent procedures in the Bill.

Hon PETER FOSS: The Government opposes this amendment. It is misconceived. Firstly, it overrates the presumption of innocence. Secondly, it misses the point of subclause 3(a), which changes the situation with regard to a person's right or otherwise to bail. Thirdly, it does not change a person's rights; it brings him before a higher officer to have the same matters of law decided as are currently decided under the Act. I am surprised that the member would be opposed to matters requiring judicial consideration being brought before a judicial officer as opposed to being decided by one of the protagonists.

Amendment put and a division held, with the Chairman casting his vote with the noes -

Ayes (2)

Hon Helen Hodgson	Hon Norm Kelly *(Teller)*

Noes (27)

Hon Kim Chance	Hon Max Evans	Hon Mark Nevill	Hon Tom Stephens
Hon J.A. Cowdell	Hon Peter Foss	Hon M.D. Nixon	Hon W.N. Stretch
Hon M.J. Criddle	Hon N.D. Griffiths	Hon Simon O'Brien	Hon Derrick Tomlinson
Hon Cheryl Davenport	Hon Ray Halligan	Hon Ljiljanna Ravlich	Hon Ken Travers
Hon Dexter Davies	Hon Tom Helm	Hon B.M. Scott	Hon Giz Watson
Hon E.R.J. Dermer	Hon Murray Montgomery	Hon J.A. Scott	Hon Muriel Patterson *(Teller)*
Hon B.K. Donaldson	Hon N.F. Moore	Hon Christine Sharp	

Pairs

Hon John Halden	Hon Greg Smith
Hon Bob Thomas	Hon Barry House

Amendment thus negatived.

Clause put and passed.

Clause 7: Schedule 1 amended -

Hon HELEN HODGSON: I move -

Page 6, line 9 - To delete the line.

I move this amendment for the same reasons I expressed in respect of the last amendment. This principle must at least be raised in this place.

Hon PETER FOSS: "Ditto", for the last time.

Amendment put and negatived.

Clause put and passed.

Clauses 8 to 14 put and passed.

Clause 15: Schedule 2 amended -

Hon HELEN HODGSON: I move -

Page 15, lines 13 to 15 - To delete the lines.

I referred to this clause in my contribution to the second reading debate. My concern is that it changes the definition of "serious offence". Currently, a "serious offence" is stealing a motor vehicle and the aggravating factors are dangerous or reckless driving. The impact of deleting those words means that simply stealing a motor vehicle is treated as a serious offence. I am not condoning the theft of motor vehicles, but the seriousness of being caught by the special provisions results from the aggravating factors rather than the theft itself. Therefore, I do not believe the clause should be passed.

Hon SIMON O'BRIEN: I do not intend to delay the passage of this Bill, because the community wants it. However, I place on the record in my capacity as a backbencher in this place that I am utterly appalled, given the rate of crime in our community at the moment, that the Australian Democrats want to quibble about this matter. The stealing of motor vehicles by people who are on bail or a conditional release order is viewed by almost everyone in the community as a serious offence. Those who commit such an offence in those circumstances are putting up two fingers to the rest of society. It is seen as a great affront to good order. To quibble about this matter is to disregard the very strong views of our society. I am delighted to see the bipartisan approach being taken so far on this Bill. It represents the almost unanimous view of our society; that is, people want to crack down on this sort of crime.

Hon N.D. Griffiths: Most law and order measures have had strong bipartisan support and they will continue to do so.

Hon SIMON O'BRIEN: I am more than happy to acknowledge that and welcome that in the future. As someone who does not hold a ministry, I want to place on the record the backbench perspective that this clause, and the rest of the Bill, presented by the Government and supported by the Opposition, is wholeheartedly supported, and indeed overdue. Therefore, I place on the record my opposition to this amendment.

Hon PETER FOSS: Hon Simon O'Brien has very clearly stated the reasons behind this provision. Three offences of this nature are totally abhorred by society - burglary, robbery and stealing motor vehicles. Those offences have become a plague in our society. People who think they can flout the law while awaiting trial by continuing to steal cars must learn that bail is not a licence to continue to steal cars until they come before the courts. If they wish to continue with that behaviour, they will find themselves having to justify in court why it is they should be at liberty.

Amendment put and negatived.

Clause 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 Peter Foss (Attorney General), and transmitted to the Assembly.

ACTS AMENDMENT (VIDEO AND AUDIO LINKS) BILL

Second Reading

Resumed from 16 September.

HON N.D. GRIFFITHS (East Metropolitan) [3.36 pm]: The Australian Labor Party supports the Bill. I shall make a few short observations. First, the Bill makes it clear that courts will be able to use new technology. Of course, many people can properly be of the view that there are very few inhibitions with respect to courts using new technology anyway. The legislative constraints are very few. One of them is found in the Sentencing Act and deals with the process of a prisoner being brought up for sentence. Unless there are particular circumstances, the prisoner is brought before the court. I have a bit of concern about how it is proposed to deal with this matter with respect to the role of the prosecutor. I ask the Minister to address that in his comments. My concern is that the application to have the sentencing dealt with by video link should be on the part of the prisoner or made by the court of its own volition rather than by the prosecutor. At the end of the day it is a very important principle that a prisoner should have the right to stand up and face the judge when being sentenced. I will come back to why I think it is an important principle in a moment.

I note the Bill will enable regulations to come into place so that the fees and expenses can be charged for the use of these proposed areas of technology. I note that administratively it would be abhorrent if it were to be applied to criminal proceedings, save perhaps for some quaint circumstances, which I do not see the need to go into. When we deal with the question of charging fees for the use of court facilities, whether they are to be accessed by new technology or otherwise, we should be very careful that we are not cutting out people's access. There is a very important principle of the administration of justice. This Bill when passed will engender a climate where courts will more and more - they are progressively doing so - use new technology. That will enable expense to be dropped, which will benefit, firstly, the community as a whole, because there is a potential here for great efficiencies; and secondly, and very importantly, the litigants. I can see a situation developing where we will not have whole queues of lawyers hanging around from time to time to be heard, for example, on a simple plea in mitigation. There is no reason that a simple plea in mitigation could not be given from a lawyer's office and slotted in. That represents an enormous saving to litigants instead of having to bear what is in a sense an unfair cost of the lawyer's overheads. That is not the fault of the lawyers but the way the system operates. There are some great benefits here for the practice of law, for litigants and for the community as a whole.

I have one rider. The minister and I attended the same function last night at which the Chief Justice of the High Court made an observation about why the High Court sits in Perth. He asked why it sat anywhere or why it sat in Canberra. As His Honour pointed out, so much of the work of the court could be done in a justice's home by accessing technology. He would not have to come to a place which from the Canberra-Sydney point of view may be the outer parts of Australia.

Hon Simon O'Brien interjected.

Hon N.D. GRIFFITHS: His Honour made the very important point that people must be able to see that justice is taking place. They must know that they have this system. I am paraphrasing him very loosely, but the message he gave me, with which I agree, is that people must have faith in our system and be able to see what is going on. They must see justice being done and the law being administered.

We are in for some very difficult times as a society if people do not have faith in our legal system, which is a very important part of a civilised society. Access to technology is important to lawyers and the community regarding the expense to litigants and running the courts. However, we must always bear in mind that the community has an interest in what takes place in courts. People must be able to walk into courts - exceptions arise, but let us not legislate on the basis of exceptions - and be satisfied that what is taking place is fair and appropriate.

HON HELEN HODGSON (North Metropolitan) [3.41 pm]: The Australian Democrats also support this Bill. It is important that we improve access to justice, especially in Western Australian rural centres with the centralisation of many of our resources to the Perth metropolitan area. It is appropriate to keep pace with available technology to improve the system.

To digress a little, a few years ago before I went into academia, I was involved in the appeals process at the Australian Taxation Office. I regularly appeared before the Administrative Appeals Tribunal on behalf of the commissioner. Technology had started to be introduced. I have seen how it can be applied. Under the Administrative Appeals Tribunal Act as it stood, we were able to deal with situations in which people were unable to attend meetings convened in Perth at the Federal Court, and were able to deal with preliminary hearings and such matters expediently through the use of emerging technology. That was 10 years ago. Technology has evolved considerably since then. I was able to complete my masters degree via audiovisual means through the University of New South Wales. Therefore, I have some familiarity with what is possible with this technology. Nevertheless, it is important that the processes not be impaired in any way by the use of technology and that we have the appropriate checks and balances to ensure that the system runs according to the justice system requirements. These amendments will go a long way to improve access to justice. I had hoped to receive some feedback from the Law Society on the practical implications of this measure, but unfortunately the timing of the society's meeting and the Bill's consideration here has meant I have received only informal feedback. I understand that the Law Society supports this measure as it will improve access and expedite delivery of justice. The Australian Democrats support the Bill.

HON PETER FOSS (East Metropolitan - Minister for Justice) [3.43 pm]: I thank members for their support for the Bill. A question was raised about the prosecution making application for the use of this technology. An immediate concern is that, particularly in country areas with a circuit judge, when a person is convicted but not sentenced, because of the need for a pre-sentence report, it is desirable that the person stay in the area in a local prison, to which he will return if the sentence determines. That means that that person must be physically brought to Perth, brought in from the prison in the back of a van - people are never keen on that - held in the lock-up cells in the Central Law Courts, and then brought to court and sentenced. The process is then reversed. The prosecutor is more likely to say that he would like the process carried out by video, as it may not occur to the defendant or court. It is in the hands of the court. I am convinced that if it were a matter of concern to the defendant, and were raised, the court would take it into account. I expect the matter to be raised by the prosecutor as prosecutors are responsible for maintaining the system.

Recently, I had the Criminal Lawyers Association, the Law Society, the Legal Aid Commission and the Ministry of Justice work together to find an agreed way to proceed on these matters. I hope that in the future we will have the legal authority to proceed and some agreement with the profession on how it should take place.

Question put and passed.

Bill read a second time, proceeded through remaining stages without debate and transmitted to the Assembly.

Sitting suspended from 3.46 to 4.00 pm

[Questions without notice taken.]

FIRE AND EMERGENCY SERVICES AUTHORITY OF WESTERN AUSTRALIA BILL

FIRE AND EMERGENCY SERVICES AUTHORITY OF WESTERN AUSTRALIA (CONSEQUENTIAL PROVISIONS) BILL

Cognate Debate

Hon Peter Foss (Attorney General) was granted leave to have Order of the Day No 9 debated cognately with Order of the Day No 10.

Second Reading

Resumed from 16 September.

HON N.D. GRIFFITHS (East Metropolitan) [4.33 pm]: I am pleased to be able to address the Fire and Emergency Services Authority of Western Australia Bill at the same time as the Fire and Emergency Services Authority of Western Australia (Consequential Provisions) Bill. The latter Bill is consequential on the former. I am also pleased to see at last legislation of which one cannot be critical coming from the overall Police portfolio. It is quite unusual. The tenor of the legislation which has come from that portfolio recently has been of a very low order. I will not go into that in great detail because it will disrupt my comments about these measures, which I want passed as soon as can reasonably be done. The matters contained in each of the Bills have been the subject of appropriate consultation and comments. They have the strong support of the Australian Labor Party.

The principal Bill, the Fire and Emergency Services Authority of Western Australia Bill, when passed, will improve the

coordination and planning of the State's emergency services. It provides for the establishment of the Fire and Emergency Services Authority of Western Australia. That authority involves a consolidation of a number of agencies, as the second reading speech correctly identified - the Bush Fires Board, the Western Australian Fire Brigades Board and the Fire and Emergency Services Department. The Bill deals appropriately with functions and powers relating to the provision and management of emergency services. The only criticism of the Bill is that it has taken some time to reach this House and I do not propose to hold it up any further.

HON GIZ WATSON (North Metropolitan) [4.35 pm]: On behalf of the Greens (WA), I give our support to this Bill. It is a good move. I have met with representatives from the Bush Fires Board and from the State Emergency Service, and they urged me to ensure Green support for the passage of these Bills. Indeed, they were keen that their passage should happen as soon as possible. I am pleased that debate on these Bills has been brought on today.

The objective of the coordination and consolidation of these three important services is well overdue. I also support the proposed structure of the board of management. The representation on that board will give voice to a large group of people who willingly give their services throughout the State. We should be thankful that an excellent group of volunteers work for organisations such as the Bush Fires Board, the State Emergency Service, the police and the Fire and Rescue Service. I congratulate those people for their efforts. We are well served by those groups. The proposal to combine and coordinate those services under one board is welcome and we support the passage of this Bill.

HON NORM KELLY (East Metropolitan) [4.36 pm]: The Australian Democrats support these Bills. It is interesting to see that the structure of the Fire and Emergency Services Authority already seems to be working quite strongly, although it is not officially proclaimed in legislation. The restructuring of these services has been taking place over the past year or so. The efficiencies involved with such streamlining are becoming evident, not only in the better coordination between staff at central offices, but also out in the field in the country towns where, because of the efficiencies, money is flowing to the hands-on resources rather than being tied up in administration and bureaucracy. Although it is good to hear that the Australian Labor Party does not have any problems with these Bills, it was not the case in the other place. It is good to see that, to a large degree, those problems have been sorted out.

I am disappointed that I have not been able to obtain a copy of draft regulations which will accompany this legislation. The availability of draft regulations - whether it is before the legislation is debated or afterwards - is something that we come across every now and again. We should look at each case separately because in some cases it is very hard to draft the regulations until the legislation has been passed. However, we have been given an indication of some matters that will be contained in the regulations and that gives me some assurances about how things will pan out.

I would like to handle some matters at this stage rather than go into the committee stage of the Bill. One of the main contentions is clause 6, which relates to the make-up of the board of management of the authority. That board of management will comprise a chairman; three chairmen of the consultative committees, which are dealt with in another part of the Bill; three persons who, in the minister's opinion, represent emergency services volunteers; one person who, in the minister's opinion, represents local governments; the chief executive officer; and not more than one other member. The main matter of concern is clause 6(1)(c), which states -

> . . . 3 persons who, in the Minister's opinion, represent emergency services volunteers . . .

There was much debate in the other place about how those three people should be chosen and whether they should be appointed by the minister, whether certain organisations representing volunteer groups should nominate their person and elect that person onto the board of management, and so on. The minister in the other place stated that, through regulation, the intention is to have three bodies each nominate three persons from whom the minister can make his selection. That is a good scenario, and the arguments for it are well-founded, otherwise we could have a problem. We are talking about the three arms of the volunteer services: The State Emergency Service, the bushfire brigades and the urban Fire Brigade or fire and rescue brigades, which are more town-based services. We could have a scenario in which each representative body nominates a person from the same region. There could be an imbalance on the board of management because only a certain part of the State would be represented, whereas, by being able to nominate three people, the minister can do his best to ensure that there is a proper balance of expertise and coverage of the various regions on the board of management. Clause 6(1)(d) refers to a representative of local government. I understand that, as is usual, the Western Australian Municipal Association will nominate three names to the minister for selection.

As to organisations that represent volunteer services - I would like a response from the minister on this point - I am a little concerned that the Minister for Emergency Services proposes that one of those organisations be the Association of Volunteer Bushfire Brigades of WA Inc and that another be the WA Volunteer Fire Brigades Association Inc. I do not have a problem with those two organisations, but the third is to be nominated by volunteer members of the Western Australian State Emergency Service Consultative Committee. I am concerned about why there is a need for nomination from the consultative committee rather than from the SES Volunteers Association of Western Australia Inc, which represents SES volunteers. I should like some clarification of that matter. One wonders why there seems to be no balance across the three consultative committees. In the overall structure of FESA we need balance between the three arms of the volunteer services.

Hon Peter Foss: The three chairmen of the consultative committees?

Hon NORM KELLY: The minister will need to refer to *Hansard*. It might be easier to deal with this matter in committee. It was dealt with extensively in the other place, where the minister read into *Hansard* a draft regulation to cover the selection process. It is worth considering whether the Government provides adequate support to our volunteer services. After consultation with the volunteer organisations, I realise that they are under stress. They are probably not unlike many other services.

Hon Peter Foss: We have increased funding enormously.

Hon NORM KELLY: In the past decade or two there was a substantial drop; we have actually returned to a higher level of funding.

There are more and more pressures on volunteers, whether they be in the emergency services or other areas. In country areas the situation is becoming even more critical because of the depletion of population. There are more demands on people. Quite often in the traditional family both partners work and have fewer hours to devote to those services. Because of that, it is essential to support the volunteers as much as possible. I have also been made aware that in recent months a contract was signed between the State Emergency Service and HBF. It is a form of sponsorship so that volunteer groups can obtain more equipment. Is it essential equipment that now must be provided by the private sector because of inadequate government funding or is it non-essential equipment which supplements existing equipment?

Hon Peter Foss: Essentially, they are volunteers.

Hon NORM KELLY: Although they are volunteers, it is a basic service that the Government should provide.

Hon Peter Foss: It is a basic service to their own community.

The PRESIDENT: Order! This is the second reading stage. There was the comment that we might not go into committee, so I have allowed a little latitude. However, if we are to deal with committee matters, we will deal with them in committee.

Hon NORM KELLY: Volunteers donate their hours because it is for the community good, and that is why they are willing to put in time and effort, but they do not want to be a billboard for an insurance company. They are being provided with new uniforms, overalls and vehicles with "HBF" splattered on them. We have seen that occur in education, where funding or sponsorship for non-essential services slowly creeps into essential services as well and the Government is able to provide less and less funding because the matter is taken up by private sector sponsorship. That matter will probably come up later, so I will not delay the House any longer.

There is concern about board membership, which I shall address briefly in committee. Apart from that, we fully support what the Government is doing to ensure that efficiencies and cost savings are redirected to where they should be, which is on-the-ground support throughout Western Australia.

HON PETER FOSS (East Metropolitan - Attorney General) [4.48 pm]: I thank members for their support. I will deal with one point, and that is government support. The Government has given increasing support to volunteers. One of the important points about volunteer organisations is their self-help. They always have had self-help. For example, I refer to the Bush Fires Board. For many years, farmers have provided their own equipment, and it is probably a departure from that situation in that we have provided money for the purchase of that equipment. Of course, that equipment is available to be used by farmers not only in what we regard as a public function but also in emergencies on their own properties which might have been of their own causing. There is a further benefit to those people. We must also keep in mind that the Government is no different from the people. If we were to tax people more in order to circulate the money through administration and hand it back according to priorities seen by the Government, we would drain a significant amount of that tax into administration and take away individuals' decisions on what they wish to do. One gem about volunteers and one of the benefits that comes from volunteer services is that they are in control. The effort that someone puts in is directly returned to him. He makes the decisions that he believes are appropriate and he sets the priorities that he thinks are appropriate.

I would hate to see it suggested that these are services that should be provided by the Government. All too many things have been taken over by government and suddenly we find that people stop volunteering for them. This Government has a good reputation for providing adequate support. We have debated this on a number of occasions, but how far we go has always been a matter of concern. Many things in our society that previously were provided as a societal obligation not only gave people the service but also provided the glue to society that made it worthwhile and, in fact, improved relations. Let us consider unions. Their role is not purely to look after workers in the workplace. Very often, it is a role of providing support to one another. The reaction would be one of horror if those things were taken over by the Government.

Hon Ken Travers: It has been regulated out of existence.

Hon PETER FOSS: That is right. The point about it is that it applies to every element of society. If we want to bring government into areas where there is the capacity to carry them out with volunteers for the benefit of each other directly,

with no percentage going in administration, that is fine because the people are doing it for themselves. As a society we have reached the stage where far too often people believe that the Government should provide everything; whereas as a society we are far better off when we have the capacity to provide it ourselves.

Many a time the Government has put staff and funding into an area and a lot of people have thought that they should not have to do anything because the Government will. We end up with less being available through our community than would be the case had we provided the service by contributing through our own efforts and money. I think we have provided very good support. I would hesitate before we went much further, or else we will undermine the whole system of society caring for itself by depending on the Government for its existence.

Question put and passed.

Bills read a second time.

SITTINGS OF THE HOUSE - EXTENDED AFTER 5.00 PM

Thursday, 22 October

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.01 pm]: I move -

That the House continue to sit beyond 5.00 pm.

I move this motion simply to finish these Bills. I understand it will not take very long. Two second reading speeches are to be delivered, one for the Juries Amendment Bill and the other for the Restraining Orders Amendment Bill. I ask the House to sit until those matters are dealt with.

Question put and passed

FIRE AND EMERGENCY SERVICES AUTHORITY OF WESTERN AUSTRALIA BILL

FIRE AND EMERGENCY SERVICES AUTHORITY OF WESTERN AUSTRALIA (CONSEQUENTIAL PROVISIONS) BILL

Committee

Fire and Emergency Services Authority of Western Australia Bill

The Chairman of Committees (Hon J.A. Cowdell) in the Chair; Hon Peter Foss (Attorney General) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Board of management -

Hon NORM KELLY: I refer to subclause (1)(c). In my speech in the second reading debate I mentioned that one member of the board of management is to be a person who is nominated by the volunteer members of the Western Australian State Emergency Service volunteer consultative committee. I wonder why such nomination should come from the consultative committee, rather than from a representative volunteer organisation which is autonomous from that committee.

Hon Tom Stephens: The member will probably find the answer to that question if he reads the second reading debate in *Hansard* that occurred in the other place, or gets a letter from the minister.

Hon PETER FOSS: My instructing officer advises me that the Leader of the Opposition is perfectly correct.

Hon NORM KELLY: I have read the speeches made in the other place and that is why I have asked this question. The nomination process as set out in the Bill is pretty loose. The legislation states that the nominee will be a person who in the minister's opinion represents emergency services volunteers. Although regulations can be drafted to identify the relevant organisations, it is just as easy for those regulations to be deleted. It then falls to the minister. A stronger way of making the appointment would be to change the wording of the legislation to say that the nominee will be as prescribed. I do not seek to amend the legislation, but rather to obtain an assurance that the volunteer organisation representatives of State Emergency Service workers will get a say in this matter. I raise this matter because these people have sought my assistance to ensure that they have the power to nominate that board member.

Hon PETER FOSS: My understanding is that whereas two of the associations represent all of the persons involved, the Western Australian State Emergency Service volunteer consultative committee contains members who are not volunteers. The idea is that those representatives be volunteers, rather than just being from the consultative committee, which happens to be for volunteers and which has people on it who are not volunteers. It is intended that the volunteer members will be putting forward the nomination for these members to the committee.

Clause put and passed.

Clauses 7 to 42 put and passed.

Schedules 1 and 2 put and passed.

Title put and passed.

Fire and Emergency Services Authority of Western Australia (Consequential Provisions) Bill

On motion by Hon Peter Foss (Attorney General), resolved -

That the Bill stand as printed.

Title put and passed.

Report

Bills reported, without amendment, and the reports adopted.

Third Reading

Bills read a third time, on motion by Hon Peter Foss (Attorney General), and passed.

RESTRAINING ORDERS AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon Peter Foss (Attorney General), and read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [5.01 pm]: I move -

That the Bill be now read a second time.

This Bill allows for the registration and enforcement in Western Australia of restraining orders originating in New Zealand and other countries prescribed. It will ensure that people who have sought and obtained the protection of a restraining order in another country are afforded the continued protection of that order in this State.

The law in New Zealand relating to domestic violence was reformed recently with the commencement of the Domestic Violence Act 1995 on 1 July 1996. That Act provides for the enforcement of protection orders between New Zealand and other countries. Foreign countries must normally be prescribed by Order in Council but Australia, and each of her States and Territories, was so designated at the time the Act was passed. As a result, as from 1 July 1996 New Zealand courts have been able to receive and register Australian court orders made for the protection of a person from the violent behaviour of another person. Once registered, an Australian court order has effect in New Zealand and can be enforced there.

At a recent meeting of the Standing Committee of Attorneys General in Melbourne, all Attorneys General indicated their support for amendment of the legislation of the respective States, where required, to allow for recognition and enforcement of New Zealand restraining orders.

Part 7 of the Western Australian Restraining Orders Act 1997 provides for the registration and enforcement in Western Australia of restraining orders issued in other States of Australia. The present Bill inserts a further part that provides for the registration and enforcement in Western Australia of restraining orders issued in New Zealand or any other prescribed country. The new part specifies the categories of persons who may make application for registration of a foreign restraining order; how the application is to be made; the actions to be taken by the clerk of court on receipt of such an application; the effects of the registration; the impact on the order in Western Australia of variation or cancellation of the order in the foreign country; and, the impact on the order of variation or cancellation of the order in this State.

On registration, the order has effect in Western Australia as if it were a final violence restraining order made and served under the Western Australian Act. However, it is a defence to a charge of breaching the order to satisfy the court that the alleged breach did not constitute a breach in the country in which the order was made, or that the order had been cancelled in the country in which the order was made.

The clerk of the court that registered a foreign restraining order is to register any variation or cancellation of an order made in the originating country and, similarly, is to register any variation or cancellation of the operation of the order in Western Australia. The Restraining Orders Amendment Bill gives further effect to this Government's determination to ensure better access to justice for people who need the protection of a violence restraining order, by ensuring full reciprocity with New Zealand with respect to the registration and enforcement of restraining orders. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Stephens (Leader of the Opposition).

JURIES AMENDMENT BILL

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [5.04 pm]: I move -

That the Bill be now read a second time.

The jury system is a significant public contribution to the operation of the criminal justice system. Each year thousands of Western Australians are empanelled and serve on juries. Given its pivotal role in the criminal justice system, it is important therefore that the jury system remain under scrutiny so that any emerging problems can be effectively addressed. For that reason, this Government has previously committed to reviewing the jury system processes of selection, election and supervision. To address these fundamentals, the Bill now before the House has been drafted to provide a more effective method of serving jury summonses, allow more widespread use of computer technology in the jury selection process, increase the age limit for prospective jurors, exclude persons from jury service when they have been subject to a suspended imprisonment order, and reduce the number of citizens required to be summoned for jury service through reducing the number of peremptory challenges. Taken together, these provisions will significantly enhance the operation of the jury system in Western Australia, with benefits to prospective jurors and the community generally.

Juries are intended to be representative of the community and to reflect its diversity. It is, therefore, important to provide for the more senior members of the community to participate in the justice system through jury service. Section 5(a)(ii) of the Juries Act 1957 currently provides that a person is not eligible to serve as a juror if he or she has attained the age of 65 years. The Bill allows for persons to be eligible to serve as jurors until they reach the age of 70 years. This amendment provides senior members of the community with greater opportunity to participate in the justice system if they so wish. The Bill also recognises that there are situations, however, where, for a variety of reasons, citizens at this stage of life may not be inclined to participate in jury service. Therefore, in order to strike a balance between increasing the age of eligibility for jury service to 70 years and the desire of some senior members of the community to be exempt, it is necessary that those citizens be provided with the means to be excused. Part II of the second schedule to the Juries Act lists those persons who are excused as of right from serving as jurors if they claim to be excused. Under the Bill it is proposed to amend the second schedule to include provision for jurors over 65 years of age to have an automatic right to be excluded without giving reasons.

Another important proposal relates to enhancing the integrity of the justice system by ensuring that juries are protected against the possibility of panels containing members of the community who have been the subject of serious criminal proceedings. The current provisions of section 5(b) of the Juries Act disqualify persons as jurors if they have, among other things, served any part of a sentence of imprisonment. However, the current provisions are silent on the question of suspended prison sentences. This type of penalty was introduced under the Sentencing Act 1995. This Bill excludes persons from eligibility for jury service if, in the previous five years, they have been sentenced to such a penalty.

The Standing Committee of Attorneys General has agreed to a consistent approach across all States to protect the confidentiality of jury deliberations, and to prevent the disclosure of the identity of jurors. Similar provisions to those contained in the Bill have already been enacted in New South Wales, Queensland, the Australian Capital Territory, and the Northern Territory.

Just as the jury system needs to remain abreast of changes to the law, so too it needs to remain abreast of changes in technology. The use of technology in the management of the jury process is an initiative that has progressed significantly in the past two years. Technology has been used to streamline jury management, resulting in reduced inconvenience to jurors. The change to use of computers has addressed a major area of complaint by jurors. Section 29A(1) of the Juries Act allows a summoning officer to empanel a jury for a civil trial in a Circuit Court by use of a computer, instead of manual performance of the task. However, the description "Circuit Court" as currently used in the section, does not include the Supreme Court or District Court sitting in civil jurisdiction at Perth. Accordingly, an amendment is sought to allow the use of a computer in these jurisdictions. Although juries are seldom used in either jurisdiction, it makes sense to have the practice consistent with practice in the administration of juries in the criminal jurisdiction. This will reduce costs and inefficiencies in the existing manual system.

The Bill also seeks to address other inefficiencies in the system, specifically in the area of serving jury summonses. Current inefficiencies predominantly result from legislative restrictions to the use of current information as to the addresses of citizens selected for jury service. The current inability to update information in the Jurors' Book regularly in the issuing of additional juror summonses, in order to achieve an acceptable number of citizens for the jury pool, results in unnecessary cost and adds to inefficiencies in the jury system. Section 33 of the Juries Act provides for the service of jury summonses or notices by personal delivery or prepaid to a person at the address listed in the Jurors' Book. These addresses are obtained from the Western Australian electoral roll as at 1 July each year. However, although the Electoral Commissioner continually updates elector postal and residential address information from elector claim cards, this information cannot currently be used to update the Jurors' Book. The Bill allows for jurors' addresses to be updated during the term of the Jurors' Book, rather

than the static address information obtained on 1 July each year being used. It also allows the summoning officer to serve the summons to a juror at either a juror's postal or residential address known to the Electoral Commissioner. These amendments will assist in reducing the number of summonses which need to be issued to ensure the attendance of the requisite number of jurors.

Members will be aware that one of the necessary complications of empanelling a jury is that the defence and prosecution have the right to peremptory challenge of jurors. The Bill now before the House seeks to improve the operation of that process, against the background that the application of the same set of rules in metropolitan and regional areas currently gives rise to difficulties. Clearly, in Western Australia the community expects the consistent application of the criminal and civil justice systems for the benefit of all citizens. The community, however, also recognises that at times there is a need for flexibility in legislation to cater for regional considerations, because the application of the same set of rules relating to juries fails to recognise that in the regions the practicalities of convening a jury are quite different from those in the urban areas. For example, there will be instances when potential jurors in the smaller regional communities are more likely to be challenged, if only as a result of the size of the community and the higher probability that the parties will be known to jurors.

Section 38 of the Juries Act permits any party at a criminal trial to challenge peremptorily eight jurors, except where two or more persons are charged with the same offence and are put on trial together. In this latter case, each of those persons may peremptorily challenge six jurors. Further, section 38(2) of the Juries Act provides the Crown with the right to stand aside four jurors. The effect of this is that to empanel a jury of 12, between 28 and 32 potential jurors are needed. For many potential jurors who are quite happy to serve, the experience of being peremptorily challenged, having to return the next day and perhaps being challenged again, without any reason being given, is quite frustrating. People do not mind being inconvenienced if they can make a public contribution but, understandably, they feel differently when it is apparently for no good reason.

In order to reduce the impact of jury attendance on the community, the Bill contains amendments that will limit the number of peremptory challenges available to parties, both prosecution and defence, at criminal trials held in the Supreme Court or the District Court. In order to cater for the regional differences outlined above, challenges will be limited to five in the regions and three in the urban areas, regardless of the number of accused persons being tried. The right of the Crown to stand aside four jurors will also be removed. This is because the current practice in the jury selection process of allowing the Crown to stand aside prospective jurors from the panel, has the potential to cause unnecessary concern on the part of members of the community. It also increases the number of citizens required for jury service.

The Bill now before the House seeks to provide for a more efficient jury selection process, resulting in less inconvenience to the community and a saving in valuable court time. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Stephens (Leader of the Opposition).

ADJOURNMENT OF THE HOUSE

HON N.F. MOORE (Mining and Pastoral - Leader of the House) [5.10 pm]: I move -

That the House do now adjourn.

Chief Executive Officers, Performance Agreements and Assessments - Adjournment Debate

HON LJILJANNA RAVLICH (East Metropolitan) [5.11 pm]: I rise in my capacity as Opposition spokesperson for public sector management to express my disappointment at the lack of accountability by chief executive officers in the Western Australian state public sector. The Premier, Richard Court, continually crows about accountability. However, from responses to questions without notice I asked yesterday and today, of which notice was given, clearly what we do not have in the state public service is accountability. We must ask who is managing the managers because clearly, many chief executive officers within government agencies are not complying with the requirements of the Public Sector Management Act. Twenty-eight chief executive officers have not forwarded their 1998-99 performance agreements although they were due on 30 September this year. They are three weeks late. Thirty-six chief executive officers have not forwarded their 1997-98 performance assessment reports to the Premier. If we are talking about efficient management, the performance agreements should be in place that outline the targets that must be met by CEOs. They should be evaluated or assessed to see whether they are meeting the targets outlined in their performance agreements. Clearly, they would indicate whether they were doing a good job and should be a primary consideration when determining whether they should be reappointed for a further term.

Many chief executive officers are three weeks late in meeting the requirements of the Act. In addition, I refer to a more appalling situation in which some chief executive officers are not only three weeks late but also one year and three weeks late. I learnt from a response to one of my questions today that of the 28 chief executive officers who have not forwarded their performance agreements this year 13 of them did not forward one last year. That raises the question of how the Western Australian public know that those people are doing what they are paid for. They are not being paid a paltry sum of money in most cases. Most of them are on contracts valued at anywhere from $150 000 to $250 000. Many are salary packaged

and many have very special provisions such as some sort of property considerations and special travel provisions. I am sure many interesting things would emerge if we closely examined the salary packaging arrangements.

The bottom line is that they are paid a vast sum of money because they are expected to perform. However, how do we know if they are performing when performance agreements are not in place and they are not assessed regularly to see whether they are meeting the requirements? What does that do to the Government's argument about accountability? It shoots it out of the water. The Premier cannot argue about having an efficient and accountable state Public Service because, frankly, based on the information that has been presented over the past couple of days, that is a fallacious argument. There is no accountability. Nobody is managing the managers; they seem to be a law unto themselves. The Western Australian taxpayer can have no confidence that a large number of chief executive officers are doing a good job. We do not know whether they are because no information is available on their performance.

It raises an even more important issue. Clearly chief executive officers have little or no regard for legislative requirements. It is a requirement of the Public Sector Management Act that performance agreements be in place. It is also a requirement that performance assessments be conducted annually. Clearly, at least 13 chief executive officers have breached the requirements of the Public Sector Management Act. Another 19, some of whom could be the same people, have not submitted their performance agreements. They too are breaching the Public Sector Management Act. What can we say about a Government that does not ensure its senior personnel meet the fundamental legislative requirements of the Act under which they are appointed? It is a disgraceful situation. We should ask why the Act is being breached, why these chief executive officers - 28 in one case and 36 in another - believe they have the right to do what they want and to operate outside the legislative requirements. Are they so close to their ministers they feel as though they can get away with not meeting those requirements? Certainly in the case of Mr Bartholomaeus, whose assessment I sought through an FOI, was a bit too close to his minister. He had not had a performance assessment. We must ask why.

On 6 July I called for the performance assessment and agreement of the Commissioner for Transport, Ross Drabble. Almost four months later I do not have a copy of it. Question marks exist about his ability. As at 29 September he had not handed in a performance assessment. I would be interested to know whether a performance assessment has come in from Commissioner Drabble since then. Chief executive officers are flouting the Act and the Premier has done nothing about it. He will have known about the situation for longer than a year because many of the chief executive officers are repeat offenders. It would be interesting to know how many have offended over a long period. Clearly he knows these offenders exist. He has a legislative responsibility under the Act and he has done nothing about exercising it. We must know who are those offenders and why the Premier, as the minister responsible, is not managing his portfolio. How can the Premier speak of accountability given he knowingly condones breaches of the Public Sector Management Act? What example is he presenting to other employees and government agencies when he cannot pull his senior personnel into line?

Clearly action must be taken. This problem is more serious than it appears on the surface. I will continue to pursue the matter, and I will be calling on the Premier to explain why he has been so tardy in taking action about those people who purely and simply flout the laws of this State.

Commercial Tenancy (Retail Shops) Agreements Act - Adjournment Debate

HON KEN TRAVERS (North Metropolitan) [5.21 pm]: I will briefly raise an issue that has been brought to my attention by a constituent. It relates to the Commercial Tenancy (Retail Stops) Agreements Act and whether the interpretation of "retail floor area" covers areas such as the driveway of a petrol station. As members are aware, the amendment Bill also states that if the lease floor area exceeds 1 000 square metres the legislation does not apply. My constituent wants clarified whether that includes the driveways of petrol stations. He has brought to my attention a recent decision of the Commercial Tribunal in which it was found by the registrar that the sealed driveway area of a leased premises or a significant part of it must be included in the calculation of floor area. The registrar stated that that area or a significant part of it is not incidental to the conduct of the business. I urge the minister representing the Minister for Fair Trading to seek some clarification in respect of this issue.

During the debate on the amendment Bill, government members contented that under the revised definitions driveways will not be included in the calculation of floor area. My constituent and I cannot see where the amendments will have that effect. I look forward to any advice that the minister's representative in this place can provide to indicate how the Bill ensures that in future owners of commercial properties such as petrol stations cannot escape the ambit of the legislation by extending the area of sealed driveway beyond 1 000 square metres. I raise that point in the hope that the minister's representative in this place will be able to provide some solutions.

Question put and passed.

House adjourned at 5.22 pm

QUESTIONS ON NOTICE

Answers to questions are as supplied by the relevant Minister's office.

WA MEAT MARKETING CORPORATION

Marketing Powers

48. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

(1) Can the Minister for Primary Industry give an assurance that the present legislative and/or administrative arrangements for the WA Meat Marketing Corporation's ("WAMMC's") marketing powers will remain in place for the current term of this Government?

(2) If not, can the Minister advise what legislative or administrative changes are proposed to the WAMMC's marketing powers and responsibilities?

(3) When will the new arrangements be introduced?

Hon M.J. CRIDDLE replied:

(1)-(3) On 13 October 1998, I made a Ministerial Statement in relation to the above issue. [See paper No 297.]

FISHERIES, MR JIM SUTTON

337. Hon MARK NEVILL to the Minister for Transport representing the Minister for Fisheries:

(1) What positions have been offered to Mr Jim Sutton since he was certified fully fit for employment at Fisheries WA on December 17, 1997?

(2) If no positions have been offered, why not?

(3) Were any of these positions offered in (1) above refused?

(4) What remuneration has been paid to Mr Sutton since December 17, 1997?

(5) If none, why not?

Hon M.J. CRIDDLE replied:

(1)-(5) Matters in relation to Mr Sutton's employment are entirely a matter between Mr Sutton and Fisheries Western Australia.

Fisheries Western Australia is working to try to resolve the outstanding issues.

PASTORAL LEASES, EXCAVATED EARTH TANKS

351. Hon MARK NEVILL to the Minister for Transport representing the Minister for Primary Industry:

Since July 1, 1998, can the Minister for Primary Industry advise -

(1) How many excavated earth tanks, which have received a Government subsidy, have been built on each pastoral lease in the Kimberley?

(2) How many of each of these tanks are still serviceable?

(3) What is the expected average life of these tanks?

(4) What subsidies have been paid to pastoral lease holders?

Hon M.J. CRIDDLE replied:

(1) No excavated earth tanks have been built in the Kimberley region since 1 July 1998, with Government assistance. One pastoral lease has been approved for assistance for nine (9) dams and this will be paid when the dams are constructed.

(2) Not Applicable.

(3) The expected life of an excavated earth tank is in the order of 20 to 50 years but will depend on soil type, siting of the dam, stability of the catchment and dam construction methods.

(4) No water supply assistance has been paid to pastoral leaseholders in the Kimberley region since 1 July 1998.

MIGRANT CHILDREN, INCLUSION IN PUPILS AT RISK CATEGORY

362. Hon LJILJANNA RAVLICH to the Leader of the House representing the Minister for Education:

What is the rationale for the Education Department's recently initiated practice of including newly arrived migrant children of non-English speaking background/cultural and linguistic diverse background requiring intensive English as a second language training in the "Pupils at Risk" category?

Hon N.F. MOORE replied:

The Education Department's *Policy and Guidelines for Students at Educational Risk (1998)* defines students who are at educational risk as:

> those students who may be at risk of not achieving the major learning outcomes of schooling to levels which enable them to achieve their potential.

This definition means that all students have the potential to be at educational risk at some stage of their schooling. Newly arrived migrant children of non-English speaking background/cultural and linguistic diverse background are at risk of not achieving their potential if their particular language needs are not catered for and if the value of their language base is not recognised. The Students at Educational Risk policy requires schools to implement and monitor individual progress plans to address the needs of those children identified as "at risk".

SUBURB NAME CHANGES

382. Hon NORM KELLY to the Minister for Finance representing the Minister for Lands:

(1) How many suburb name changes have been made for the Perth Metropolitan Region in each of the last 10 years?

(2) What are the former and new suburb names for each of these changes?

Hon MAX EVANS replied:

(1) There have been the following suburb name changes in the Perth Metropolitan Region in the last ten years:

1989	3
1990	3
1991	1
1992	2
1993	3
1994	7
1995	1
1996	10
1997	6
1998	2

(2) The following suburbs have changed their names in the last ten years. Their new names are detailed following.

Year	Former Name	New Name
1989	Wexcombe	Stratton
	Becher	Port Kennedy
	Burns (part)	Kinross
1990	Belhus (part)	Ellenbrook
	Lockridge (part)	Kiara
	Manning (part)	Salter Point
1991	Belmont (part), Redcliffe (part)	Ascot
1992	Millendon (part), Herne Hill (pt)	Baskerville
	East Rockingham	Challenger
1993	Lynwood (part)	Parkwood
	Victoria Park (pt), Rivervale (pt)	Burswood
	Yangebup (part)	Beeliar
1994	Stratton (part)	Jane Brook
	Wanneroo (part)	Hocking, Sinagra, Pearsall
	Balga (part)	Westminster
	Jandakot (part), Banjup (part)	Atwell
	Jandakot (part)	Success
1995	Gnangara (part)	Lexia
1996	Ellenbrook (part)	The Vines
	Challenger	East Rockingham
	Armadale (part), Kelmscott (part)	Mount Nasura
	Florida	Wannanup, Dawesville
	Serpentine-Jarrahdale(part Shire)	Darling Downs, Karrakup, Oldbury, Mardella, Hopeland
1997	Wanneroo (part)	Darch, Madeley, Ashby, Tapping.

	Neerabup (part)	Carramar, Cockman
1998	Wungong (part), Armadale (pt)	Brookdale
	Merriwa (part)	Ridgewood

SUBURB NAME CHANGES

383. Hon NORM KELLY to the Minister for Finance representing the Minister for Lands:

(1) How many proposed suburb name changes are currently being considered by the department or by the Geographical Names Council?

(2) What suburbs would be affected by these proposals?

Hon MAX EVANS replied:

(1) There are currently no proposed suburb name changes being considered by either the Department of Land Administration or by the Geographical Names Council.

(2) Not applicable.

QUESTIONS WITHOUT NOTICE

BARRACK SQUARE REDEVELOPMENT

352. Hon TOM STEPHENS to the Leader of the House representing the Premier:

(1) Will the minister confirm that stage 1 of the Barrack Square redevelopment is estimated to cost $18m?

(2) Will the minister detail the components of stage 1 and the estimated cost of each component?

(3) What will be the funding source for each component?

(4) Where in the budget papers is provision shown for the full estimated cost of stage 1 of the Barrack Square redevelopment?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) Yes, the current estimate is $18.1m.

(2) The estimated cost of the components is: Bell chamber, $3.3m; spire, $1.9m; maritime infrastructure, including new board walks, one new jetty, extension to existing jetties, services upgrade and dredging, $7.9m; two new jetties, $3.2m; and soft and hard landscaping to the square, including water feature and pond, $1.8m. That makes a total of $18.1m.

(3)-(4) The budget papers show new capital works funding for the Barrack Square redevelopment of $4.5m. The remaining $13.6m will be funded from the capital city development program established for this purpose.

BIKIE PROCESSION - HELMETS

353. Hon TOM STEPHENS to the Minister for Transport:

(1) Is the minister aware that today more than 100 bikies taking part in a government-approved procession through Perth's streets defied the law by not wearing helmets as required under the Road Traffic Act?

(2) Was the minister, his office or his department approached with a request to waive the law for bikies taking part in this government-approved procession?

(3) If so, did the minister support this act of mass defiance of the law which makes a mockery of the so-called policy of zero tolerance?

(4) If not, does he intend to take up this matter with the Minister for Police?

(5) If not, why not?

Hon M.J. CRIDDLE replied:

(1)-(5) I am not aware of what happened with the bikies travelling through the city. I have not been approached and I am not aware of any approaches to people in my office or department. That is not to say they have not been approached but, because it happened only today, I certainly have not been made aware of it. I will follow up the incident.

FOREST MANAGEMENT AMENDMENT REGULATIONS (No 2) 1998

354. Hon N.D. GRIFFITHS to the minister representing the Minister for the Environment:

I refer to the view of the Joint Standing Committee on Delegated Legislation that the Forest Management Amendment Regulations (No 2) 1998 are, firstly, unduly broad in their scope, particularly as a result of the wide definition of "structure"; and, secondly, largely unnecessary in light of existing legislation which appears to meet its stated objectives. I refer also to the committee's recognition of a case for disallowance of the regulations in their current form, and its recommendation that the regulations be redrafted to specifically deal with the concerns of the Department of Conservation and Land Management, and ask -

(1) Will the regulations be redrafted?

(2) If so, when is it anticipated that the process will be completed?

(3) If not, why not?

The PRESIDENT: Order! Does this question have anything to do with the disallowance motion on the Notice Paper and the report that has been tabled?

Hon N.D. GRIFFITHS: Yes it does.

The PRESIDENT: The way the question has been asked, it appears the member is pre-empting debate on the disallowance motion.

Hon N.D. GRIFFITHS: I am not pre-empting the debate. I am inquiring about whether certain regulations will be redrafted. They are the subject of a disallowance motion but the success or otherwise of the disallowance motion has nothing to do with whether particular regulations will be redrafted. The question seeks information on whether the regulations will be redrafted, the timing and an explanation if they are not to be redrafted.

The PRESIDENT: In that case, it will be a hypothetical situation. I leave it to the minister.

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1)-(3) The thoughtful consideration by the Joint Standing Committee on Delegated Legislation of the Forest Management Amendment Regulations (No 2) 1998 is recognised. It is proposed to seek repeal of the regulations. The Department of Conservation and Land Management has been asked to review the committee's report as a matter of urgency. Subject to detailed consideration of the committee's report, a new regulation or, if appropriate, an amendment to legislation will be drafted to deal with CALM's concerns. Pending repeal of the regulations, CALM will not take any action to enforce the powers provided therein.

The PRESIDENT: That, without question, anticipated debate on that motion because the member now has an answer with respect to what will happen to that motion in due course.

WORK CAMPS

355. Hon HELEN HODGSON to the Minister for Justice:

(1) Does the minister support the reintroduction of detention centres of the type popularly known as boot camps, as suggested in a media report yesterday?

(2) What criteria does the minister consider appropriate for sentences to serve in this type of facility with respect to the nature of the offence, the characteristics of the offender and the security rating of the offender?

(3) Given that the minister recently introduced legislation repealing the former provisions, which received royal assent in July 1998, how does the minister account for the change in his views?

Hon PETER FOSS replied:

(1)-(3) As always, it is very dangerous to rely upon newspapers.

Hon Helen Hodgson: It was not a newspaper.

Hon PETER FOSS: I do not support the term "boot camp" and I have never used it. I have used the term "work camp" and there is a major difference between the two. It must be understood that the work camp in Leonora was not for people under detention. It was seen as the last measure to be used prior to a person being given a term of detention. It was a diversionary move which was seen as the last chance. The persons who were involved in that work camp at Leonora, today would be sent on an intensive supervision order to Warminda. People could be sent to that work camp prior to a period of detention. There

were problems with it, but it was highly successful for the people who went to the work camp in terms of recidivism and the personal benefits derived. However, it was extremely expensive, firstly, because it was self-selecting and the numbers were fairly small and, secondly, because of its location it had the problem all of Western Australia suffers of obtaining experienced and professionally qualified people to go there. That is not unique to the prison service or the juvenile justice service; it is a problem in almost every trade and profession in WA.

I definitely support the idea of work camps and I have not had a change of mind. I want something more suited to the type of offender referred to; that is, a person who has already been sentenced to a form of detention. Under those circumstances it is possible for me to proclaim that a particular place is a detention centre and that people can be sent there.

The basis for deciding who is to go there is a matter for consideration. Before we go much further we must get an idea of the numbers we will be able to send to such a work camp, the program and the security measures. Once we have made that decision we must deal with whether the local population will be happy to have a work camp there. We have learnt that any other work camp must be closer to civilisation than the last one. However, that can create a nimby reaction, to which we referred yesterday. I have not had a change of view. That provision was repealed for very good reason. What we are proposing with work camps - I never use the term boot camp - is quite different.

OMEX SITE - TRANSFER OF LAND

356. Hon GIZ WATSON to the minister representing the Minister for the Environment:

I refer to the minister's response to a question on notice of 17 September 1998 concerning the rehabilitation of the contaminated Omex site.

(1) With reference to question (4), does the minister think it is appropriate for the alleged polluter to negotiate with Crown Law on the proposed transfer of 700 square metres of land, which is under the WA Planning Commission's improvement plan for the site, to the adjacent Peak petrol station?

(2) Does the minister agree that if the proposal is accepted, the redevelopment of land next to the site will prevent the development of residential properties?

(3) Is the minister aware that the Bellevue community strongly raised this concern at the public meeting in Bellevue for the redevelopment options of this site?

(4) Is the minister aware that all options proposed to the Bellevue community by the WA Planning Commission for the site already excluded the 700 square metres of land in its proposal?

(5) Has a decision about this proposal been made?

(6) If not, how does the minister explain the Planning Commission's land use options for the site?

Hon MAX EVANS replied:

I thank the member for some notice of this question. Providing the information in the time required is not possible and I request that the member place the question on notice.

BUSH WALKING TRAILS

357. Hon MURIEL PATTERSON to the Minister for Sport and Recreation:

Can the minister indicate what support, if any, the Lotteries Commission has provided for bushwalking trails in the south west?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

To date the Lotteries Commission has provided $182 200 towards bushwalking trails in the south west. Four of the major projects in the region include: Augusta-Margaret River Shire, Ludlow to Augusta trail, $50 000; Shire of Collie, Collie River Walkway, $38 500; Shire of Busselton, Ludlow to August Trail, $15 000; Shire of Busselton, Meelup Regional Park boardwalk and path, $10 600. To save the time of the House and to assist Hon Muriel Patterson, I seek leave to table a list which includes an additional 14 projects that have received funding.

[See paper No 295.]

CARNARVON IRRIGATION AREA

358. Hon KIM CHANCE to the Minister representing the Minister for Primary Industry:

(1) Is the Minister for Primary Industry aware that several producers in the Carnarvon irrigation area are facing severe financial difficulty?

(2) If so, what action has the minister taken to address this difficulty and what future action will he take?

Hon M.J. CRIDDLE replied:

I thank the member for some notice of this question.

(1)-(2) The Minister for Primary Industry is aware of the situation. The following actions are being taken to address the viability issues in the district -

(a) Financial counsellor: The Minister for Primary Industry, through the Rural Adjustment Finance Corporation, with Agriculture WA jointly funds the Gascoyne Agcare service with the Commonwealth. The service is based locally in Carnarvon and provides financial counselling to individual agricultural businesses experiencing financial difficulties.

(b) Better business: The Minister for Primary Industry, through Agriculture WA, jointly funds the better business program with the Commonwealth. Better business is a training program that assists producers to improve their business management skills and helps them to review their business and plan strategies for the future of their businesses and families.

(c) Lower Gascoyne management strategy: The strategy has engaged a consultant to deal with resource management issues and to undertake broad consultation on issues in the lower Gascoyne River area.

It is expected that out of the consultative process economic viability issues will arise. The opportunity to obtain funds to deal with the viability issues is being investigated by the federal Department of Primary Industries and Energy's rural plan program.

(4) The Gascoyne Development Commission, the Water and Rivers Commission and the Water Corporation are investigating options to increase water supply for the Carnarvon irrigation area.

(5) Agriculture WA has encouraged and supported the development of grower groups in the interests of establishing cooperative marketing incentives. The Gascoyne Development Commission is undertaking further work with a view to progressing this concept.

(6) The Minister for Primary Industry has recently approved the revision of the Perth markets by-laws. This revision should provide a greater transparency of transactions for growers at the Canning Vale markets.

CAPITAL CITY AND BARRACK STREET DEVELOPMENTS

359. Hon J.A. COWDELL to the Leader of the House representing the Premier:

I refer to the capital city development and Barrack Street redevelopment items which appear on page 951 of the 1998-99 budget papers and ask: Will the minister provide a list of -

(a) all the projects that fall within those items; and

(b) the estimated expenditure of each of those projects for the financial years from 1997-98 to 2000-2001 and future years if applicable?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. I seek leave to table the requested information, which is by way of a table.

[See paper No 296.]

PERFORMANCE AGREEMENTS

360. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

I refer to his response to question without notice 339 on Wednesday, 21 October regarding chief executive officers who have not yet forwarded a 1998-99 performance agreement or who have not forwarded a 1997-98 performance assessment and ask -

(1) Of the 28 chief executive officers who have not yet forwarded a performance agreement, how many are repeat offenders?

(2) Of the 36 CEOs who have not yet forwarded a 1997-98 performance assessment, how many are repeat offenders?

(3) When were performance agreements and assessments due?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. Perhaps they should be made to stay in after school or something like that!

(1) Of the 28 chief executive officers who have not forwarded a 1998-99 performance agreement, 13 did not forward a 1997-98 performance agreement to the Premier.

(2) Of the 36 CEOs who have not forwarded a 1997-98 performance assessment report, 19 did not forward a 1996-97 assessment report to the Premier.

(3) 1998-99 performance agreements and 1997-98 performance assessments were due on 30 September 1998, apart from those for managing directors of colleges of TAFE. The 1998-99 performance agreements and 1998-98 performance assessments for managing directors of colleges of TAFE are due on 31 March 1999.

ROYAL FLYING DOCTOR SERVICE

361. Hon RAY HALLIGAN to the minister representing the Minister for Health:

(1) How much funding has the Lotteries Commission allocated to the Royal Flying Doctor Service in 1998?

(2) Has the funding been linked to any projects? If so, what are they?

(3) Does the commission have any long-term funding agreements with the RFDS?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) $750 000.

(2) Yes, the funding has been made towards aircraft replacement - $600 000, and contribution towards construction of new base and hangar at Port Hedland - $150 000.

(3) The Lotteries Commission has an in-principle agreement with the Royal Flying Doctor Service to provide $600 000 a year for five years for the purchase of replacement aircraft, commencing May 1986.

DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT - NATIVE CHIP LOGS

362. Hon NORM KELLY to the minister representing the Minister for the Environment:

In each of the past five financial years, how much income did the Department of Conservation and Land Management receive from the sale of native chip logs to -

(a) WA Chip and Pulp Co Pty Ltd; and

(b) any other company?

Hon MAX EVANS replied:

I thank the member for some notice of this question. Providing the information in the time available is not possible and I request that the member place the question on notice.

COCKBURN SOUND - NEW HARBOUR

363. Hon J.A. SCOTT to the minister representing the Minister for the Environment:

The Department of Commerce and Trade's *Jervoise Bay Newsletter* dated July 1998 states that a new harbour design has been referred to the Environmental Protection Authority.

(1) Is the minister aware of the significant community concern about the proposed developments in Cockburn Sound?

(2) When will the design and environmental details of the new harbour proposal be released to the public for assessment and comment?

(3) Will the minister release the findings of the EPA's strategic environmental assessment in time for the public to use them in the environmental assessment?

(4) Will the minister release the proceedings of the series of workshops the EPA held on proposed industrial developments within Cockburn Sound in time for the public to use them in the environmental assessment?

Hon MAX EVANS replied:

I thank the member for some notice of this question. Providing the information in the time required is not possible and I request that the member place the question on notice.

EDUCATION DEPARTMENT - P2000 SYSTEM

364. Hon CHERYL DAVENPORT to the Leader of the House representing the Minister for Education:

(1) What has been the total expenditure to date on the P2000 personnel system in the Education Department?

(2) What is the extent of recent failures of the system to deliver accurate salary payments to teachers?

(3) Is it not the case that many teachers have not been paid at all or have been paid late?

(4) How much will the Government have to spend on the system to get it right?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) The total expenditure to date for the P2000 project is approximately $21m. This includes all salaries, contingencies and contract costs.

(2)-(3) Over 99 per cent of teachers were paid accurately once the system went live. Approximately 300 permanent employees' payments were incorrect. All of these employees were issued manual cheques once it was realised that they had received only a small portion of their usual pay. The problems with a small number of casual teachers who were not paid on time were due to delays in processing forms in the old paper-based system and were not a product of the Peoplesoft system. Once Peoplesoft, the software package of the P2000 project, replaces the need for manual processing of these forms in the remaining schools, payments to casual teachers will be able to be made much more quickly and accurately.

(4) The Government will not have to budget any extra moneys to "get it right". The introduction of a human resource system that has the largest payroll in Western Australia will need finetuning. This finetuning will occur within budgets already allocated to the project.

BIKIE GANGS - PARKING AT TRAFFIC LIGHTS

365. Hon KEN TRAVERS to the Minister for Transport:

(1) Is the minister aware that bikies have been parking at traffic lights this afternoon and holding up vehicles while their mates ride through red lights on their way to a wake after a funeral at Karrakatta Cemetery?

(2) Is the minister aware of any consultation with or approval by his agencies for the Coffin Cheaters to behave in this way?

(3) If so, who authorised them effectively to take over the management of traffic on our streets?

Hon M.J. CRIDDLE replied:

(1)-(3) I have not been out on the streets this afternoon and I am not aware of what has been going on.

Hon Tom Stephens interjected.

Hon M.J. CRIDDLE: I have already answered the leader's question. I am not the Minister for Police.

Several members interjected.

The PRESIDENT: Order! This is question time. The Leader of the House and the Leader of the Opposition can go outside to have their discussion so that other members can ask questions.

ORACLE FINANCIALS SYSTEM, VERSION 10.5

366. Hon E.R.J. DERMER to the minister representing the Minister for Health:

I refer to the minister's advice of 16 September that the Oracle Financials System version 10.5 was implemented at Princes Margaret Hospital and King Edward Memorial Hospital and will be replaced by version 10.7, and ask -

(1) Was there an inadequacy with the performance of version 10.5 which required its replacement?

(2) When will version 10.5 be replaced at these hospitals?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The version of the Oracle Financials System - version 10.5 - that is implemented at PMH and KEMH is not year 2000 compliant. Oracle Corporation has now upgraded the system to satisfy the requirement for year 2000 compliance. The complaint version is version 10.7

(2) 1 December 1998. As stated previously, this version was assigned $89.7m in 1992. The system needed to be upgraded from version 10.5 to version 10.7 in all hospitals.

BARTHOLOMAEUS, MR - PERFORMANCE AGREEMENT

367. Hon JOHN HALDEN to the Attorney General representing the Minister for Labour Relations:

(1) Can the minister confirm that Mr Bartholomaeus had a performance agreement with him for the period 1 July 1997 to 30 June 1998?

(2) Why was the agreement not signed by him until 11 February 1998 - seven months after it was supposed to take effect?

(3) Why did the Minister for Public Sector Management not sign the contract until 18 March 1998 - eight and a half months after it was supposed to take effect?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

(1) Mr Bartholomaeus had a performance agreement for the period 1 July 1997 to 30 June 1998 with the former Minister for Labour Relations.

(2)-(3) Signing of the agreement was delayed pending development and consideration of performance criteria specified in the agreement.

GOVERNMENT EMPLOYEES SUPERANNUATION SCHEME

368. Hon HELEN HODGSON to the Minister for Finance:

In respect of the Government Employees Superannuation Scheme 1987 -

(1) Does the Government support introducing measures to provide that employees who cease to be employed in the public sector due to privatisation or contracting out of the sector in which they are employed are compensated for the discount applied to early withdrawal of funds rolled over to a private superannuation fund?

(2) Will the Government continue to address this issue on a case-by-case basis?

(3) In the event that privatisation of a statutory authority or corporation was carried out by way of sale of part of the enterprise, effectively resulting in an entity no longer being owned 100 per cent by the State, would employees of the enterprise be entitled to remain in the Government Employees Superannuation Scheme?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) This will continue to be addressed on a case-by-case basis in the course of negotiating appropriate severance packages for affected employees.

(2) Yes.

(3) Such an arrangement would be possible depending on the corporate structure of the new entity and its preferred business approach.

PERFORMANCE ASSESSMENTS

369. Hon LJILJANNA RAVLICH to the Leader of the House representing the Premier:

(1) Are renewal of contracts for chief executive officers based on their performance assessments and/or the extent to which they meet the objects of their performance agreements?

(2) Who undertakes performance assessments of CEOs?

(3) Does self-assessment mean that CEOs are responsible for assessing their own performance?

(4) If yes, what is the point of the exercise and how can the public expect to have confidence in either the CEOs or the Government?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

(1) As a matter of government policy, renewal of CEO contracts is dependent and based on the outcome of recruitment and selection processes conducted in accordance with the Public Sector Management Act by the Commissioner for Public Sector Standards.

(2) Performance assessments of CEOs are to be undertaken annually by the relevant "responsible authority" under the Public Sector Management Act, being either a board of management or the portfolio minister.

(3)-(4) While CEOs are necessarily involved in and have input into the assessment process, the assessment itself remains the responsibility of the relevant board of management or minister.

"HELP GET THE BLUDGERS OFF OUR BACKS" ADVERTISING

370. Hon TOM STEPHENS to the Minister for Finance:

I refer to the "Help get the bludgers off our backs" insurance fraud advertising which has been replaced with an alternative advertisement and the minister's answer to a question on 14 October 1998 that the $160 referred to in the advertisement is based on Insurance Council of Australia figures, and ask -

(1) Given the Insurance Council figures contained in its statement dated 31 March 1998, what is the basis for the minister's figures in his answer and the original advertisement?

(2) Will the minister tell the House who was responsible for authorising the original advertisements; and, if not, why not?

(3) What disciplinary action does the minister intend to take to ensure that this sort of advertising is not run again?

(4) Does the minister consider that the advertisements are false and misleading; and, if not, why have they been withdrawn?

The PRESIDENT: The Leader of the Opposition knows that the last part of the question seeks an opinion. The Minister for Finance will answer the question keeping in mind that the last part is out of order.

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) According to the Insurance Council of Australia, insurance fraud costs Australians $1.5b a year. Additionally, between 10 and 15 per cent of insurance claims, across all classes of insurance, exhibit elements of fraud. The Insurance Commission of Western Australia settles bodily injury claims to a value of $300m a year. Ten per cent of that is $30m. When the estimated cost of insurance fraud of $1.5b is divided by the number of people in the workforce, which was 8.6 million in May 1998, the resulting cost per head is around $175; this amount has been rounded down to $160 per capita to allow for some uncertainty in the fraud estimate.

(2) The board and management of the Insurance Commission of Western Australia.

(3) None, because the campaign has met its primary objectives of raising the level of awareness in the community that claims fraud is a criminal offence, emphasising the link between fraudulent claims and higher insurance premiums and claims costs, and encouraging the reporting of fraudulent injury claims to help maintain premiums at an affordable level for all Western Australians.

LITERACY FUNDING

371. Hon KEN TRAVERS to the Leader of the House representing the Minister for Education:

Will the Minister for Education provide a detailed breakdown of the money which he claims the Government spends on developing children's literacy? If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. As detailed below, the Government's expenditure on specific literacy programs is -

	1997/98	1998/99	1999/2000	2000/2001
Literacy Net	$500 000	$500 000	$800 000	$800 000
Commonwealth Literacy Program	$10 822 000	$10 822 000	$10 822 000	$10 822 000
National Literacy and Numeracy Cross Sectoral Project	$451 000	$451 000		
Aboriginal Literacy	$850 000			

For further information on details of the many strategies in place to address literacy, I ask the member to place the question on notice.