# Legislative Council

Wednesday, 28 June 1995

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

## MOTION - URGENCY

*Noise Levels, 85 Decibels Standard*

**THE PRESIDENT** (Hon Clive Griffiths): Members will be delighted to know that I have received the following letter -

> Dear Mr President
>
> At today's sitting, it is my intention to move under SO 72 that the House, at its rising adjourn until 9.00 am on December 25 1995 for the purpose of discussing the need for the Government to restore the 85 decibel threshold limit to the current regulations being drafted for the Mines Safety and Inspection Act and the same level to the Occupational Health, Safety and Welfare Act.
>
> Yours sincerely
>
> Mark Nevill MLC

In order for this matter to be discussed it will be necessary for at least four members to indicate their support for it by rising in their places.

[At least four members rose in their places.]

**HON MARK NEVILL** (Mining and Pastoral) [2.37 pm]: I move -

> That the House at its rising adjourn until 9.00 am on 25 December.

Mr President, it is nice to write you a letter and not have to worry about paying the postage!

The purpose of raising this urgency motion today is to highlight a situation which has gone on now for some 18 months when the Government increased the allowable noise levels under the Occupational Health, Safety and Welfare Act from 85 decibels to 90 decibels. It realised later that it had not increased it for the mining industry under the Mines Regulation Act, and to keep consistency it increased the allowable levels in the mining industry. Because these noise levels are on a logarithmic scale, that 5 dB increase increases by fourfold the amount of noise that is legally allowed in the workplace. At that time in the mining industry the Government had the Mines Occupational Health and Safety Advisory Board in place.

The PRESIDENT: Order! The member is endeavouring to direct his comments to the House and the noise level is well over 85 dB. If members cease the audible conversation, Hon Mark Nevill will be able to tell us what he has on his mind.

Hon MARK NEVILL: The Government set up MOHSAB with its specialist subcommittee to report on this precise matter. Because the Minister for Labour Relations in another place decided in his usual cocky way to jack up the noise levels in the Occupational Health, Safety and Welfare Act, the Government did the same with the Mines Regulation Act, pre-empting what MOHSAB and its expert subcommittee were going to recommend. There is absolutely no support in the mining industry for this level of noise in the regulations. There has been no request from the mining industry to increase the allowable noise levels. There is no support for a 90 dB noise level from any occupational health physician or expert in the country. There is no support whatsoever from the Chamber of Mines and Energy of Western Australia or from the Australian Workers Union or any of the other unions involved in the mining industry. The move is not supported even by the insurance industry: It is simply conformity being required in the mining industry because a Minister for Labour Relations had some ideological view that he was going to put it back up to where it was previously. Now, unfortunately, this Minister for Labour Relations is the Minister for Health. He is quite happy to see the

allowable noise levels that people experience in the workplace increased by a multiple of four.

Worksafe Australia has targeted the mining industry as a high risk industry in respect of hearing loss. Yet, we have had this noise level in place for 18 months. New regulations are being drafted. I have not seen them, but I think every member of the Government in this House, and particularly the Ministers, should use whatever persuasion they have to ensure that the new level goes back down to 85 dB. Stress cases and hearing loss cases are probably the two biggest areas of increase in workers' compensation claims. We now have in the mining industry compulsory testing of all employees, which involves a baseline audiometric testing of every employee coming into the industry. Hearing will deteriorate over time with age. When one does audiometric testing, one can quite easily calculate at a later date the amount of hearing loss over and above the deterioration one experiences with age to ascertain the hearing loss that someone has experienced in the workplace, and that hearing loss is compensible. Any of those claims will be paid on hearing loss and not on whether the claimed noise levels in the workplace are 85 or 90 dB.

In 1973 the National Health and Medical Research Council of Australia published its model regulations and it recommended a daily exposure level of 90 dB for existing premises and 85 dB for new premises. In other words, it was not going to force costs on existing premises. For new premises since 1973 we have had a level of 85 dB. Professor D.H. Robinson of Southampton University is very well respected and his results are comparable with those of any of the other leading researchers in this area. His work shows that the changes the Government has made are contrary to the best scientific research and advice. He has established that to increase the maximum noise level from 85 dB to 90 dB will result in a 22 per cent increase in hearing loss for exposed workers. Below 85 dB, hearing loss diminishes very rapidly, and a noise level below 80 dB entails negligible risk over and above the normal deterioration in hearing we experience with age.

Members can see that the Government is exposing people to unnecessarily high levels of noise that will not save it or the industry any money. The lower threshold of 85 dB will not increase the liability of any company or the Government. People seem to have the idea that it will cost them more money. The liability will stay the same, but it will lower the amount of hearing loss we are experiencing in the workplace. Anyone who has worked in a mine will appreciate that noise levels are extremely high.

One of the key policy changes that has occurred in the past decade is that we now take a noise management approach to the control of occupational noise. Previously, we had a hearing conservation approach, where one ensured that everyone had earmuffs and plugs and those sorts of things. Now the focus under the legislation is to engineer the noise out of the equipment. The mining equipment being sold these days is considerably quieter than the equipment that was around 10 years ago, simply because of this approach of engineering the noise out of machinery and modifying the work environment so that people's hearing is not damaged.

Worksafe Australia's newsletter dated October 1994 states -

> Work-related noise exposure is the primary cause of hearing impairment in up to 500 000 adults, about half of the total of those with hearing impairment. The condition is gradual, non-treatable and permanent.

Once people lose some of their hearing they never get it back.

Hon Kim Chance interjected.

Hon MARK NEVILL: Hon Kim Chance has his hand to his ear and is saying that he cannot hear me.

Hon Tom Helm is a classic example of someone whose hearing is very poor. I presume it is occupation caused.

Hon E.J. Charlton: Too much time spent in nightclubs listening to loud music.

Hon MARK NEVILL: I think Hon Tom Helm spent most of his life at sea. Perhaps it was the sea gulls.

When the Minister changed the level of noise to increase the exposure of people in the workplace he said in answer to question 1459 on 8 December 1993 that, in taking steps to return to the level of 90 decibels, he - Mr Kierath - requested the Commissioner of Occupational Health, Safety and Welfare to re-examine the position in conjunction with the composite regulation review being undertaken by the Occupational Health, Safety and Welfare Commission in an endeavour to achieve a political consensus. He requested his department to prepare a brief for the conduct of cost benefit analysis in the introduction of 85 dB in Western Australia. I presume those two requests have been fulfilled and the Government has received the information. There is absolutely no doubt in my mind what the answer will be because certainly all the professional advice that I have seen shows that it does not vary much from country to country.

I took the trouble to contact Dr Graham Yates at the auditory laboratory of the Department of Physiology, University of Western Australia in November 1993. I asked him to summarise the various noise levels in different countries. These figures relate to 1993. The trend since then is to lower noise levels. We can do it. All we have to do is put those requirements on the manufacturers who have been meeting them quite magnificently. Eventually I would like to see the noise level for machinery come down to 80 dB, if that is possible. The information by Dr Yates states that, in the United Kingdom, initial action be taken above the quantifiable risk of damage at 85 dB; Canada, 87 dB for eight hour working day; Czechoslovakia, 85 dB for routine manual work; South Africa, 85 dB for specified activities - that would be a list in some schedule; Switzerland, 87 dB; the European Community 85 dB; the National Institute of Health consensus statement 1990 - I think that is a US document - states that 85 dB and above is damaging over many years; Worksafe Australia - National Health and Medical Research Council guidelines advise 85 dB per hour. I also have a review paper. If any members wish to read research papers relating to noise control for any of those countries, I am happy to provide them with copies.

The Government is not saving anyone any money by pushing the level up to 90 dB because the hearing loss is demonstrable especially where there is baseline testing. By lowering the threshold to 85 dB, the Government will save a lot of people from hearing loss. As the research shows, approximately 22 per cent of the work force will experience a reduction in hearing. Finally, it is better to prevent the occurrence of occupational hearing loss than to compensate for it.

**HON SAM PIANTADOSI** (North Metropolitan) [2.54 pm]: I support the motion moved by Hon Mark Nevill. I am somewhat bewildered by the actions of the Minister for Health who is also the Minister for Labour Relations, Mr Kierath, in attempting to pre-empt certain decisions by raising noise levels from 85 decibels to 95 dB. This action is a little strange coming from a community leader and Minister who is responsible for workers' wellbeing and for safety in the workplace, especially when in the May 1995 edition of "Worksafe News", the Minister praised the National Occupational Health and Safety Commission for what it is doing in this field. Under the heading of "WA notes pleasing OHS improvement", the article said -

> A pleasing improvement in workplace health and safety has been noted in Western Australia by Minister for Labour Relations, Mr Graham Kierath.
>
> He says latest figures from the Department of Occupational Health, Safety and Welfare show a seven and a half per cent drop in the rate of injury and disease during the 1993-94 financial year.
>
> In 1993, Mr Kierath announced the government's commitment to reduce the rate by at least ten per cent between July 1993 and June, 1997.

We have advanced only a further 15 months from the time that Mr Kierath made those statements praising certain actions. It now seems that he has done a complete about face by being prepared to sacrifice safety.

Hon Mark Nevill said that deafness comes on slowly. As is reported in "Worksafe News", some eight per cent of people who work in the mining industry have hearing problems with deafness being represented in nearly all those cases. That is caused by a combination of factors including plant, machinery, fixed plant and mobile plant and other long term sound exposures that are present in industry. The magazine indicates that there is a need to continue the fight to reduce noise levels. These recommendations come from an organisation that the Minister praised for attempting to alleviate the $3 billion cost to our community annually. If we increase noise levels by 5 dB, that figure of 8 per cent will probably increase to 10 per cent or 12 per cent. It is now questionable whether the Minister and the Government heed the recommendations of the experts, the occupational health and safety people, the people the Minister praised. Evidence from throughout the world indicates that industry is moving the other way. It is trying to ensure that, as it replaces plant and equipment with new technology, the new plant eliminates noise levels. That organisation made a total of 38 recommendations, and recommendation 34 referred completely to the mining industry and the need to coordinate state and territory facilities with respect to mines' occupational health and safety and the use of occupational health and safety inspectors to achieve a uniform occupational health and safety system throughout the country. It also indicated clearly that it was not in favour of increasing the decibel threshold limit but rather wanted to decrease it.

Therefore, why has the Minister for Labour Relations and Health, who is responsible for the wellbeing of these people, ignored the advice given by the insurers, the industry and the experts in the field and gone the other way? Why has the Minister not listened to those experts? Why, for possibly the first time in his career, has the Minister not listened to business, because he appears to have listened to business on every other occasion, particularly with regard to privatisation? The business fraternity counselled the Minister against taking that course of action and the insurance industry also counselled the Minister against taking that course of action because in the long term it would face larger payouts, and of course the number of people who would be likely to lodge claims would also increase, so there would be no benefit to employers or employees. I do not think the Minister will benefit directly by taking this course of action, so there is no reason for the Minister to proceed in this way. Worldwide trends indicate that noise is a major problem in a number of industries. Surely we could learn the lesson, listen to the advice of the experts and take the appropriate action to reduce rather than increase the decibel threshold limit. I would hate to see the Minister go down the same path that he went down earlier in his career when he reminded us of how he could do cleaning in a short time and could eliminate the problems. I would hate to see the Minister come up with what he regards as a practical solution when he is playing with people's wellbeing. I urge the Minister to reconsider his actions.

**HON TOM HELM** (Mining and Pastoral) [3.03 pm]: I support the motion, and rather than dwell on the advice of experts, because Hon Mark Nevill has done that adequately, I will relate to the House my experiences in the mining industry and when I worked as a seaman at a shipyard and in the ship repair industry. People who come from a beautiful place like Dongara would have some difficulty understanding the effect of noise on people's health and wellbeing because it is well known that Dongara is a place to which people retire and which people visit to get away from the Pilbara's noise, heat and dust. My hearing has been assessed by audiometric technicians and I have been told that I have substantial industrial deafness. I have been advised that the deafness from which I and many other people who have worked in boiler rooms and in shipyards with the noise of rivet guns and caulking guns suffer, is regressive and that the damage which has been done to my hearing, which has to do with tone rather than with noise, is one of the few things that nature cannot heal. The damage that has been done is permanent and it builds upon itself.

I have related to the House an incident that happened to me about 1983 when I worked at the Dampier power station on a 35 tonne crane and where the noise was so extreme that I suffered from intense pain. There were no integrated safety helmets and earmuffs at that time, and if I wore earmuffs, it meant that I could not wear a helmet because the strap

went over the top of my head and when I looked up, as I had to do when I was guiding the hook of a crane, the helmet would go over my eyes and I could not see, so I was either deafened or blinded, and in my job I preferred to be deafened. However, that meant that I could work in that environment for only short periods of time and suffered from intense pain. That is the type of thing which this motion seeks to address. The 85 decibel threshold limit is not the recommended limit which the body can tolerate. That is a significant change and fits in with the thrust of this Government's view of industrial relations and occupational health and safety. When I was at Hamersley Iron, we were tested once a year for deafness, and I was advised confidentially that my hearing had reduced by 50 per cent in the four 12 month periods that I worked at Hamersley Iron. Then the testing stopped, and I think that was due to a change of attitude and the view of the previous Labor Government that perhaps mining companies did not need to be so stringent about testing for deafness as they were. However, I suggest that by increasing the threshold limit from 85 dB to 90 dB, we are encouraging manufacturers to manufacture noise levels out of machinery and plant. At the back of the Dampier power station, there are half a dozen huge air intake fans which emit a tremendous amount of noise, and there is also a 35 tonne crane with a huge engine that also emits a tremendous amount of noise, both at levels well in excess of 90 dB. That caused me pain, and probably damaged my hearing as well.

If the Government is sending a message to industry that permissible noise levels should be increased by five - that does not mean five percentage points - the noise level could be almost double the level of the previous exposure. The measurement of decibels is a weird and wonderful science. Hon Mark Nevill will explain the significance of 5 dB to members. The significance to people who work within the industry is that the encouragement to engineer out the noise level will be removed. The Government is encouraging industry not to worry about noise levels. The cost of reducing the noise levels in plant and machinery is not significant, but even that small additional cost can be avoided by manufacturers to obtain an advantage over their competitors who may care for their employees' health and wellbeing. The point of this motion is not that the decibel level will be increased by five, it is the damage that can be caused by noise levels in the workplace. I am living proof of industrial deafness caused by excessive noise levels in the workplace. If the Government is sending out a message to industry that it does not care how employees are affected by noise levels, it is sending out a false message. As has been pointed out by Hon Sam Piantadosi, it is not difficult to identify the damage that is caused to one's hearing by working with plant and machinery. It can be proved that any significant exposure to 90 dB can be damaging to one's ears and will lead to workers' compensation and other insurance claims. It is a false economy in many ways.

My ability to do my job at the back of the power station was severely impaired. It probably took me twice as long to do the job, and I was exposed to that noise for twice as long. An integrated safety helmet and earmuffs had not been designed at that time, and I had to leave my work and move out of range of that irritating, piercing level of noise. Not only did my job suffer, but also the level of job satisfaction and productivity decreased. In my case that was easy to measure, because I had to leave my work and go to a quiet place to give my ears a rest and then return to the site to continue my job. The noise level in that job was even more distressing than Hon Derrick Tomlinson in full flight - and that is saying something. Workers regularly face these problems, and instead of the Government encouraging manufacturers to engineer noise out of machinery, the opposite is happening. Evidence suggests that if noise is engineered out of machinery, the workplace will be safer and more economic.

**HON GEORGE CASH** (North Metropolitan - Minister for Mines) [3.15 pm]: I thank Hon Mark Nevill for bringing forward this motion, because it is an important matter which needs the consideration of the House. Members will be aware that on 10 August 1993 Hon Tom Helm moved for the disallowance of a regulation to increase from 85 dB to 90 dB the industrial noise limit in Western Australia. At the time Hon Tom Helm argued that the Government was taking a retrogressive step in changing the standards that

were to apply. To my best recollection I indicated to Hon Tom Helm that although the Government was prepared to accept the 90 dB recommendation that was proposed at that time, there would be a need to review the matter. I will relate to the House the situation that has occurred in the meantime. Before doing that I indicate that in 1986 the former Labor Government accepted a 90 dB standard on the recommendation of the Occupational Health Safety and Welfare Commission. It is a matter of record that the current mining and general regulations provide for a 90 dB action level for occupational noise; however, other regulations require employers to reduce as far as practical the noise to which employees are exposed.

The various standards from around Australia have been discussed by previous speakers. I note that the national standard for occupational noise provides for an exposure standard of 85 dB. In December 1992 the former Minister for Productivity and Labour Relations gazetted a regulatory amendment which established 85 dB(A) as the action level. That was done when the House had been prorogued, and was just prior to the 1993 election. Following the election of the coalition Government the Minister for Labour Relations, Hon Graham Kierath, determined the need for the Parliament to discuss the relevant decibel level. Hon Graham Kierath believed that it was up to Parliament to debate the change in the regulations rather than have it placed before the Parliament without an opportunity to comment. Following discussions between the Minister for Labour Relations and me, the Occupational Health, Safety and Welfare Commission determined that there should be an opportunity to seek public comment on the possible application of the national standard and code of practice on occupational noise in Western Australia.

On 17 May 1995 the public comment closed, and 24 written submissions were received. The Department of Occupational Health, Safety and Welfare is currently preparing a report for the Minister on the content of those submissions. Members will be aware of comments that I made in this House on the need to recognise an 85 dB (A) level. I well remember the speech made by Hon Tom Helm on 10 August 1993 in which he talked about the noise affliction that he now suffers as a result of his work in the Pilbara. Although Hon Tom Helm attempted to describe to us the pain that he suffered in 1983 as an employee of one of the mining companies of the Pilbara, he forgot this time to explain that he suffered not only from headaches, but also his eyes watered.

Hon Tom Helm: What?

Hon GEORGE CASH: Perhaps Hon Tom Helm has forgotten the pain. I am reading from the member's speech on 10 August 1993.

Hon Tom Helm: My eyes did what?

Hon GEORGE CASH: The member's eyes watered as well as the pain he suffered.

Hon Tom Helm: I did not hear the Minister.

Hon GEORGE CASH: That is obviously an indication of the member's industrial deafness. The Government accepts this motion in the responsible way in which it was moved.

I have made it clear to the Minister for Labour Relations that the mining industry is keen to see the acceptance of the 85 dB action level in the mining industry. We hope this will be translated through to the general community. Members will be aware that last year we debated amendments to the Mines Safety and Inspection Act. In the draft regulations I have before me, regulation 217, which is an action relating to noise, provides that in this division the action level is (a) for peak noise level 140 dB (lin) or (b) for noise exposure 85 dB. Regulation 218 goes on to explain that the responsible person at a mine must ensure that the noise received by each person in the workplace of the mine is reduced as far as practicable. There is a penalty for persons not complying with regulation 583. Although draft regulations, they recommend that the mining industry should maintain its position that 85 dB is an acceptable level. I am hopeful that, following the review of the various public submissions received by the Occupational Health, Safety and Welfare Commission, recommendations will be made to the Minister for Labour Relations and that we will see a reduction in the noise level. I stress that I prefaced my remarks by the

words "I am hopeful" it will be the situation. I will be endeavouring to encourage that level to be acceptable in Western Australia.

Hon Sam Piantadosi raised a number of interesting aspects of the difference between 85 dB and 90 dB. Because of the limited time I have today, I will not be able to have recorded in *Hansard* some of the statistics that change quite dramatically between 85 dB and 90 dB. However, suffice it to say that noise level increases quite significantly between 85 dB and 90 dB. For the record it is worth noting the levels interstate in Australia. For instance, in Commonwealth employment the noise standard is 85 dB; in the ACT it is 85 dB; in New South Wales it is 90 dB, which is expected to change to 85 dB in 1995; in the Northern Territory and in Queensland it is 85 dB; in South Australia it is 90 dB, but all employers will be required to reduce exposure to 85 dB by mid-1997; in Tasmania it is 90 dB, but that State is reviewing its limit; and in Victoria it is 85 dB, although that applies only to new plant. In Western Australia it is 90 dB. However, the good news is that it is being reviewed.

Without wishing to promise Hon Mark Nevill any miracles, I say quite genuinely that the Government is reviewing the situation. I am hopeful we will be able to agree on an 85 dB action standard in the mining and general industry throughout the State. As Hon Mark Nevill has said, it would enjoy the support of the mining industry.

**HON J.A. SCOTT** (South Metropolitan) [3.25 pm]: I am very pleased that Hon George Cash has that concern. Such regulations are a measure of the level of concern a Government has about the work force. I am pleased to hear he does not want those noise levels to go beyond that. However, something that has not yet been said about high noise levels in workplaces is that they bring health problems of hearing or stress, and indeed continued noise levels can cause fatigue, accidents and so on. High noise levels also make people unaware of what is going on around them in the workplace, particularly dangerous workplaces. Some of the situations in which I have worked on offshore oil rigs can be very confusing with continued high pitched noises of different varieties all the time. Many things can be going wrong behind someone's back of which he will not be aware because the sounds are being drowned out. I hope members are aware that while we are looking at an 85 dB level, which is a level members believe should not be exceeded, we must be looking at achieving levels below it. We should be saying to employers they must get noise levels as low as they possibly can. This would benefit workers and employers because they would get more quality work and fewer injuries not just to hearing but also others arising from people not being aware of accidents about to happen.

**HON MARK NEVILL** (Mining and Pastoral) [3. 27 pm]: It is pleasing to see the Government taking my sound advice about noise levels.

Hon Max Evans: I like "sound advice"!

Hon MARK NEVILL: I am glad that someone is sharp enough to pick it up. Going back to the 85 dB level in the regulations, as I have said, the scientific evidence is quite irrefutable and clear. It is not one of those grey areas. There is a significant increase in hearing loss between the two figures we have been discussing.

Hon George Cash: I stress to Hon Mark Nevill that these are draft regulations. I am required to convince the Occupational Health, Safety and Welfare Commission that it should agree.

Hon MARK NEVILL: I have no doubt the Minister will be able to do that. One learns something new every day. I thought the standard of 85 dB was in every State. Evidently, New South Wales, South Australia and Tasmania are to follow. Fortunately, manufacturers are engineering noise out of a lot of their equipment anyway, despite the noise levels Western Australia has, because of national standards and those in other countries, and because most suppliers supply to other countries. It has an impact where one is retrofitting existing older equipment. If the action level there is 85 dB, one will get that extra work done to take the noise out of the machinery. Whereas, if it is 90 dB, one probably will not have that critical decision to make. If one is retrofitting old

equipment, those small extra jobs mean a lot of extra cost. One paper in 1986 estimated something like $30m a year was paid out in compensation payments nationally for hearing loss in 1978. In 1986 that was increasing by about $3m a year. The estimated payout of about $100m for hearing loss or compensation a year is a significant amount of money. It is better that people's hearing be conserved and that we prevent the occurrence of occupational hearing loss, than it is to ultimately compensate them for that loss.

[Motion lapsed, pursuant to Standing Order No 72.]

## PRISONS AMENDMENT BILL

*Returned*

Bill returned from the Assembly without amendment.

## AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (TOWN & COUNTRY) BILL

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

*Second Reading*

**HON MAX EVANS** (North Metropolitan - Minister for Finance) [3.32 pm]: I move -

That the Bill be now read a second time.

This Bill has been introduced at the request of the ANZ Banking Group. ANZ acquired Town and Country Building Society as a wholly owned subsidiary on 30 July 1990 and the building society was converted to a bank on 30 September 1991. This was approved by the Reserve Bank on the condition that the new bank would surrender its banking licence "in due course". Upon Town and Country Bank's surrendering its banking licence it will be necessary for the individual assets and liabilities of Town and Country Bank to be transferred to the ANZ. The objective of this Bill is to facilitate the transfer of the banking business of Town and Country Bank to the ANZ. Without legislation of this kind, the transfer of the banking business would be time consuming and expensive, with separate documentation being required for the transfer of each individual asset. This would involve the preparation of new security documents for the borrowings of more than 38 000 Town and Country customers and transfer authorities to move some 165 000 existing accounts to the ANZ Bank. Recent precedents for legislation of this nature are the State Bank of South Australia (Transfer of Undertaking) Act 1994 and the Australian and New Zealand Banking Group Ltd (NMRB) Act 1991. A condition in each case, and in a number of earlier similar cases, was that the banks pay amounts in lieu of the state government taxes and charges which would have been applied had normal commercial transfers of assets and liabilities been required. This legislation is consistent with the Government's objective of facilitating business efficiency within Western Australia, while not prejudicing the integrity of the State's revenue base. I commend the Bill to the House.

*Adjournment of Debate*

Hon TOM HELM: I move -

That debate be adjourned until a later stage of this day's sitting.

The PRESIDENT: The member cannot move that motion without the suspension of standing orders; the debate must be adjourned until the next sitting of the House.

Hon TOM HELM: Can I move to suspend standing orders in so much as will allow the debate to be adjourned until a later stage of this day's sitting?

The PRESIDENT: Someone can do it.

Hon Tom Helm: Can it be me?

The PRESIDENT: It can be anyone but I must say something to honourable members about this matter.

*President's Ruling - Standing Order No 461 on Standing Orders Suspension*

The PRESIDENT: Standing Order No 461 states that standing orders can be suspended only when, in the opinion of the President, the circumstances are urgent. In order for the President to express that view, someone must tell him there is an urgent necessity in order for him to make a determination. After the bells started to ring for this House to commence activities today - five minutes before the House was to sit - I was approached by a member asking me to consider whether this Bill qualified under Standing Order No 461 for standing orders to be suspended to allow it to be dealt with today. I do not know whether members think the standing orders of this place are there for a bit of fun; they are not. I take very seriously my job as President of putting the rules into effect. As an aside, I spend quite a lot of my time asking members to conform to the standing orders. Therefore, it behoves me to ensure that I conform to those standing orders. Having been approached while I was endeavouring to get ready to come into the Chamber, I must now make a decision.

I knew nothing about this Bill previously. I did not know the Legislative Assembly dealt with this Bill yesterday and, indeed, I am not required to know that. Neither is anybody else in this Chamber required to know the Bill was being dealt with by the Legislative Assembly. That is why we have a system of messages going from one place to another to alert us to these facts. During the very brief discussion while the bells were ringing, I got the impression that there was certainly some urgency about the need to pass this Bill today. The Minister's second reading speech confirms in my mind that there is some urgency attached to it. However, I take exception, as President, to being approached after the bells start ringing on the day the Bill is received in this House and being asked to give approval under Standing Order No 461 for the motion proposed by Hon Tom Helm. In case anyone thinks otherwise, I advise that Hon Tom Helm did not approach me on this matter earlier.

This situation seems to indicate that some people thumb their noses at our standing orders and the role I must play in the scheme of things. I have some personal views about the status of a Bill of this nature, and I believe I am entitled to several hours at least to consider whether this Bill should be introduced in this way in the first place. I was told during that two minute discussion that a precedent had been established on one other occasion when a similar Bill had been introduced. I could not recall it at the time, but I have subsequently recalled it. I remember at the time that I was not very happy about that situation either. During my time in this Parliament, Bills of this nature have been introduced in accordance with the standing orders that prevail for private Bills. If we are to abandon the joint standing orders relating to private Bills, why not abandon and repeal them so that there is no such thing in future as a private Bill, as distinct from a public Bill?

Members may think that perhaps I am going on about something I should not dwell on. However, I am becoming quite concerned at the way in which some people - either as a result of their lack of knowledge, at best, or their utter defiance of the rules, at worst - are bringing matters to this place. I am not ruling at this stage that the standing orders should not be suspended, because the Bill has indeed been accepted by the House by virtue of the fact that it has been read a first time. Therefore, I am placed in the position where this House has agreed to deal with the Bill, and we have gone beyond that point. The Minister has read a second reading speech, which gave me a lot more information than I was able to obtain during those couple of minutes when the bells were ringing and it was first brought to my attention. The bottom line is that I think common courtesy suggests the initiators of this legislation should have informed the President and the Legislative Council about it much earlier than after the bells started ringing today.

We are now in a quandary because no-one sought to suspend the standing orders until the member moved for the adjournment of the debate until a later stage of this day's sitting. That in itself throws more confusion into the process. The member can seek to do that in

accordance with Standing Order No 461, but he should have given me prior notification of his intention to move for the suspension of standing orders, and should have asked whether I considered the matter to be of urgent necessity. I will not demand that, but I want some people to get messages about where we are at, what we are doing, and what I am doing in this place. I find it galling that I call members to order from time to time for transgressing some standing orders or other, and people think that it is all right for me to transgress the standing orders. I may do it from time to time inadvertently, but I certainly will not do it when I am alerted to it.

*Point of Order*

Hon JOHN HALDEN: Is the motion to suspend standing orders without notice required to have an absolute majority to be passed?

The PRESIDENT: It must have an absolute majority.

Hon George Cash: I do not mind.

Hon JOHN HALDEN: Can Hon Tom Helm's motion be amended to include that the Bill proceed through all stages at today's sitting, so we are clear about exactly what we will do with it?

The PRESIDENT: Hon Tom Helm has not moved a motion. I will allow him to do so in a moment. The section that requires the absolute majority is the suspension of the standing orders so that whatever members want to do can be done. Members do not need an absolute majority to have the Bill read a second or third time.

*Standing Orders Suspension*

On motion without notice by Hon Tom Helm, resolved with an absolute majority -

> That so much of the standing orders be suspended as is necessary to enable the second reading of this Bill to be resumed at a later stage of this day's sitting and to proceed through all stages at this sitting.

*Second Reading*

Debate adjourned to a later stage of the sitting, on motion by Hon Tom Helm.

[Continued on p.6079.]

*Sitting suspended from 3.46 to 4.00 pm*

## AGRICULTURAL LEGISLATION AMENDMENT BILL

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon E.J. Charlton (Minister for Transport), read a first time.

*Second Reading*

**HON E.J. CHARLTON** (Agricultural - Minister for Transport) [4.02 pm]: I move -

> That the Bill be now read a second time.

In 1994 a ministerial review team was appointed to advise on the current operations and future direction of the Agriculture portfolio. A key recommendation of the report was to reorganise and refocus management and organisational structures across the portfolio, which covers the Department of Agriculture, the Agriculture Protection Board, and the Rural Adjustment and Finance Corporation. In terms of management requirements, a clear need for a single chief executive officer, across all three agencies, was suggested. Another key recommendation was that for the first time the protection and regulatory operations and functions of the Department of Agriculture and the Agriculture Protection Board be brought together under one program subsequently labelled industry resource protection.

The purpose of this new program is to maintain effective quarantine through inspection and control of goods entering Western Australia to prevent the entry of exotic pests and

diseases. The program aims to quarantine and prevent the spread of exotic pests and diseases where the benefits to Western Australia exceed the costs of eradication and control. It also implements appropriate eradication and control mechanisms to ensure protection of public health, the environment and agricultural production systems. Clearly the range of expertise on the Agriculture Protection Board must be expanded to reflect the breadth of the new program for which it is responsible. The review report also acknowledged the importance of the APB's grass roots networks; that is, regional advisory committees and zone control authorities among agricultural and pastoral communities.

The Agriculture Protection Board membership currently consists of the two ex officio members and nine other persons. These latter persons are appointed on the nomination of regional advisory committees established under the Agriculture and Related Resource Protection Act 1976, and producer and local government organisations. Currently only four board members are appointed from zone control authorities. It is intended to increase this grass roots representation on the board to five positions by seeking nominations from the 11 zone control authorities which are, themselves, appointed on the nomination of regional advisory committees. These zone representatives will be appointed by the Minister.

An essential part of an independent and effective board is the role of chairman. Currently this position is held by the Director General of Agriculture. The purpose of these amendments is to allow for the appointment to the role of chairman, a person with industry, commercial, resource protection or other appropriate expertise, rather than a public servant. Given the strong industry focus of the board, this change to the selection of chairman is an important reform to ensure that the board is an independent and vigorous body. A further five persons will be appointed by the Minister, who should have wide experience in rural industry, or the protection of rural industry resources, or other qualifications relevant to the powers and duties of the Agriculture Protection Board. It is intended that major rural lobby groups will be requested to provide a panel of names to assist the Minister to appoint appropriate persons. It is also intended to appoint the Director General of Agriculture to the Agriculture Protection Board. This is to provide direct liaison with the staff of the portfolio.

So as not to conflict in the long term with the recommendations of the Royal Commission into Commercial Activities of Government and Other Matters, it is proposed to review this membership after 12 months of operation. The intent of the new management structure for the portfolio can be realised only if the proposed single chief executive officer is the CEO of each agency. To give effect to this, a requirement to amend the enabling legislation of the Agriculture Protection Board has been established.

As it stands at present, the Agriculture Protection Board Act 1950, at section 5(3)(a), requires that the Director General of Agriculture - the office of which will be assumed by the CEO of the proposed single operational agency - and the chief executive officer of the APB, must separately be ex officio members of the Agriculture Protection Board itself. This is untenable under the proposed management structure. The Bill deletes the requirement for the CEO of the Agriculture Protection Board to be a member of the board. On amendment of the Agriculture Protection Board Act it will be possible for the Governor to appoint the new portfolio CEO to the position of Chief Agriculture Protection Officer - effectively CEO of the APB - under section 9(1) of the Agriculture and Related Resources Protection Act, without this person being automatically a member of the board. The Bill provides that all current members of the Agriculture Protection Board shall cease to hold office on the implementation of the amending legislation. However, all members are eligible for reappointment, and all will be given consideration when the new board membership is being formulated.

Part 3 of the Bill also proposes to amend the Rural Adjustment and Finance Corporation Act 1993. Since this Act was last amended, the Rural Adjustment and Finance Corporation's operations have been modified to the extent that it is necessary to make changes to parts of the principal Act that are now either redundant or inappropriate. The opportunity has therefore been taken in the amendments proposed in this Bill to clear out

unnecessary sections. Further amendments to the Act had always been envisaged and the Agriculture Legislation Amendment Bill 1995 picks up these intended changes. Repeal of those sections relating to protection orders is also included in this Bill. The corporation no longer lends money and the protection order provisions have not been used since 1978. These powers proved to be cumbersome and ineffectual and they have been superseded by other processes such as debt mediation. Other deletions in the Bill include the now redundant provisions to permit the transfer of pre-1985 state funded rural adjustment schemes from the R & I Bank to the corporation, which has been completed; and sections relating to compensation payable for injurious affection to land under the Country Areas Water Supply Act 1947, which are now redundant. Following the 1993 amendments to the Act, two commonwealth funds for rural adjustment schemes prior to 1985 have been closed, and all commitments to the Commonwealth for these schemes met. The balances in these funds have been transferred to the rural assistance fund, one of the corporation's operating funds. The Bill deletes all references to the closed funds.

There are two further amendments to bring about modifications to operational procedures. The first enables the corporation to engage persons under contract for service for day to day operations without the requirement for individual approvals from the Minister. The legislation currently requires approval from the Minister in each instance, which is unduly cumbersome. Secondly, an additional clause has been included to allow payment from funds to persons other than those directly engaged in rural industry. Payments are made in accordance with commonwealth-state agreements and rural assistance schemes, but the current legislation does not allow payment to be made directly to people such as course providers for farmer training programs. The Commonwealth has also flagged changes in this direction and the amendment will allow payment direct to people engaged to provide services considered appropriate for the benefit of rural industry. This removes a cumbersome restriction on the management of farmer training and skills development programs. Amendments in the Bill also include housekeeping amendments to update the Act to line up with the requirements of the Public Sector Management Act 1994. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

## CORPORATIONS (WESTERN AUSTRALIA) AMENDMENT BILL

*Receipt and First Reading*

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

*Second Reading*

**HON GEORGE CASH** (North Metropolitan - Leader of the House) [4.09 pm]: I move -

That the Bill be now read a second time.

This Bill is required to be considered as part of Western Australia's participation in the agreement that governs the Commonwealth, State and Northern Territory scheme for corporate regulation. The scheme has been in operation since 1 January 1991. The Bill is based on a model Bill agreed to by commonwealth, state and territory Attorneys General. All State Governments and the Northern Territory Government will be introducing similar legislation. Complementary provisions, contained in the Corporations Legislation Amendment Act 1994 of the Commonwealth, which was passed in June 1994, will commence at the same time as this proposed state and territory legislation. This Bill, in conjunction with these complementary amendments to state and commonwealth legislation, will confer jurisdiction in civil matters under Corporations Law on lower courts throughout Australia. This jurisdiction will not extend to matters the Corporations Law reserves for the superior courts and will be subject to the monetary limits of the Western Australian District and Local Courts.

The principal object of the Bill is to ensure, as far as possible, that the District and Local Courts of Western Australia have the same powers over civil matters under the

Corporations Law that they had under the previous cooperative scheme. Under the previous cooperative scheme laws, the District and Local Courts had jurisdiction over corporate matters depending on the appropriate monetary limits. For example, under section 556 of the Companies (Western Australia) Code a creditor could take civil action in the Local Court, subject to its monetary limits, against the former directors of a company if the debt in question was incurred when there were reasonable grounds to expect that the company could not repay the debt as and when it became due and the company subsequently went into liquidation. The Corporations Law, when drafted, conferred jurisdiction only on superior courts. The amendments will allow creditors, once again, to take actions in the lower courts. Transitional provisions are included in the Bill to ensure that the effect of actions commenced or taken before the commencement of this legislation are preserved. This proposal has been developed in response to concerns from the business community and the legal profession against court judgments over recent years which have held that civil jurisdiction under the Corporations Law is confined to superior courts; that is, the Federal Court, the Family Court and the Supreme Court in each State and Territory. Concern has also been expressed that legitimate civil actions will not be able to be brought under the Corporations Law because of the cost and delay involved in bringing actions before the superior courts. For small claims, it could be that the cost of the filing fees and legal representation alone would prevent the commencement of civil proceedings in a superior court. The Western Australian Government remains committed to the principle that justice should be available to the community at an affordable cost and with the prospect of a speedy resolution. It is for these reasons that the Government supports this Bill to amend the law to confer civil jurisdiction on lower courts in regard to those civil actions under the Corporations Law which are in the nature of debt recovery, monetary compensation or minor administrative remedies.

The legislative framework for the national scheme of corporate regulation means that effective jurisdiction can be conferred on lower courts only if complementary amendments are made by State and Northern Territory Parliaments to the corporations Acts of the respective jurisdictions. The Ministerial Council for Corporations, which is responsible for the preservation and promotion of the current legislative scheme, has agreed that the necessary amendments should be made as soon as possible, and a uniform date will be set for the operation of these amendments in each jurisdiction in Australia. These amendments will reduce the cost and delays associated with bringing small civil actions under the Corporations Law. Therefore, they are further tangible evidence of the Government's efforts to assist all Western Australians, including small businesses, who are involved in these matters. It is important that these reforms receive the support of all members and be implemented as soon as possible. The Bill will also amend the definition of "officer" consequential to an amendment to the Corporations Law, and amend provisions which provide for application of certain provisions of the new evidence Act of the Commonwealth. Finally it will amend section 90 of the Corporations (Western Australia) Act 1990 to clarify the powers and functions of the commonwealth Director of Public Prosecutions in relation to offences under the former companies and securities scheme. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

## LEGAL PRACTITIONERS AMENDMENT BILL

*Receipt and First Reading*

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

*Second Reading*

**HON GEORGE CASH** (North Metropolitan - Leader of the House) [4.15 pm]: I move -

That the Bill be now read a second time.

This Bill is a response to a request by the Legal Practice Board that the Legal Practitioners Act be amended. The Bill will facilitate disciplinary proceedings where it is alleged that a legal practitioner has been guilty of illegal conduct. The board is responsible for the supervision and control of persons practising law in Western Australia. Recently there have been proceedings where practitioners previously found guilty of criminal offences by courts have subsequently appeared in the Legal Practitioners Disciplinary Tribunal and denied that they are guilty of illegal conduct. This is an unprecedented development in disciplinary proceedings, requiring amendment.

Under common law principles, which govern such a situation, the tribunal must retry the matter entirely. Therefore, the practitioner endeavours to persuade it to reach a different conclusion - that is, in effect, to find the practitioner not guilty of the criminal offence. That procedure is an undesirable and inappropriate way of challenging the validity of a criminal conviction. It is entirely wasteful of the tribunal's resources. For example, a corporate fraud trial can take many weeks. Additionally it is undesirable for a disciplinary tribunal to question decisions of a criminal court.

For the past 99 years practitioners convicted of an offence have accepted the conviction in subsequent disciplinary proceedings. Therefore, the Legal Practice Board has requested an amendment to enable such a conviction to be treated as conclusive evidence of illegal conduct. This Bill will allow convictions by courts in Australia, external territories and New Zealand to be treated as conclusive evidence of illegal conduct. The provision has not been generally extended to foreign courts. This is because of the possibility of differences, for example, in their procedure and jurisdiction. However, the Western Australian public is protected by a further provision in the Bill. Legal practitioners who have been struck off the roll or suspended from practice in any other jurisdiction will be prohibited from practising law in Western Australia without the Legal Practice Board's consent, which can be subject to conditions. Also foreign jurisdictions may not necessarily use the expressions "struck off the roll" or "suspended from practice". The Bill extends the meaning of those expressions to include any consequence of judicial or disciplinary proceedings which, however it may be described, is substantially similar in effect. I commend this Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

## ABORIGINAL HERITAGE AMENDMENT BILL

*Report*

Report of Committee adopted.

*Third Reading*

Bill read a third time, on motion by Hon N.F. Moore (Minister for Education), and returned to the Assembly with an amendment.

## OCCUPATIONAL SAFETY AND HEALTH LEGISLATION AMENDMENT BILL

*Report*

Report of Committee adopted.

*Third Reading*

Bill read a third time, on motion by Hon George Cash (Leader of the House), and returned to the Assembly with amendments.

## ROAD TRAFFIC AMENDMENT BILL

*Second Reading*

Resumed from 21 June.

**HON N.D. GRIFFITHS** (East Metropolitan) [4.20 pm]: This Bill has the support of

the Australian Labor Party. It proposes to delete certain specific provisions to do with the granting of concessions and exemptions relating to motor vehicle licence fees and driver's licence fees from the wording of the Road Traffic Act and to enhance the regulatory power so that those matters can be dealt with by regulation. That procedure involves a balance as to whether it is appropriate in the first instance that we as a Parliament deal with matters or whether they are dealt with by way of delegated legislation. Taking into account the range of measures dealt with currently in the Road Traffic Act and the matters proposed to be dealt with down the track for exemption and concession, I join with the Leader of the House in his comments in the second reading speech to the effect that the appropriate balance in this area of policy is to have matters dealt with in the first instance by way of delegated legislation.

I note in that context that the specific provisions which deal with exemptions and concessions designed to be removed from specific enactment to be dealt with by delegated legislation are those matters in sections 19, 21, 47 and 52 of the Road Traffic Act. The Bill further proposes to amend section 76B of the Stamp Act. That will follow logically from the repeal of section 19(15) of the Road Traffic Act, leaving the matters dealt with under section 76B of the Stamp Act so amended to be dealt with by way of delegated legislation consistent with the dealing of those other matters referred to earlier. The balance of the Bill is in the nature of housekeeping. In particular, it involves the introduction of the term "vehicle licence fee" rather than the use of several other phrases currently in the Act which mean the same thing. The readability of the Act will therefore be improved.

**HON GEORGE CASH** (North Metropolitan - Leader of the House) [4.24 pm]: I thank Hon Nick Griffiths for his support of this Bill. As he advised, it is in part to extend a 50 per cent vehicle and motor driver's licence fee concession to certain members of the community who are not in receipt of a pensioner health benefit card. It is also for related matters. Hon Nick Griffiths asked whether it was appropriate to take from an Act a particular provision and insert that provision in the regulations. I generally support his view that that is not necessarily a practice which should be pursued all the time; however, given the changes that occur within the community, and given that this relates to a percentage of a particular rate that may be determined from time to time - I am talking in general terms about provisions that are transferred out of an Act into a regulation -

Hon N.D. Griffiths: I said that I agree with you.

Hon GEORGE CASH: I know, but I thought I should be seen to understand the Bill! I understand what Hon Nick Griffiths is saying; however, in this circumstance it is appropriate to do that, as Hon Nick Griffiths indicated. From time to time comments have been made in this place about this matter, particularly by members of the Joint Standing Committee on Delegated Legislation who have raised their concerns about the need for matters to be considered by the Parliament. Although this provision will not be inserted in the Act proper after the amendment goes through, the opportunity will be available for the Parliament to scrutinise and, if necessary, move a disallowance motion for any ensuing regulation. Hon Nick Griffiths indicates also that the balance of the Bill is in the main housekeeping-type arrangements and needs little or no comment. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*Committee*

The Chairman of Committees (Hon Barry House) in the Chair; Hon George Cash (Leader of the House) in charge of the Bill.

**Clauses 1 to 4 put and passed.**

**Clause 5: Section 18 amended -**

Hon N.D. GRIFFITHS: Will the matter the subject of paragraph (d) be dealt with in the regulations which I assume will be forthcoming shortly?

Hon GEORGE CASH: Yes, that will be picked up in the regulations. It is intended that section 18(9) be repealed.

**Clause put and passed.**

**Clause 6 put and passed.**

**Clause 7: Section 21 repealed -**

Hon N.D. GRIFFITHS: I ask a question in the same terms as that I asked in relation to the previous clause.

Hon GEORGE CASH: It is the intent of the Bill to have reduction and waivers of fees dealt with by regulation. As I indicated in the second reading speech, it is considered appropriate that the refund of vehicle licence fees should be dealt with in a similar manner. Therefore, the section has been repealed and will be dealt with by way of regulation.

**Clause put and passed.**

**Clauses 8 to 14 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 George Cash (Leader of the House), and passed.

## STAMP AMENDMENT (MARKETABLE SECURITIES DUTY) BILL

*Second Reading*

Resumed from 21 June.

**HON MARK NEVILL** (Mining and Pastoral) [4.33 pm]: The Opposition supports this Bill, which reduces the rate of stamp duty on the transfer of listed marketable securities. For on-market trades, the rate will be reduced from 30¢ per $100 to 15¢ per $100 on both the buy and sell sides of the transaction. On the off-market trades of listed securities the duty will be reduced from 60¢ to 30¢, and I think that is actually paid by the buyer. These changes will apply from 1 July, so there is some urgency for this Bill to pass before then.

The stamp duty rate on the transfer of unlisted marketable securities will remain at 60¢ per $100 in the other States. Members will be aware that Queensland announced about two months ago that it would cut the duty rate on marketable securities. That announcement was responded to very quickly by other States to the effect that they would reduce their stamp duty on marketable securities simply to protect their revenue base. If Western Australia had not done this, shares would be traded in the State that had the lowest stamp duty. The regime in place now and agreed to by all States means that there is a uniform rate across Australia. This will result in the estimates of revenue being cut from about $30m to $15m or $16m for this financial year.

It is quite interesting that the year before last about $29m or $30m was raised on stamp duty but the year prior to that - about two years ago - it was about $15m, which the budget papers project for this year. In fact, that could increase. Because Australian stamp duty on these trades is so high - up to 60¢ per $100 - many institutional investors go offshore, to Singapore and so on, to do their share trades. Having a lower rate in Australia may attract some of that business back. If that is the case, the loss to revenue will not be as great. This demonstrates that the competition that exists between the different state Governments around Australia is very fierce and has the effect of reducing costs. Unfortunately we do not get this same competition between state Governments and federal Governments. While this competition has benefits it actually reduces state revenue. Rarely does this competition ever increase state revenue.

The measure before the House restores parity with the rates that will operate in other States. It basically protects our stockbroking industry and our stamp duty revenue base. It will also make our exchange more competitive with overseas exchanges. The Opposition supports the Bill.

**HON A.J.G. MacTIERNAN** (East Metropolitan) [4.37 pm]: I would like to pick up on comments I made when I first came into this place in relation to one of the first stamp Bills we dealt with under the current Government. The need to take this action arises out of one state Government's acting unilaterally and in that way forcing the hands of each other State. It is very reminiscent of what I understand happened with death duties some decades ago.

The concern I raised then is the need for far greater coordination between States in relation to stamp duty. If we are to do business successfully in Australia we have to do something about addressing the many stamp duty regimes. It is not merely a question of the different rates of duty that are attracted in different States. It is the different ways that duty is assessed, the different time scales and the different elements of a transaction upon which a stamp duty is affixed. The most classic example of this is the duty on securities, where we have at least four quite different systems of assessment of duty. Many companies and business operations have assets spread throughout Australia. If a company engages in security transactions where it is granted security over its various assets, that transaction needs to be stamped in each State in which the company has assets. That very process of hawking these documents to each State is unnecessary red tape for the business.

Perhaps we should be looking at having some central agency or cooperative arrangement between States, where a document can simply be lodged in one State and that there be an arrangement whereby the duty is levied on an agency basis on behalf of the other States. We have that physical problem of having to transport these documents around Australia exacerbated by the fact that we have different assessment regimes. I think I pointed out at the time that, with the duty on mortgage securities, one has to be very careful about the order in which one has documents stamped because that in itself can change substantially the rate of liability. At the time, the Minister indicated that he was interested in improving coordination between States. I take this opportunity to ask the Minister what progress has been made to achieve a greater degree of coordination and cooperation between the States in this very vital state revenue area, but an area that is of considerable concern to business. I do not oppose the levying of stamp duty; quite clearly, the States need the proceeds. It is also a fairly reasonable and equitable redistribution mechanism. However, we owe it to those people who are incurring liability to ensure that we collect the money with a minimum of fuss and expense.

**HON MAX EVANS** (North Metropolitan - Minister for Finance) [4.41 pm]: I thank the Opposition for its support of this Bill. An article in the newspaper the other day referred to Queensland working unilaterally. I agree with Hon Alannah MacTiernan about the States doing different things. Members may remember that when the financial institutions duty was introduced, Queensland decided not to go with it and that created a lot of problems, even now. Only this week, the Chairman of the Australian Stock Exchange, Mike Monahan, said in a speech that the Government should get rid of the other 0.15 per cent stamp duty relating to stock exchange transactions.

Hon A.J.G. MacTiernan: It sounds like the trade unions: Give them an inch and they will take a mile.

Hon MAX EVANS: I agree completely. Members may have seen my retaliatory comments. About four or five years ago there was a push by stock exchanges around Australia to get Governments and Oppositions to support a move to do away completely with stamp duty. The New South Wales Government was fairly sympathetic towards that cause because the Government of Great Britain was about to do away with stamp duty on stock exchange transactions and it could have lost a lot of trade. The United Kingdom did not move, so nobody moved until this changeover to 0.15 per cent. As Hon Mark Neville said, it involves about $15m, which is about one-quarter of the cost of the State

Government's telephone bill which totals about $65m. The amount of stamp duty collected by New South Wales and Victoria is $250m each. The population of New South Wales is only about three times our population. That is an indication of the huge amount of money it receives from stamp duty on stock exchange transactions. Huge institutions in that State are turning over hundreds of millions of dollars every week. Victoria's population is only about two and a half times our population and it also earns $250m from stamp duty. I am doing a lot of work on federalism and the revenue earned by different States and I have suddenly become aware of the huge bonanza for these States from this revenue that we do not receive. It is disproportionate to the population. There was a suggestion, as I said, that the stamp duty on stock exchange transactions be eliminated. The Commissioner of State Taxation showed me an article the other day about the largest sharebroker in Malaysia on the Australian Stock Exchange and it indicated that the stamp duty in Malaysia is still 0.15 per cent. However, the broker's commission is only 1 per cent and, as I told John McGlue the other day, if they really want to be competitive, the Stock Exchange should drop its commission rate. I think it is about 2.5 per cent each way between buyer and seller.

Hon Mark Nevill: I was paying 3 per cent in Perth and I am now paying 1 per cent in Melbourne.

Hon MAX EVANS: Is it 3 per cent here now? I opened the offices of Pont Securities a while ago and all that company had was a computer and telephone. Pont Securities are paid so much a transaction, irrespective of the amount of money. It does no research or anything for investors.

Over the last 20 years, when there was a boom, stockbrokers make a lot of money with half of the partners retiring. New stockbrokers then entered the market, but battled to make any money when there was a slump.

Hon Mark Nevill: They sell their Porsches.

Hon MAX EVANS: Yes. The biggest problem they had before computerisation was they doubled and trebled their floor space during the boom. However, when the market crashed, they had huge overheads. They then approached the Government and the Stock Exchange and asked to be able to put up their commission rates. The result is that the commission rates went up, another boom came, and they all made a lot more money. There have been about three of those cycles.

Hon A.J.G. MacTiernan: Why do we recommend the commission rates? Surely that must be up to the market to determine.

Hon MAX EVANS: I do not know, to be honest. They are deregulated now, but most of them are trying to hold the rate. Malaysia has a fixed 1 per cent commission rate.

Hon A.J.G. MacTiernan: There are workplace agreements; we certainly should have deregulation of commission rates.

Hon MAX EVANS: I think it is a good idea! There has been a certain amount of deregulation, but most firms hold to the rate because they have to keep up the living standards with which most of them have become accustomed.

Hon Mark Nevill: You can bet the mums and dads are paying 3 per cent.

Hon MAX EVANS: Yes, they could be. I do not believe those firms would have lost much business to the Eastern States if we had not introduced this reduction in stamp duty. The mums and dads will still invest here. Large institutions may have gone east. However, as members can see from the turnover from the tax of $15m in this State on 10 per cent of the population against $250m with 30 per cent of the population, we are only doing local turnover.

Hon Alannah MacTiernan made some comments about death duties. Queensland was the first State to do away with death duties, the result of which many business people from Sydney and Melbourne went to Queensland to live. That started the boom on the Gold Coast. They lived there and commuted to Sydney and Melbourne.

We are doing quite a bit on stamp duty. Only a couple of weeks ago, a meeting was held of the state taxing authorities and the Australian Capital Territory and the Northern Territory. I was given a report that commented on the Malaysian sharebroker. We are looking at FID and the bank account debits tax about which there are many inconsistencies. FID has problems in respect of electronic fund transfers, etc. We changed the legislation from 1 January this year because many of the big companies in Western Australia were putting their money into their Melbourne bank accounts and we were getting no FID. We are now getting some of that. They now put all the cheques in a big bag, tie a bit of string around it and send it to Melbourne or Sydney. Some even send the cheques to Brisbane. Therefore, Melbourne and Sydney are getting the FID and not us. They put all of the coins in another big bag and take them to Mayne Nickless Ltd and get a cheque and throw that in the bag with the other cheques. An amount of $1 200 is the maximum amount of FID to be paid. That is 0.06 per cent on $2m. Therefore, instead of paying $1 200 here, they are paying it in either Sydney or Melbourne. However, to my way of thinking, they are not good citizens. Why should we not get the money in those circumstances? We are taking action on that. We are also looking at electronic fund transfers relating to BAD.

We are doing a lot of work on stamp duty, unilaterally. I know exactly what the member means; it is like the old companies code when things were different in all of the States.

Hon A.J.G. MacTiernan: It is more important now because there is far more movement and integration between businesses.

Hon MAX EVANS: Hon Alannah MacTiernan's query about why one State cannot collect all the money for all the other States was fascinating. I know the member said she was doing a lot of work on interstate property deals. One can soon slip up and make mistakes.

Hon A.J.G. MacTiernan: Documents get tied up for up to a year. By the time a complex transaction spends two or three months in each jurisdiction, a year goes by before you get your original document back.

Hon MAX EVANS: I will take that on board. I am trying to do a lot of things. I have already made many changes to administrative matters such as payroll tax and land tax, etc. I think things can be made a lot easier. This Bill is a simple matter. I am not too certain how much real effect it will have on this State and I am looking seriously at whether we should give up the $15m. When we are asked to forgo this amount of money, who gets the benefit? It all goes back to the Federal Government. It gets the revenue from taxes on the profits. It really provides us with very little benefit. As Brian Toohey said in *The West Australian*, there will not be more money in Australia from floats. The money just goes around. Buying and selling on the Stock Exchange is like betting on the TAB. The money is being reinvested; it is not a long-term investment.

I thank the Opposition for its support of the Bill. The Government wanted the legislation passed by 30 June and I hope it is not necessary to introduce amending legislation before the end of this year.

Question put and passed.

Bill read a second time, proceeded through remaining stages and passed.

## TREASURER'S ADVANCE AUTHORIZATION BILL

*Second Reading*

Resumed from 20 June.

*Amendment to Motion*

**HON MAX EVANS** (North Metropolitan - Minister for Finance) [4.52 pm]: The Government does not agree with the amendment moved by Hon John Halden last week.

**HON JOHN HALDEN** (South Metropolitan - Leader of the Opposition) [4.53 pm]: I am somewhat startled by the Minister for Finance's response.

Hon E.J. Charlton: It was very specific.

Hon Max Evans: I could have given a long answer.

Hon JOHN HALDEN: It appears that the Minister for Finance has caught whatever the Minister for Transport has.

Hon E.J. Charlton: Even if you read *Hansard* you will not get any extra information.

Hon JOHN HALDEN: The issue I raised was specific and it was about the use of the Treasurer's Advance to pay out an amount of money that was easily accessible in the previous Budget. Therefore, that did not meet the terms and conditions of clause 5 of this Bill. By way of interjection last week I indicated that if the Minister was prepared to guarantee that there was no allocation in the Treasurer's Advance to meet Stateships' outstanding debts from two financial years ago, I would not have pursued this motion.

Hon Max Evans: I will give you the information when I sum up later.

Hon JOHN HALDEN: The Minister has lost his opportunity to speak on this amendment. This House cannot operate on this basis. The Minister put forward a case and said it was what he understood. If I am correct, clause 5 will be breached if money is used in this way. All the Minister had to do was make a clear statement that the Treasurer's Advance would not be used for that purpose. I also said by way of interjection last week that I would have accepted that and would not have summed up this debate. I will investigate the situation as soon as we are in receipt of the figures associated with the Treasurer's Advance to make sure that what is on the record is correct.

The House has not been given an answer to the question I raised. I thought I put forward a cogent argument, which I concede is not necessarily correct. This House cannot pass this Bill without a guarantee that money will not be spent in the way I suggested. If it is so spent, it will be done in breach of the provisions of the Bill. This House is in a difficult situation. As a Legislature it is faced with not having the information that is required to assess the position adequately. I am flabbergasted that the Minister's answer was that the Government did not agree with the Opposition. The Government might not like it, but I am in the same position I was in before I moved the amendment. Is the position I put forward true? The House has not been told the answer. How can we possibly pass a piece of legislation on that basis?

Hon Max Evans: I will speak on this issue again later.

Hon JOHN HALDEN: It cannot be done that way. The reality is that the Bill cannot be amended in this place. If part of the Treasurer's Advance is to go to Stateships - I have no guarantee that it will not - the Opposition has no alternative other than to insist that the Bill be sent back to the other place. If my amendment is not passed the next time the Minister speaks we will not have the opportunity to send it back to the other place.

Hon Max Evans: The money is not there.

Hon JOHN HALDEN: The Minister is saying that there is no allocation for Stateships. I wanted a detailed analysis of what will be allocated to Stateships. This really is an amazing set of circumstances. The Minister for Finance has said that the Government does not support my amendment, but he will tell the House what the situation is after we have voted on the amendment. In good faith I was happy to let the amendment lapse. Members opposite cannot possibly expect the Opposition to support the Government's position when its reason for not supporting my proposition is that it does not like it. It is not good enough. I do not care whether the Government likes it or not. This House deserves an explanation. If it were to be forthcoming I would be happy to sit down and not say another word on this matter.

Hon Mark Nevill asked what would have happened when the previous Government was in office and Hon Joe Berinson had said, "The Government does not agree with you and it is not prepared to support your amendment. Sit down." Hon Peter Foss, with or without a migraine, would have gone absolutely berserk and three hours later he would have sat down.

Hon Kim Chance: And quite rightly.

Hon JOHN HALDEN: This is the most amazing situation. One could become extravagant in one's choice of words, and words like "arrogance" and "non-accountability" spring to mind. We cannot accept a one sentence answer to what I thought was a fairly reasoned question. I will concede that it may be incorrect, because I was seeking clarification and a detailed description of Stateships' accounts and how it appeared they had avoided being paid.

**[Questions without notice taken.]**

Hon JOHN HALDEN: Before questions you might recall, Mr President, we were in the rather difficult position of being asked not to support my amendment to send a message back to the Legislative Assembly about the Treasurer's Advance Authorization Bill on the basis that the Government does not support my contention about Stateships' accounts. However, it does not support my contention on the basis of any fact. I am trying to be as cooperative as possible with the Government. As I said before questions without notice, this is an enormously difficult position for not only myself and the Opposition but also, surely, the House. We must have some sort of explanation - maybe we must not - about what I thought was a reasoned position about an analysis of Stateships' accounts.

I claim that if this Bill were to be passed and enacted, and any money were to be advanced to Stateships on the basis I have described, that would breach what will be section 5 of the Act. It is unfortunate that prior to my summing up in this matter we could not get another government speaker to make a better fist of it than the Minister for Finance. A one-sentence answer about this matter is totally unacceptable. I am trying to be as cooperative as possible with the Government. As I said before, if we had been given guarantees, an explanation about the amounts in the Treasurer's Advance or perhaps an analysis showing that my summation about Stateships was wrong, we would quite happily have not pursued this matter and I would not be on my feet.

I do not know how we get around the problem of how to clarify the situation and assure ourselves that we are not doing something which might ultimately lead to its being unlawful. It is a novel step to send a Bill back to the Assembly for amendment, particularly if all those things I said may have been intended to happen, do not happen. This dilemma in which we find ourselves has been created because the Minister for Finance, with his one sentence response, has treated the House in the most flippant way imaginable. This is not a political, ideological matter. It is now impossible to deal with it on any factual, reasonable basis. The fact that the Government does not support what I suggest does not surprise me; it rarely does. The problem may well be that I might be right; in which case subsequent problems will arise for the Government. The view has been given to me on many occasions by members opposite that this happens to be a House of review. When a legitimate argument - I will concede it may not be factual - is put forward, we cannot review that argument on the basis of the one line answer that the Government does not support my motion. It is an impossible position for this House, the Opposition and some government members to be placed in.

The Government did not support the fact that last year the Budget was tacked. Unfortunately it came to a rude awakening.

Hon Kim Chance: It was a tacky affair!

Hon JOHN HALDEN: Yes. I have no credence in the Government. I do not believe members opposite; they must convince me, and I am not convinced on the basis of what has been said in this House today. It is unbelievable that we are in this position. As a house of Parliament, how the hell can we make a decision in any reasonable way on that sort of critique, to be enormously generous?

Hon Mark Nevill: I thought it was one of his more researched replies!

Hon Max Evans: I have a full reply.

Hon JOHN HALDEN: If the Minister has a full reply, why are we in this position? I am prepared to believe him.

Hon Max Evans interjected.

Hon JOHN HALDEN: The Minister was not told that; it was clarified with him by his leader. I clarified it with his leader; he should not make it worse for himself. I have seen some funny things happen in this place - not that I am suggesting this is particularly funny; it is almost to the point of being farcical, particularly in terms of accountability. The Minister for Transport knows I have been pursuing this matter for the past four months. I am sure he will concede I have driven him nuts about it.

Hon E.J. Charlton: I have an answer to a question you gave me notice of that you have still not asked me because I am aware you were given the answer before it got to question time and it was not convenient to ask it.

Hon Kim Chance: It sounds perfectly legitimate to me.

Hon E.J. Charlton: It demonstrates the member's position.

The PRESIDENT: Order! I want members to come to order. The member is responding to the argument put up in this debate. I thought it would not take him very long.

Hon JOHN HALDEN: The word "argument" is loose terminology in respect of the answer of the Minister for Finance. My response is difficult as a result of his "argument". How in heavens name can we respond to the sort of answer put forward by the Minister for Finance? I understand that in question time a Minister can give any answer he likes or refuse to answer a question. Based on my analysis - as I said I have pursued the Minister for Transport for four months on this matter - and in light of the primary role of this place which is to scrutinise legislation, a one line answer along the lines I have mentioned 10 times in the *Hansard* is simply not good enough. Perhaps the Minister will provide the House with an answer at a later stage.

The PRESIDENT: Not on this question.

Hon JOHN HALDEN: Thank you, Mr President for your interjection because it illustrates the stupidity of all of this.

Hon P.R. Lightfoot: You have been known to be that way before.

Hon JOHN HALDEN: That has actually been said before. It has also been said in terms of comparison between Hon Ross Lightfoot and me that the light went out in his head a long time ago and it will never come back on.

The PRESIDENT: Order! I ask members to stop interjecting so that the member can wind up his speech.

Hon JOHN HALDEN: On the basis of the Minister's answer the Opposition must insist on an amendment which may not be necessary. The Opposition must presume the worst on the basis that what I said is correct. This is probably the most bizarre debate we have had in this place, especially when it is taken in the context of what we are supposed to do in this place. The Opposition will support the amendment and take it all the way.

Amendment put and a division taken with the following result -

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Ayes (11)

| | | |
|---|---|---|
| Hon Kim Chance | Hon N.D. Griffiths | Hon Tom Stephens |
| Hon J.A. Cowdell | Hon John Halden | Hon Bob Thomas |
| Hon Cheryl Davenport | Hon Mark Nevill | Hon Tom Helm *(Teller)* |
| Hon Val Ferguson | Hon Sam Piantadosi | |

Noes (14)

| | | |
|---|---|---|
| Hon George Cash | Hon P.H. Lockyer | Hon B.M. Scott |
| Hon E.J. Charlton | Hon I.D. MacLean | Hon W.N. Stretch |
| Hon B.K. Donaldson | Hon Murray Montgomery | Hon Derrick Tomlinson |
| Hon Max Evans | Hon N.F. Moore | Hon Muriel Patterson *(Teller)* |
| Hon Barry House | Hon M.D. Nixon | |

Pairs

| | |
|---|---|
| Hon Graham Edwards | Hon M.J. Criddle |
| Hon Doug Wenn | Hon P.R. Lightfoot |
| Hon A.J.G. MacTiernan | Hon Peter Foss |

Amendment thus negatived.

*Second Reading*

**HON MARK NEVILL** (Mining and Pastoral) [5.46 pm]: The Opposition supports the Treasurer's Advance Authorization Bill. This Bill operates under section 8 of the Financial Administration and Audit Act and the Treasurer's Advance Authorization Act. The latter Act specifies the limit to which the Treasurer can draw on the public bank account for the purposes of the account. That figure is specified in clause 4 of this Bill; that is, $200m and it is the same amount that has been specified in the last four Bills of this nature.

Clause 5 of the Bill defines the purposes for which money can be paid or advanced. The limit expires on 30 June 1996. Money can be paid or advanced for three purposes: Firstly, it allows the Government to make payments of an extraordinary or unforeseen nature and that amount is charged to the consolidated fund; secondly, it allows the Government to make advances as the Treasurer thinks fit for the temporary financing of works and services of the State or to offices of public authorities, including advances to public authorities, accounts forming part of the trust fund or for the purchase of stores; and, thirdly, to make advances, on such terms as the Treasurer thinks fit, for the temporary financing of works or services undertaken in conjunction with, or on behalf of, the Commonwealth Government or local authorities.

The Treasurer's annual statement No 6 is outlined on page 120 of the Treasurer's annual statements. It is a summary of the transactions in this account for the last financial year. Statement No 7 lists the unrecouped advances. It is difficult to ascertain from these papers the actual Treasurer's Advances which have been made in the 1994-95 financial year. There does not appear to be any unusual items in statement No 7, apart from a transport expenditure advance of $627 227 which relates to the Department of Marine and Harbours. I do not know whether the Minister has any information about that, but the other advances are similar to those made in previous years.

**HON MAX EVANS** (North Metropolitan - Minister for Finance) [5.50 pm]: I thank members opposite for their support of the Bill. In regard to Hon John Halden's comments about Stateships, I had nearly forgotten about Stateships; it has not been in the newspaper for several days. Has the Minister for Transport been away?

Hon E.J. Charlton: I have had a sinking feeling about Stateships.

Hon MAX EVANS: One has to marvel at the comment of Hon John Halden that he was asking questions about Stateships last November. When we look back at what happened, he had better extra sensory perception than Hon Eric Charlton and I had about this matter.

Hon John Halden: Just more intelligence!

Hon MAX EVANS: Hon John Halden said that we had all of that lead time. If that is what Hon John Halden had in mind at that stage, he is a lot smarter than I gave him credit for.

Clause 4 of the Bill deals with the Treasurer's Advance authorisation for 1995-96 and authorises the Treasurer to make payments or advances during the financial year commencing on 1 July 1995. Therefore, it applies only to money to be spent next year and has nothing to do with this or last year. If any money was spent from the Treasurer's Advance account before 30 June, it would come out of what was appropriated last year, which is not to exceed $200m. The total of unrecouped advances as at 30 June 1994 was $22m. The word "unrecouped" really means an overdraft where we draw out money, which may be $1m here or $2m there to make some quick payment, but most of the money is paid back at some time or another. The Building Management Authority used

to use the Treasurer's Advance authorisation account frequently but now it uses a different accounting method. The stock in government print and stores has always been handled in this way. State Print may have stock of $5m because under cash accounting it cannot account for its stock on hand -

Hon Tom Helm: We gave that away when we privatised State Print.

Hon MAX EVANS: I do not think so. I do not know what that was valued at.

Hon E.J. Charlton: We made money out of that.

Hon MAX EVANS: The price of magazines in Australia increases because of increases in the price of paper, so I think we would make a good profit out of it because we would buy the paper at one price and sell it at another. The Treasurer's Advance account is used to pay for the paper, and when State Print wants $1m worth of paper, it would draw a cheque for $1m which would go in as expenditure and pay it across to the Treasurer's Advance account and we would get a net unrecouped expenditure of $4m. Government stores would be handled in the same way. It was difficult for me to understand that when I first came into this place because I had never seen a company run its books like that, but that is how the Treasurer's Advance account has been used over the years.

It is not necessary to use the Treasurer's Advance account for the amount which Hon John Halden quoted. He quoted from the estimates of expenditure for the year ending 30 June 1996, which state at page 117 that the estimate for this year was $16m and the estimated actual was $19.5m, and he assumed that was to be paid out of the Treasurer's Advance account. I do not know where he got that from. It took me about 20 minutes to find that out, and I thought I knew where to find most of these things, and I said I doubted whether he could work this all out himself in order to arrive at that figure. Whoever tried to help Hon John Halden was not quite right because there will be a special appropriation for that $19.5m because it comes out of the consolidated fund and not the Treasurer's Advance account, and somewhere along the line, like a lot of other agencies that go over, a special appropriation is made to pick up the extra $3.5m.

Hon Bob Thomas: Will the $3.5m be deferred from this financial year to next financial year?

Hon MAX EVANS: I have not finished. Hon John Halden was referring to the money that was expended from 1 July 1994 to 30 June 1995 because all of the cheques that are drawn on 30 June 1995 will be paid next month. That is interesting. I will have to write to the Auditor General and tell him I think he is missing out the proper treatment of these cheques. Hon Mark Nevill quoted from page 122 of statement No 7, which states -

> OVERDRAWN TRUST FUND ACCOUNTS: Overdrawn Trust Fund Accounts are funded against the Treasurer's Advance Account. Section 13(2) of the Financial Administration and Audit Act provides that the Treasurer may approve the overdrawing of Trust Fund accounts. Except for the Peel Development Commission Account, approval has been granted under section 13(2) to the overdrawing of the following accounts:

It then lists the Western Australian Coastal Shipping Commission No 1 account, $1.7m, and it states that the total overdrawn on trust fund accounts was $7.6m. The list includes the Art Gallery of Western Australia fund, the Arts Lotteries account, the Peel Development Commission, the R & I Holdings account, the Western Australian Coastal Shipping Commission No 1 account, the Western Australian Meat Commission fund and the Zoological Gardens Board. Those moneys from the trust fund which were overdrawn were included in the total that was approved. In other words, those moneys are shown as an overdraft. They do not come out of the Treasurer's Advance account per se. They just come out of the special trust account of each of these agencies, which are the only agencies which have overdrafts.

The $3.5m referred to by Hon John Halden included, in June 1994, all of those outstanding cheques. As I have said to the Auditor General, the amount shown at June 1994 should not be any more than $1.7m. The outstanding cheques that have not gone into circulation should all be shown as creditors for the previous year. Therefore, the net

liability position is the trade creditors plus the overdraft. In 1992-93, the overdrawn amount was $7.3m and the actual overdraft was $1.7m, so there has been a delay factor for quite some time which will catch up, but it will not come out of the Treasurer's advance account. What we are approving tonight is the Treasurer's Advance authorisation account from 1 June 1995 to 30 June 1996 of $200m. This additional amount will come out of the consolidated fund under a special appropriation. I presume that is taking place now; I am not certain of the mechanics of those special appropriations.

I commend the Bill to the House.

Question put and passed.

Bill read a second time, proceeded through remaining stages and passed.

*Sitting suspended from 6.00 to 7.30 pm*

## CONSUMER CREDIT (WESTERN AUSTRALIA) BILL

*Introduction and First Reading*

Bill introduced, on motion by Hon George Cash (Leader of the House), and read a first time.

*Second Reading*

**HON GEORGE CASH** (North Metropolitan - Leader of the House) [7.33 pm]: I move -

That the Bill be now read a second time.

The Consumer Credit (Western Australia) Bill and the Consumer Credit Code, which is enacted by the Bill, are the end products of work which the Standing Committee of Consumer Affairs Ministers began in 1987. Several drafts of the Bill have been released in the past few years. Repeated drafts have tried to achieve consensus between credit providers, consumer organisations, professional organisations and the community, with the final objective being to achieve sustainable, progressive and effective laws for the regulation of consumer credit which will operate uniformly throughout Australia. The present Bill has largely achieved that and has received general support from a wide range of interested groups. No Bill can necessarily meet all of the aspirations of all of the relevant competing interests in Australia. Nevertheless, this is a historic Bill, partly because of its long and sometimes difficult development but also because it represents a great achievement in cooperative federalism in Australia. At the same time this is a law which will simultaneously advance consumer protection and ensure that product diversity and competition are optimised.

Since 1985 consumer credit legislation in substantially the same form has operated in Western Australia, New South Wales, Victoria and the Australian Capital Territory. Queensland has had very similar legislation since 1989. In South Australia credit legislation has been in place since 1972, but it is not consistent with the other jurisdictions mentioned. The remaining States and Territories do not have credit legislation of the same kind. Apart from the criticisms that credit providers have for some time had to comply with several sets of rules if they carry on business in more than one jurisdiction and consumers have had patchy protection of their rights determined by the jurisdiction in which they live, the existing legislation has a number of significant drawbacks. The Bill and the code which it puts in place are intended to address and rectify those. The existing legislation was developed following a number of inquiries, including the Rogerson report in 1969; the Crowther committee report in the United Kingdom in 1971; and the Molomby committee reports in 1972 and 1973. However, it has been quite properly criticised by commentators and practitioners for being difficult and convoluted, making compliance with its requirements by credit providers onerous and costly. One of the major concerns for credit providers is that the penalties for technical breaches are disproportionately large when compared to the difficulty of complying with the rules the Act imposes.

A further criticism of the present law is that it was outdated from its commencement. Its critics have commented that, despite the recommendations of the reports to which I have just referred, it deals with credit transactions by reference to the form in which they are recorded, rather than by the substance of the transaction, itself. It is therefore limited in vision and approach, and ill-equipped to deal with the commercial environment of the era in which it was enacted, let alone the changes in that environment since then. In reality, the existing legislation forced credit to be provided in a narrow range of forms, namely loan contracts, credit sale contracts and continuing credit contracts, all of which were tightly regulated by the legislation. In this way the legislation focused too much on form and produced the result that the precise problem that the legislation was intended to overcome was in fact compounded by it. This, probably helped along by the onerous compliance requirements, also had the effect of ensuring that the cost of credit remained high by inhibiting the development of innovative credit products and by preventing the competitive forces in the economy having any substantial pricing impact on consumer lending.

The legislation was limited in scope because not all credit providers were covered; there was a ceiling of $20 000 on its application; and, despite my comments a few moments ago, not all forms of credit were regulated. A significant omission was the important area of home lending. In the years since the legislation was first passed, the nature of the consumer credit market has changed considerably. The $20 000 ceiling has meant that the real area of the Act's effective application has contracted drastically, so that many borrowing transactions undertaken by ordinary people are not affected by its requirements, and many consumers are denied the protections the Act was intended to provide. Applications for orders exempting products and practices from the operation of the legislation have increased to the point where there are now nearly 100 in operation in Western Australia alone. At the same time applications for reinstatement of civil penalty provisions brought about by technical breaches of the legislation have cost the finance and banking sectors considerably. As a result of these defects the Credit Act was, and remains, a law that has become only marginally relevant to modern credit.

This Bill attempts to achieve the dual goals of ensuring that strong consumer protection is restored within the original intentions underlying the existing law and that it remains a cornerstone of the future regulation of credit provision. At the same time, the Bill recognises that competition and product innovation must not be impeded and encouraged by the development of less onerous and more flexible laws. The Bill seeks to achieve its objectives in several ways. Unlike the existing credit laws, there is no monetary ceiling. It applies to all consumer - private purposes - lending. The Consumer Credit Code, which is enacted by the Bill, is intended to be consistent with the legislation recently passed in Queensland, which in turn is the basis of the new uniform consumer credit laws throughout Australia. Queensland has chosen to introduce what has come to be called template legislation. Most other Australian jurisdictions wishing to participate will pass application of laws legislation, effectively applying the Queensland credit code as the law in their jurisdiction. Thereafter, when the Queensland code and regulations made thereunder are modified, those changes will be picked up in those other jurisdictions, resulting in uniformity both in substance and timing.

Western Australia made it clear from the outset that it would not adopt the application of laws model, but would enact its own legislation which would be consistent with what was to be enacted in the other jurisdictions. This option is open to the State under the Australian Uniform Credit Laws Agreement. In addition, if Western Australia wishes to adopt the template model in the future, it may do so. Any comment that the Western Australian decision to enact alternative consistent legislation would undermine this exercise misunderstands one of the central elements of the uniform credit laws agreement. Western Australia is fully committed to maintaining uniformity and, under the agreement, all jurisdictions are bound to do so. All parties remain bound by the agreement not to submit legislation to their respective Parliaments which conflicts with or negates the consumer credit legislation.

In other jurisdictions amendment of their legislation will follow as a matter of course

from amendment of the Queensland Act, because they will enact laws which apply the Queensland Act as if it were an Act of their own Parliament. As a precaution against too-easy amendment, the agreement requires that amending legislation may not be introduced into the Queensland Parliament unless there has been a resolution of the ministerial council, passed by a majority of at least two-thirds of the members who are present and who vote, approving the amending legislation. Once approved, the amending legislation is introduced into the Queensland Parliament and, if adopted there, it is then applied by the other States and Territories. Western Australia is not required by the agreement to get the approval of the ministerial council to amend its legislation.

There is provision in the agreement for areas of non-uniformity between the States. These are essentially in relation to administrative matters. For example, whether a court or tribunal will be utilised for resolving disputes, whether there will be positive or negative licensing of credit providers, whether a consumer credit fund is established into which civil penalty moneys can be paid, and whether a maximum interest rate will be set are issues for individual jurisdictions to resolve according to the needs they encounter.

The code applies to all forms of consumer credit where certain conditions are satisfied -

> The credit must be provided or intended to be wholly or predominantly for personal, domestic or household purposes. A predominant purpose is defined to include a purpose for which more than one half of the credit is intended to be used, or if the credit is intended to be used to obtain goods and services for different purposes, the purpose for which the goods or services are intended to be most used. It is not intended to regulate any form of business credit.
>
> The code applies only to credit given to natural persons and strata corporations.
>
> The code will not apply unless a charge is made for the credit.
>
> It must also be credit provided by a credit provider as part of its business.

There are also some exceptions from the operation of the Bill. These are set out in clause 7 of the code and are quite specific in their application. The exceptions generally mirror those which are currently provided under the existing Credit Act. One of the central elements of the code is to ensure that there is truth in lending. The application of this principle to credit should mean that a consumer can be provided with sufficient good quality information to make an informed choice between credit providers as to the nature of the credit being offered, and the comparative cost, as between credit providers, for the same products. With this in mind, the legislation sets out in some detail the requirements for credit contracts, including such basic matters as precontractual disclosure, the fact that credit contracts must be in writing and that they must contain certain key material designed to ensure that the principle of truth in lending is observed.

The key disclosures are outlined in clause 15 of the code. They deal with essential information including the annual percentage rate or rates; the amount and number of repayments; the calculation and total amount of interest charges; credit fees and charges; default rates; enforcement expenses; commissions; and insurance financed by the contract. A copy of the contract must be given to the debtor, and a debtor may terminate a contract, provided that no credit has been obtained or attempted to be obtained under the contract. The terms of clause 16 supplement the disclosure requirements I have just mentioned. They provide that the contract must comply with the requirements of the regulations as to its form and the way it is expressed. This will allow some flexibility to address current issues affecting consumers, and to ensure that when entering into transactions, as far as possible they will understand what their rights and obligations are.

A major feature of this legislation is reform. Important reforms are effected by the provisions in the code dealing with mortgages and guarantees. The code acknowledges that mortgagors and guarantors have similar needs to borrowers and require similar protections. As a result, any mortgage is void to the extent to which it secures an amount greater than the total of the liabilities of the debtor under the credit contract and reasonable enforcement expenses of enforcing the mortgage. The code specifically recognises "all accounts" mortgages which, when properly used, can be of assistance in

minimising stamp duty, registration fees and professional costs when entering into new borrowing arrangements.

One important provision in the code is the prohibition on third party mortgages. A credit provider is prohibited from entering into a mortgage to secure obligations under a credit contract unless the mortgagor is a debtor or a guarantor under a related guarantee. The code contains a number of provisions designed to ensure that people who want or are asked to guarantee the debt obligations of others are given key information and that credit providers cannot impose unreasonable obligations on guarantors. For example, a guarantor must receive a signed copy of the guarantee and related credit contract within 14 days of execution. Before a guarantor's obligations under a credit contract are increased, the guarantor must receive written notice of the proposed changes and before they become binding the guarantor must first accept them in writing.

Part 4 of the code deals with changes to obligations under credit contracts, mortgages and guarantees and, in particular, division 3 focuses on unjust transactions and changes on grounds of hardship. The code provides as a general principle that a debtor who is unable reasonably, because of illness, unemployment or other reasonable cause, to meet his or her obligations under a credit contract, and who reasonably expects to be able to discharge those obligations if the terms of the contract are changed by either extension or postponement, can apply to a credit provider for such a change. This facility is not available where the credit provided exceeds $125 000.

The code also empowers the Commercial Tribunal to reopen unjust transactions. It may reopen a transaction if it is satisfied, on the application of the debtor, mortgagor or guarantor, that in the circumstances relating to the contract, mortgage or guarantee at the time it was entered into or changed the transaction was unjust. The code sets out certain circumstances the tribunal can take into account in determining whether in fact a transaction should be reopened. These are set out in clause 70(2). They are not intended to be exhaustive.

One area of concern that the code seeks to address is overcommitment. It does not deal with lenders giving credit to borrowers who make it clear from the outset that they will have difficulties repaying their loan but who, nevertheless, want to take on the obligation because of the lifestyle they wish to pursue. However, overcommitment has, over the past few years particularly, been a problem related to sudden changes in the economic circumstances of borrowers. The code does not require credit providers to make inquiries beyond those ordinarily made by prudent lenders. Nor is it intended to place obstacles in the way of those lenders. It is intended to deal with credit providers who lend without making proper inquiries into the debtor's ability to pay.

The code will apply to housing lending. This is the first time that legislation of this nature has done so. State Housing Ministers and their agencies have at various times expressed some concerns that the code has the potential to restrict their abilities to engage in some forms of housing assistance. However, it is vital and very much in the public interest that these agencies continue to provide finance to people who otherwise may not be able to obtain it. It therefore should be made very clear that the code, and particularly clause 70(2), should not be interpreted as inhibiting traditional practices of state housing agencies or be in any way interpreted as preventing people who are capable of benefiting from them being deprived of the benefit of fair and innovative housing schemes.

Another of the important innovations in the code is reflected in the provisions relating to consumer credit insurance. Consumer credit insurance has been the subject of justified criticism for some years. The problems with this form of insurance were authoritatively identified and examined by the Trade Practices Commission in 1991. The field has produced numerous examples of unacceptably high commissions and excessive premiums in relation to payouts. Consequently, the code gives specific protections to persons who have taken out this form of insurance. To deal with the excessive commissions that have been charged in the past, the code provides that a commission must not exceed 20 per cent of the premium and, in addition, on the termination of a contract, any relevant consumer credit insurance contract financed under the contract is

also terminated. These rights override any contrary statement in a credit contract and will ensure that some of the most fundamental real and potential consumer detriments in this area will be rectified.

Under the existing legislation, in addition to criminal penalties, credit providers automatically lose all of their interest if they breach certain provisions of the Act. They then have to make reinstatement applications, which are commonly expensive and often drawn out. This aspect of the existing legislation has caused considerable adverse comment. The code substantially reforms this area of credit law. The number of civil penalty triggers has been narrowed and made very explicit. These triggers are made "key requirements" and are set out in clause 100. The operation of the civil penalties regime will no longer be automatic. Penalties will have to be imposed by the Commercial Tribunal, and the present unlimited liability of credit providers will be modified by the creation of a cap Australia-wide of $500 000 for all breaches of a key requirement. This and the removal of automatic civil penalties will deal with concerns of some lenders that their prudential standing could have been jeopardised, in some cases by minor breaches of the law. In addition, in determining whether to impose a civil penalty, the tribunal is specifically required to have regard primarily to the prudential standing of the credit provider if requested by the credit provider.

Apart from an application by a borrower affected, a state consumer agency can commence or intervene in a civil penalty application either to assist the court or to represent debtors. In the event that a state consumer affairs agency does either of these things, any civil penalty or part thereof awarded against a credit provider can be paid into a statutory fund. This fund is intended to provide a central location in which money can be accumulated and from which it can be disbursed to assist consumers and their representatives in relation to credit matters. As a result, there should be more effective use of civil penalty moneys to advance the interests of consumers. I should also mention that linked credit provider provisions, now called "related sale contracts", remain an integral element of the Consumer Credit Code, even though recent comment elsewhere has indicated that they will not. Their exclusion would have meant that there would have been gaps in the protection offered to consumers, and this would have been inconsistent with the position in other jurisdictions.

I have attempted to give a general description of the major features of the code, but have by no means dealt with all of its provisions. I sincerely hope that it will be a comprehensive framework for all aspects of consumer credit lending. For consumers, its essential features are disclosure of useful information and the controls on the ability of credit providers to take advantage of their position to the unjustified detriment of consumers. In his second reading speech, the Minister for Fair Trading's counterpart in Queensland observed that from the credit provider's point of view this legislation is not just a consumer credit code but a code of good business practice. I endorse that view. It contains provisions which, if followed, should reflect good lending practice. At the same time, it is flexible enough and contemporary enough to ensure that it will not detract from the establishment of good lender and borrower relationships, product innovation, competition or sensible pricing decisions.

The legislation is properly described as a code. It deals with everything from pre-contractual disclosure and advertising, the form and content of credit documentation, the enforcement of obligations and the changes to those obligations as well as such important ancillary matters as harassment, related sale contracts and related insurance contracts. The drafters of the Bill have taken considerable trouble to ensure that, as far as possible, it is written in plain English. As a result, it should assist the tribunal and all the courts, the professions and the banking and financing industry. This Bill represents a significant step towards the development of simpler, more effective, uniform legislation throughout the whole country. It offers business simpler rules and greater ease of compliance with them. However, even more importantly, it does not detract from the fundamental protections that have become acknowledged as vital ingredients of effective consumer legislation; rather, it enhances and adds to them. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

## CARAVAN PARKS AND CAMPING GROUNDS BILL

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon E.J. Charlton (Minister for Transport), read a first time.

*Second Reading*

**HON E.J. CHARLTON** (Agricultural - Minister for Transport) [7.58 pm]: I move -

That the Bill be now read a second time.

It gives me, and the coalition Government, great pleasure to introduce this Bill following on from the inability of the previous Government to deliver the necessary reforms. For approximately 16 years the caravan industry and local government have been calling for revised uniform caravan legislation. In 1987, the then Government, following an approach from Mr John Wood, President of the Caravan Parks and Trades Association, approved the establishment of a working group to review existing caravan legislation. The report of the working group was released for public comment in 1989. In essence, the report recommended that there be a separate Bill dealing with caravan parks and camping grounds and that new regulations apply uniformly across the State. The previous Government agreed with the recommendations and approved the drafting of a new Bill. Although promises were made to progress drafting, the legislation was never given a priority to permit this to occur. This Government gave an election commitment to implement the proposed Bill and regulations and accordingly gave it the priority it deserved. The first part of that commitment has been achieved today by the introduction of the Caravan Parks and Camping Grounds Bill.

Over the years, many innovations have occurred in the caravan industry and legislation in this State has not been updated to reflect those innovations. People have been living permanently in caravans in caravan parks contrary to many councils' by-laws. In addition, many people have park homes in caravan parks, which are also contrary to by-laws. The Bill does not limit the period a person can stay in a caravan park and prescribes by regulation minimum construction standards for park homes. Caravan parks are currently licensed under by-laws made by each council and this Bill will continue that requirement. Proprietors of caravan parks will have to comply not only with the Bill, but also with regulations which will prescribe a range of matters for the construction and operation of a caravan park. As a transitional arrangement, existing parks will be permitted to continue to comply with existing regulations and by-laws as applying to caravan parks. Councils will be required to inspect caravan parks at least once every year for compliance with the Bill and regulations. Where a park does not comply, work orders may be issued by the council. Compliance with the legislation will apply equally to council caravan parks and, where a council does not carry out its responsibilities, the Minister will be able to direct it to comply.

The Bill enables part of the State to be exempted from the application of this legislation. There is also provision for the Minister to approve particular exemptions from some standards in particular cases. For serious breaches of the Bill, a licensee can by notice be prohibited by a council from admitting new occupiers or collecting rents from existing occupiers. The prohibition remains in force until the council is satisfied that the breach no longer occurs. A licence can be cancelled also where the licence holder has been convicted of an offence or because there has been a breach of a condition on which the licence was issued. A licence holder will have the right of appeal to the Minister against the prohibition notice or cancellation of a licence. Where the Bill gives a council power to approve or make decision on various matters, a person who is aggrieved by such a decision may appeal to the Minister. The Minister may uphold or dismiss an appeal. Such appeals can be against the refusal of a licence, a condition attached to a licence and against particulars in a works order.

Under the Bill, local governments will be able to appoint persons to enter and inspect caravan parks and caravans, including park homes and other premises. Such a person would invariably be a council's environmental health officer. Where a caravan or any

other premises on a caravan park is to be entered, at least 24 hours notice must be given. Exceptions to this will be in the case of an emergency, such as a cyclone, fire or flood. It is considered necessary that there be general powers of entry because caravans can decline quickly in maintenance standards resulting in gas, electrical and other safety problems. In addition, many caravans are provided as on-site rental units by caravan park proprietors. Such caravans will be required to be maintained to standards to be prescribed in regulations and it will be necessary to enter them to check for compliance. For many years, councils have been asking for power to be able to issue infringement notices for minor offences. The member for Vasse, in his comprehensive report on illegal camping, which was completed last year, strongly recommended that councils be given the ability to issue on-the-spot fines. The different types of offences for which an infringement notice may be issued will be prescribed in the regulations.

I have made a number of references to matters being prescribed in regulations. The Bill provides for many requirements to be prescribed by regulations for the purpose of the Bill and for regulating caravan and camping, the development and operation of caravan parks, camping grounds, the construction of park homes and the conduct of people in those places. Councils will also be permitted to make by-laws for some of those matters. The Bill will not apply to government departments or agencies. However, as indicated previously, it will apply to all private and council operated parks and camping grounds.

The Bill amends the Strata Titles Act to prevent land used, or to be used as a caravan park from being subdivided under the Strata Titles Act. Although about 10 developments have already been subdivided into strata lots, this type of development has been found not to be appropriate for caravan parks. Invariably, problems arise in the management of such parks with individual lot owners believing they do not have to comply with caravan legislation. The 1989 report on the review of caravan legislation recommended a moratorium on the subdivision of such land. In 1990, the then Minister for Planning imposed the moratorium, which has been reaffirmed by successive Ministers.

In closing, I thank the many people who have contributed to the development of the work that has culminated in this legislation, particularly representatives of the Caravan Parks and Trades Association and members of the interim caravan parks advisory committee. I also express my appreciation to the member for Vasse and Hon Bruce Donaldson, member for the Agricultural Region in his previous capacity as President of the Western Australian Municipal Association and then member of the advisory committee. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

## AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (TOWN & COUNTRY) BILL

*Second Reading*

Resumed from an earlier stage of the sitting.

**HON MARK NEVILL** (Mining and Pastoral) [8.05 pm]: The Opposition supports the Bill, which was introduced at short notice. However, I have been briefed on the Bill and I am prepared to facilitate its passage through the Parliament before the end of the financial year. The ANZ Bank acquired the Town and Country Building Society in July 1990. The building society was converted to a bank on 30 September 1991. The Reserve Bank placed a condition on the approval that the new bank would surrender its banking licence. Initially it approved a three year limited licence with a one year deferment and subsequently a further six month deferment. Considering the bank had that warning, it is surprising that the Bill has not come into the Parliament with more notice. Five or six months ago, the federal Treasurer, Ralph Willis, announced that regional banks that were taken over could retain their trading name. At the time of that announcement, it was considered that that would add considerable value to the regional trading banks, because when the Commonwealth Bank took over the State Bank of Victoria it could not use that name. Subsequently, it lost the vast majority of the customers it inherited in the takeover.

The ANZ Banking Group had a similar unfortunate experience when it took over the National Mutual Royal Bank of Canada. It could not use that name and I understand it lost most of the customers.

Hon Max Evans: The Bank of Adelaide went much the same way.

Hon MARK NEVILL: This is important because when banks were taken over or merged, only one licence was issued and only one name could be used. Although the Bank of South Australia was recently taken over by the St George Bank, the bank will trade under the name of the Bank of South Australia in South Australia. It will not be changed in a hurry because experience shows that the customers go elsewhere. The Minister for Finance must be quite pleased with this arrangement because, with the Town and Country Bank surrendering its licence and all of its assets being transferred to the ANZ Bank, the Government will be the recipient of a very large cheque for stamp duty. The second reading speech states that there are "more than 38 000 Town and Country customers and transfer authorities to move some 165 000 existing accounts to the ANZ Bank". The vast majority of Town and Country's business, I presume, is mortgages and all of those would have otherwise been required to be redocumented and redrawn and transferred over. This Bill facilitates their transfer in one block. This Bill is straightforward. The Opposition sees no reason to be critical of the proposal before the House and it meets with our approval and support.

**HON MAX EVANS** (North Metropolitan - Minister for Finance) [8.10 pm]: I thank members for agreeing to consider this important legislation tonight. I do not know the exact reason that this legislation was delayed, although I did read the comment made in the other House that apparently it has taken a long time to assess the amount of stamp duty which should be paid, which was about $1 050 000.

Hon Mark Nevill: I am sure you would have taken $1m on credit!

Hon MAX EVANS: We got the cheque up front. I must admit the way in which this Bill has been dealt with is pretty presumptuous; I had a briefing last night at 10.00 pm and the Bill went through the other place at 11.36 pm.

The point made about retaining the trading name is interesting. I presume it does make things easier if the trading name can remain, but some years ago that could not be the case. I do not think I picked up what Hon Mark Nevill said about Ralph Willis making that change, but it is important to retain the trading name because there was nearly a disaster with the State Bank of Victoria, and years ago when Myer took over Boans, they nearly had a disaster and at one stage they did not intend to go ahead with the full extensions because they had lost so much trade by thinking that the public would accept the name Myer rather than Boans. I remember that when Brambles-Manford came into the State, one of the conditions was that it would keep the name Manford because it had a lot of goodwill behind it and they did not want to lose it. However, some people take a long time to learn those lessons.

I thank the Opposition for its support of this Bill. Mr Ray Turner is a good friend of us all and is a great supporter of Western Australia. I am glad that the name Town and Country Bank will continue because there is no greater supporter of activities in Western Australia than Town and Country Bank. I commend the Bill to the House.

Question put and passed.

Bill read a second time, proceeded through remaining stages and passed.

## SUPPLY BILL

*Second Reading*

Resumed from 13 June.

**HON CHERYL DAVENPORT** (South Metropolitan) [8.14 pm]: The lead speaker for the Opposition is Hon Mark Nevill, and he will speak at a later stage. I will concentrate on two areas: My concerns about state and commonwealth funding for the frail aged, and

Aboriginal and non-aboriginal youth justice. Before I commence, I will pick up on a little altercation that I had with the Minister for Education at the end of last year - I am sorry the Minister is not in the Chamber at the moment - when I indicated in a debate that members often receive notification that a Minister or the Premier will visit their region. However, while the Minister for Resources Development tells members when he will come into their region and the places that he will visit, the Minister for Education and the Premier send a fax that states simply that they will visit the region on a certain date, and that is it. That is obviously a waste of the time and resources of the people who work in the office of the Premier and of the Minister for Education, and it makes me more angry than anything else, because to say just that the Premier or the Minister for Education will visit the region on a certain date leaves no-one the wiser, so why bother? Having got that gripe off my chest, I will continue with the two important matters that I want to raise.

I am gravely concerned that in the last few days, I have learnt that the Minister for Health has told the south metropolitan health region and the east metropolitan health region, which are both within my electoral region, that the regional health offices will be wound up over the next two months.

Hon Bob Thomas: What about the country offices?

Hon CHERYL DAVENPORT: I am not sure about the country regional health offices. Those regional offices were set up by the former Minister for Health, Hon Peter Foss, in May 1993, and the infrastructure involved in setting up the offices would run into millions of dollars, yet two years down the track we are about to return to the centralised provision of health services money. The south metropolitan health region covers the area in which my electorate office is situated in Willetton, the City of Melville and the coast from Fremantle to Rockingham. These people who would have been able to access that health service will now be put back into the situation of having to compete for those services with the central system. One of my colleagues in the other place said to me that it appears that the Health Department is back in the hands of the wealthy Perth doctors and the Bermuda triangle. The buckets of money have always gone to Royal Perth Hospital, Princess Margaret Hospital for Children and Sir Charles Gairdner Hospital, and that is all back in action once again with a centralised system. That is a real pity because the people who live in the South Metropolitan Region will be penalised. Over the past seven years I have been part of a community management committee at a senior citizens' centre in the eastern part of my electorate. It falls within the East Metropolitan Health Region. At that centre I am the convenor of a large home and community care program. I have some sincere concerns that we might not receive funds because these regional services have been centralised again.

My main concern at the Harold Hawthorn Senior Citizens' Centre is the community care program. Since the 1989-90 Budget year - and I do not excuse the previous Government for this, nor the present Government - the centre has not received an increase in funding, other than consumer price index increases. In 1991 the area was classed as one of the highest areas of growth in the nation for people aged 55 and above. The situation has not changed. Still we do not receive further funding even though our services grow like Topsy and are in constant demand. The centre offers a home help service which includes shopping, banking and cleaning for the frail aged and younger disabled people. We provide a care aid service which is basically a para-nursing service; and a handyman-gardener who does odd jobs. We provide a travel budget through vehicles, buses and taxi vouchers, and we run a large meals on wheels program. Unfortunately, we have no time to offer a respite care program. Members will be aware that a rally was held outside this place today, by people with disabilities and the carers of both people with disabilities and frail aged who seek respite from that care.

The funding received from the Government for the community care program is $230 000 per annum. In the last 12 months we received almost $30 000 in donations. I have some statistics which are indicative of what we are looking at in this region. In November 1994 we had 489 people on our register, and we provided a service for them. Since March 1995 that number has dropped to 373; 58 of the 489 have gone to nursing homes, and 37 people died over the long summer. Twenty-one of that number either moved

away with their families or just decided not to use our service. We still have 373 people on our books, and our March statistics indicate that our staff spends 1 019 hours a month servicing our clients. Those hours are spread across our entire service. We receive funding to cover only half of the time worked. A lot of time and effort is put into helping those people stay in their own homes, and that stops them from becoming a burden on the State through entering nursing homes or hostels. That extra service is voluntary. That situation concerns me because it can lead to exploitation of staff. They work long and stressful hours and this has the potential to lead to injury and workers' compensation claims. That situation could increase the premium on insurance, for which the program must find the money. We have been able to stem that situation in the past but this year we have experienced a blowout in spending. We must find between $15 000 and $20 000 to try to combat the blowout. This is not a reflection on the staff we employ nor on the committee that runs the program. It is just a case of people needing access to service. It is very difficult to deny an old person a service when he or she has no-one to provide the necessary care. We cannot deprive people of that service.

We have recently moved to the implementation of a fee for service policy, which we have rejected in the past and tried to operate with a donation process. In May this year we had to institute a fee for service policy which costs $25 a month. In the last 12 months, with the move to regional health offices, we have undertaken a transitional care program. Money is provided by the Health Department for people when they come out of hospital and go home. Our concern is that it is all very well to provide transitional care, but our centre does not receive money for five to six weeks to offset the amount we must pay to our employees. That puts extra stress on the project and it has created some major financial problems for us.

The other issue which I raise is that in late February/early March we wrote to the Minister for Health seeking to convert in a one-off allocation some money that had not been used in our meals on wheels allocation; and $2 000 which had been provided to the project for extra equipment for the handyman/gardener. All up the amount was $10 140. Three months later, on 15 May, we held our monthly management committee meeting. We were faced with the prospect - not having received an answer from the Minister about whether we could convert that money - of closing down the program if we did not receive an answer in the next two weeks. That is, we would have had to shut down the service in the last two weeks of June. As a consequence frail aged and younger disabled people would be without care in the coldest months of the year, when a bad influenza strain is attacking the community. We would also be disrupting the lives of 11 families - the employees in the program.

I should compliment the Minister for Health. I took it upon myself to ring him directly and he returned the call within two or three hours and gave an undertaking that he would talk to officers in his department. He was not aware of any matters pending for more than a week in his office. Either our application for the reallocation of funds had been rejected or approved. He informed me within a week that our application had been approved. However, it still took until 7 June to receive the funding. It was a close call. We had to warn our staff and our clients that we might need to shut down the program. For many people in their eighties and nineties it would not be the greatest thing to hear, but as it is a responsible project, we had no option.

I thank the Minister for reacting positively, but I must place on the record that it is not good enough that projects should be put in such a position when they are dealing with the lives of many people. Unfortunately we seem to be getting to that point time and time again. I have been heavily involved with this project, particularly over the last five years. I have seen it grow. The unfortunate thing about it is that people who might access it for one or two visits a week become chronic and need more and more help. It is difficult to project what it costs to cater for a person.

On 13 June I placed a question on notice to the Minister representing the Minister for Health in relation to the 1995-96 federal Budget for community care funding. I asked the Minister -

(1) Will there be a 6 per cent increase in real terms in HACC funding in the State Budget?

(2) Can existing programs expect this increase to be passed on?

The answer I received was pretty much a matter of the Government having a two bob each way bet. It reads -

(1) The short time between the delivery of the Federal and State Budgets meant that, at the time of framing the Stage Budget, the Commonwealth's proposed level of contribution to the HACC program was unclear. Hence the State Budget figure reflects the 1995-96 levels of activity. A formal offer of growth funds from the Commonwealth is expected in the near future. The Government will examine this, in the light of its strong commitment to maintaining and expanding HACC services, and allocate additional funds as appropriate. This approach is being followed with other Commonwealth programs, and will avoid raising expectations in the community in advance of confirmation from the Commonwealth of the level of funds on offer.

(2) Once the amount of additional funding available to the HACC program is confirmed, these funds will be applied firstly to maintaining existing levels of service provision in real terms, and secondly to the provision of new and expanded services in areas of identified need.

Hon Max Evans: That is good.

Hon CHERYL DAVENPORT: It is an answer. However, as I said earlier in my contribution, this project has had no funding in terms of real growth since 1989-90 other than CPI. I acknowledge there was a problem for my own party in government but nothing has changed.

Hon Max Evans: What has the Federal Government been doing since 1989?

Hon CHERYL DAVENPORT: Its rate of increase has been fairly minimal. It has been arguing that it has been trying to bring other States up to the level of Western Australia. This year has seen a 6 per cent increase. We must hope at least that there might be some chance of having it passed on. We will not know until December what our budget for 1995-96 will be. I have made that criticism for a number of years. It does not give us any ability to plan ahead. It means our program is restricted and we cannot take on new people without somebody dropping off the other end. That is harsh, but that is the only way we can do it.

Hon Max Evans: One of the reasons we brought in the Budget before the end of June was that we could not notify people earlier.

Hon CHERYL DAVENPORT: Yes, but the bottom line is that nothing has changed. As I said earlier, in 1991 the population growth in this area was forecast as one of the fastest growing in the State, if not the nation. Another thing to take into account is that although Western Australia's population growth at present is something like 2 per cent per annum, the growth in the disability population is 6 per cent. We have had to deal with, and I do not have any problem with this, the whole accountability side of providing a service. Unfortunately, the sort of accountability we are asked to provide these days has increased with fewer resources to administer it. We recently undertook what is called a baseline review of this whole project. It involved three hours of work by two coordinators, one of whom works in community care and the other in the day care centre. They spent two hours with two members of the management committee. We thought this would be looking at what we were providing to the community and whether we should be looked at for upgrading funding, but it was not about that. It was about policies of service delivery which we have to hand out in writing to each person with whom we deal. Although I do not have any difficulty with participating in that review process, it will not help our funding at all. This was only about whether we give people a written policy of how we provide the service. On 13 June we received a letter from the east metropolitan health region, which is now about to meet its demise, on how we might experience the HACC

program being run in the future. It is obviously a joint commonwealth-state project. We understand that. The letter contained four pages of how we will have to operate in the future. The third paragraph of this letter states -

> In order to maintain the momentum of the HACC Program, we must be able to show that HACC services are appropriate and of high quality. Increasingly, accountability will be focused on service delivery rather than simply on financial accountability.

I would like to believe that was the case because we seem to spend an awful lot of time in accounting for finances. Sometimes the whole notion of our being there to provide a service gets lost. It continues -

> Thus, Program management will need to focus on services, rather than on seeking to control details of individual providers' budgets, as tended to happen in the past. This is essentially what is meant when we talk about paying for outputs, instead of funding inputs.'

Maybe the Minister, as an accountant, would like to tell us what that means.

Hon Max Evans: It is economists' jargon. I do not like it myself. Output is expenditure, input is revenue.

Hon CHERYL DAVENPORT: It frightens the hell out of those working on the project. It continues -

> Such a change in emphasis should be seen as an opportunity, both by service providers and by Program administrators. It enables us both to concentrate on our common goal, the delivery of appropriate and high quality services to consumers. It means a much clearer recognition of service providers' right and their responsibility to manage their own services. Most importantly, it does not herald a reduction in the level of resources under HACC, but will enable the Program to account for the funds it has and to justify continuing growth.

We have been justifying everything we have spent, plus what we have raised through donations.

Hon Max Evans: It is a Federal Government letter.

Hon CHERYL DAVENPORT: No. I will not quote the whole letter. One of three areas they are moving to are national service standards. I do not have any difficulty with that. It is important that nationwide we have service standards that offer and deliver a very high quality standard of service. The second area is the contracts for the provision of services. We have had samples of what will be the contracts. When people start to read this document of about an inch thick, it frightens them even more. I quote the final two paragraphs relating to the contracts -

> It must be emphasised that the introduction of contracts does not fundamentally change the relationship between service providers and Health Authorities, but rather clarifies and documents it. Contracts will specify the type, amount and quality of service to be provided, and the level of funds to be paid, or "price". Periodic renewal of contracts provides an opportunity to keep them up to date with changing patterns of service delivery and need, and to review the quality of services provided.

We have never had to advertise our service because it has been chock-a-block from the outset. The letter also states -

> The contracts also enable us to move away from our previous emphasis on accounting for line items in budgets, and to focus instead on services. This frees service providers to manage their own operations, and Health Authorities to concentrate on purchasing services for clients in their regions.

I do not have much problem with that because it has been frustrating to have to meet everything and not be able to move the line items from one thing to another.

I now turn to the whole question of unit costs. I think this means that the department wants us to provide a unit cost for every person we service. It is difficult to project that because people in this project may have a home help to do their cleaning once a week. However, a person may have a fall which results in hip replacement or other injury and it then means that person must access the program for every service it offers. When more than half the people in the project are older than 80 years of age, it is difficult to estimate the forward cost. Rather than making it simpler, it has made it much more difficult.

Hon Max Evans: If it is any consolation, in the big hospitals physiotherapists spend their days filling out cards and forms.

Hon CHERYL DAVENPORT: I understand how difficult it is trying to provide the statistical information demanded to maintain the funding, let alone trying to forward estimate how much will be needed.

Hon Max Evans: They do not ask whether you do a good job - that is irrelevant.

Hon CHERYL DAVENPORT: Indeed, it is an indication that we are doing well because we do not receive complaints. Of course, many of the people in this project are frail aged, and often they have lost their confidence and do not complain because they are fearful. It is a very difficult area and I wonder for how long people will be prepared to offer their services in a voluntary capacity. The exploitation of workers in this industry is astronomical. I pay tribute to the two coordinators, and particularly the coordinator who runs the community care project. Her job of trying to ensure the costs do not overrun, while at the same time providing a relevant and good service, is very difficult.

I now turn to some good news in relation to our day care centre. We took that program over from the Health Department four years ago and the facility was upgraded in conjunction with the Perth City Council. The day care facility was originally in a house at the back end of the complex. When the upgrade took place in 1991-92, we were able to bring the frail aged day care centre into the main centre, which allowed more positive integration between the well aged and the frail aged. That has been one of the major pluses in the service. Since 1992 we have been trying to get the block of land next door to the hall, in order to build a freestanding day care centre attached to the complex. We obtained a capital grant from HACC of $150 000 in 1993-94. During the transition between the Perth City Council and the Town of Victoria Park, we were able to negotiate and obtain a 25 year lease on the land next door to the hall. About two weeks ago we received notification from the Lotteries Commission that the centre had been successful in attracting $200 000. That means the work can proceed. At the moment we are able to care for 18 people and, without an increase in the recurrent funding, we will be able to accommodate another eight people in the new centre. There are 25 people on the waiting list, and one of the aspects that is incredibly interesting and worrying about this project is that many clients seeking access have dementia problems or are in wheelchairs. The cramped conditions under which staff have been working has placed a lot of stress on them, and I am delighted that in the next 12 months we shall be able to offer that new service and take some of those people on the waiting list. I have highlighted some of my concerns in relation to funding at the commonwealth and state level for home and community care, and have also referred to some positive, good news aspects.

I now move to the area of Aboriginal and non-Aboriginal youth justice. Members will be aware that since I have been a member of this House I have had an ongoing interest in youth justice. I was fortunate to be able to go to Canberra, during the long weekend at the beginning of June, to attend the Institute of Criminology conference. It was the first conference of the new look Institute of Criminology and was entitled "Crime in Australia - The First National Outlook Symposium". I was concerned that it might concentrate its attention on punitive rather than preventive measures. However, I am pleased to say the emphasis during the conference was primarily on crime prevention. I was particularly impressed by two of the speakers. One was the first woman Assistant Commissioner of Police in New South Wales, Christine Nixon, who is a breath of fresh air and has a rational approach to the whole notion of policing. One of the issues she highlighted in the paper she presented is that when the police service was established in

New South Wales in 1829, its charter was police and community working together. Somehow over the years the terminology has changed and the police have become crime enforcement agencies. Her view, as a modern police person, is that we must get back to the charter under which the police were established - police and community working together. She went on to talk about a range of issues that we might well consider. She also talked about politicians and some of the unintended consequences of social policy making. She highlighted the western suburbs area of Sydney around the Mt Druitt suburb where she said that 20-odd years ago, when it was first established, the average age of people in that suburb was six. Now, 20 years later, the average age is 22 and of course the development of that area has resulted in a low social infrastructure that has led to the problems police officers are now dealing with. She cautioned that when Governments or politicians - we came in for a pretty good bashing in one way or another at this conference, some of it justly deserved - make policy decisions they should not make them with a knee jerk reaction. She said that, in conjunction with media hype, politicians should think before they jump to the punitive measures we have applied in this country over the past four or five years. She said that we as politicians should give a lead by talking about crime positively and publicly educate the community through positive messages. I was very pleased to hear that, as part of the Federal Government's cooperation with the States is the move to announce a Safer Australia campaign. One of the major programs to be encompassed in that will be the move to establish a social contract between government and the media in a way that sets up a code for the coverage of violent crime. That may stop some of the knee-jerk reactions such as that which occurred some years ago when some draconian legislation was passed in this State.

The other speaker who had a very sobering influence on that conference of approximately 400 people and who I think is probably at the forefront of policy making on crime issues was Mick Dodson, the Aboriginal Social Justice Commissioner. I will quote briefly some of the things he had to say at this conference. He said -

> Unfortunately, for many indigenous Australians, their view of the horizon is cut by bars. Their outlook is from police and prison cells. More importantly, this is likely to be the perspective of our sons and daughters. The only generational difference may be that, in the future, those cells will be more crowded.

He was asked to comment at this conference on Aboriginal justice issues. Unfortunately, from the broad perspective of Aboriginal social justice, he had a very generous field to cover. He said -

> Social justice must always be considered from a perspective which is grounded in the daily lives of indigenous Australians. Social justice is what faces you when you get up in the morning. It is awakening in a house with an inadequate water supply, cooking facilities and sanitation. It is the ability to nourish your children and send them to school where their education not only equips them for employment, but reinforces their knowledge and appreciation of their cultural inheritance. It is the prospect of genuine employment and good health; a life of choices and opportunity, free from discrimination.

I could go on. However, I want to talk about several things he saw as needing our immediate attention as policy makers. He said -

> First, shifts in the deep matrix of social factors (which the RCIADI referred to as "underlying issues") take a long time to achieve. Progress is difficult and incremental. By contrast, the criminal justice system is more responsive to policy shifts leading to direct outcomes. I say this without in any way underestimating the difficulties in achieving systemic changes, particularly in the area of ingrained attitudes and practices. But, legislation, policies and programmes (largely devised by people such as yourselves) -

By that he means the body of the conference. To continue -

> - directly impact on the number of our kids who will end up before the courts and how they will be disposed of by those courts.

He went on to say that we may not take Aboriginal children from their families today, but we are still institutionalising them, as evidenced by the rate of young people who end up in prisons around the nation.

Western Australia in particular came in for a pretty good drubbing from the commissioner. He said that on a national basis it seems there has been no marked change in the rate of over representation of indigenous juveniles held in detention since the royal commission reported. He further said -

> This is of course, no reason for joy. After all the apparent and actual effort put into implementing the recommendations of the RCIADIC, at a national and State level, no significant reduction in the rates of over-representation has been achieved.
>
> According to the latest figures, Aboriginal and Torres Strait Islander kids between the ages of 10 - 17 years are 24.2 times more likely to be held in detention than other kids.
>
> Of course, national figures hide jurisdictional variations. In WA the figure is 48.4. In Tasmania, the figure is zero. Why? Because no figures exist.
>
> It has been said that the current rate of over-representation of indigenous people in prisons in Australia has a "very great potential to cause international embarrassment". But it will be nothing compared to Australia's future reputation in relation to our indigenous children.
>
> Assume there is no change in the current rate of the detention of Aboriginal and Torres Strait Islander kids aged 10 - 17 years. Not an unreasonable assumption in light of recent history.
>
> Take the demographic projections from the Centre for Aboriginal Economic Policy Research. Put them together and you can project that by the year 2001, there will have been a 15% increase over the current numbers of indigenous kids held in detention.
>
> By the year 2011 there will be a 44% increase.
>
> I leave it to your imagination of people to envision the Western Australian increase if the status quo remains (you will recall the WA multiplier is 48.4 compared to the national average of 24.2).
>
> 22% of the general population is under the age of 15 ayears; 7% is under 5 years.
>
> 40% of the indigenous population is under 15; 15% is under 5.

I leave it to members to think about that. Given that we have yet to see any change, despite the fact that the deaths in custody royal commission reported approximately three years ago and State Governments issue annual compliance reports, why have we not seen a decrease in the number of Aboriginal children in our gaols? He goes on to say that in Western Australia now, Aboriginal kids are 48.4 times more likely to be held in detention than other kids. He asks -

> Does that mean they are 48.4 times more criminally inclined? Some may think so.
>
> In NSW the same age group of 10 - 17 year old Aboriginal kids are 20.8 times more likely to be held in detention.
>
> Does this mean that WA Aboriginal kids are 27.6 times more criminally inclined than Aboriginal kids in NSW? I think not.

I think everybody on the floor of that conference wondered how we could move on from here. I will apply that grim story to some situations in this State in relation to our own Department of Community Development. Last week the Youth Legal Service, one of the organisations which assists many of those Aboriginal young people who need representation in our courts, received its Dear John letter from the Minister for Community Development saying its funding would be discontinued from 30 September.

The problem is that the Minister said that now the department will become the Family and Children Services from 1 July it is no longer his responsibility but that of the Minister for Justice. I have no difficulty with that because in fairness the Youth Legal Service is offering access for youth to the legal system, but the Minister has not done anything about negotiating a changeover. Where does it leave this organisation, which is about to lose the funding it gets from the State? In fact, it employs 1.5 lawyers and 0.5 of a person who is working on law education programs. Given those circumstances, I do not know what this Government expects young people to do. The bottom line is that young people do offend and they need representation, and have a right to it.

Last year when the young offenders legislation had its brief foray to the Standing Committee on Legislation and came back to this place in a great hurry, the committee took evidence from an organisation called Arrest Express which works out of the Balga detached youth program. I advise members that Arrest Express offered a 24-hour, seven days a week service to young people in that area between July and November 1994. It did not have enough volunteers to cover the 24-hour program and it moved to a day time service between 9.00 am and 3.00 pm. This organisation also received a Dear John letter from the Minister because it was funded by the Department for Community Development. Its funding will expire on 31 August.

Three programs work out of the Balga detached youth program which works with the Nyoongar children. Arrest Express provides a support, information and advocacy service and helps in bringing families together. When a person goes off the rails it also provides the service of an independent adult witness for a young person who is interviewed by the police. I cannot understand the Minister. There is an element of advocacy in the service Arrest Express provides, but it cannot be classed as a legal service. It simply is not. It is about helping families and young people to maintain their relationships. However, Arrest Express has been told it will no longer be funded by the Department for Community Development from 31 August because the Minister considers it to be a low key legal service. Arrest Express has not been given any hope it could possibly be funded under the Ministry of Justice. The detached youth program has undergone a massive re-evaluation. It appears that if the community development officers ask what the young people who work in the project do it is said it might give them an unfair commercial advantage in terms of tendering for the service they now offer. Therefore, they are in limbo. The people who work there are saying that if they get the offer of another job they will take it because they must live. What will happen to the Aboriginal youth?

The other program which runs out of the Balga detached youth program is one which assists the South East Asian community. In that area there is a large component of Vietnamese people. That program is funded by the Department of Immigration and Ethnic Affairs and I am told that it has three-year funding. Two of the programs which have assisted the northern suburbs for some years are in danger of not being funded in the future. I do not understand what the Minister for Community Development is about. I do have some correspondence which was written by people who have been assisted by Arrest Express. The first letter is written by a young fellow named Tony Lee who writes -

> Dear Mr Court,
>
> A week ago my brother was involved in a high speed chase. Without Arrest Express he would still be in lock up and in trouble with the law. When my Mum heard my brother was in a high speed chase she was shocked. The next day my brother was home because of Arrest Express.
>
> When I grow up I may be in trouble with out Arrest Express.

The next letter is from Dr D.J. Oldmeadow from Scarborough who was formerly the chief medical officer for the Australian mental health authority. He said -

> Dear Mr Premier,
>
> We wish to beg you to continue support for "Arrest Express", which support has just been axed by your government.

This is the only service of its kind, and we are convinced that the goodwill generated by such a service will assist in family support, and in the long run in crime prevention, which we all agree is eminently cost effective.

You must be well aware of the very significant, and growing, body of opinion against the Lawrence Affair Commission. We plead that if we can afford the money involved in this very doubtfully effective procedure, then we must afford the support necessary for this community helping venture.

Mr Premier, we look forward to your response to this appeal.

The next letter is from Dianne Murray of Girrawheen and it reads -

Dear Mr Richard Court,

I am writing to you concerning the defunding of Arrest Express. Us teenagers need Arrest Express.

Maybe you do not know what Arrest Express does, well here we go. Arrest Express comes to teenagers in need of assistance if they are in trouble with the law. The teenagers need someone there so during interrogations they do not get bashed by the cops. I know you politicians turn a blind eye when told what happens during interrogations but Arrest Express does not ignore this, instead they try to stop it.

Most of my good friends at one stage have used this service. Arrest Express helps teenagers in more ways than one. They help them in court and help them get back on their feet after being in trouble with the law. They also rehabilitate them so they don't get in trouble with the law again.

By the way, what use will the Northbridge tunnel be if all the future adults are in lock up. More roads also means more roads to joy ride on with stolen cars. In other words more need for Arrest Express. If you do defund Arrest Express just you remember roads will be no use.

Please keep this letter in mind when you make your final decision. Our future is in your hands. If you defund Arrest Express our future will not be worth living.

That says it all. The following letter from Karen Toth reads -

As a worker with young people in the Mirrabooka District and a resident of Balga I see first hand the trauma that many families endure when their children are involved in offending behaviour. Arrest Express provides support, information and advocacy to young people and their families as they deal with the offending and resultant police intervention. Often families find it difficult to discuss what is happening and Arrest Express is able to mediate between parents and children to work through their problems.

Arrest Express is also available as a valuable service to the Police when the parents are unable or unwilling to attend the station they can provide an independent adult witness whilst the young person is being questioned.

It is my belief that many young people grow out of their offending behaviour if they are given support and assistance in regards to not only their offending but their lives, something Arrest Express and its volunteers are able to do.

I hope that the Minister for Finance will make it his business to look into these two programs. They are not the only ones. I refer also to the people who provide financial counselling and advocacy services in this State. At least one person in each service across the State has been defunded by the Minister for Community Development. It is very gruelling work having people in trouble requesting assistance. Many of the referrals to those agencies are by government agencies such as Homeswest, Royal Perth Hospital and Sir Charles Gairdner Hospital when people get out hospital and have nowhere to live. Western Power, AlintaGas, the Department for Community Development and the Department of Corrective Services also refer people with problems, other than those they face when getting out of prison. Financial counselling must be provided so that people

can get back on their feet. It is not as though people have suddenly become wealthy in this State. In many areas people are still disadvantaged, and those services are very much needed to assist people to improve their situation. I find it astounding that the Minister for Community Development in one fell swoop can cut funding for so many agencies. That action seemed to coincide with the change in the department's name.

I support the Bill, but I ask the Minister to do a little investigation and consider the actions of some of his ministerial colleagues. It is necessary to have some coordination between departments to help young people. The youth in this State seem to have been ignored. They will fall through the cracks, and the situation will get worse. It will cost a lot of money to build new prisons. Our juvenile population receives better skills in prison. They will move on to the adult prisons; therefore it will be necessary to build more prisons.

**HON P.H. LOCKYER** (Mining and Pastoral) [9.12 pm]: Debate on the Supply Bill gives members the opportunity to address matters of concern. I will not speak at length. I listened very carefully to the previous speaker and some of my comments will deal with the prison system also, but for different reasons. Members are well aware that one of my former parliamentary colleagues, Mr Ray O'Connor, was convicted on three occasions in the last few months. One conviction was for stealing $25 000 and the other two convictions were for criminal defamation. I do not intend to stand here and defend him for those convictions. I accept the sentence that was handed down by 12 of his peers, as he does. He is now paying the penalty.

I make no apology for being a friend of Mr O'Connor prior to his conviction, and I make no apology for remaining a friend to this day. He is paying his penalty, and I will stand by him. However, I must say something about two or three events for which I have severe distaste. In particular, I refer to comments by Hon Mark Nevill. I did not support those remarks at the time, because Mr O'Connor was facing another criminal defamation charge, and I did not want to be heard making comments at that stage. The comments by Hon Mark Nevill related to a photograph on the front page of *The West Australian* which showed Mr O'Connor leaving the court in the back of a police van after his conviction. Like Mr Nevill, I found that photograph absolutely appalling. I do not blame *The West Australian* for printing the photograph. I have always been of the mind that reporters have their jobs to do, and newspapers must report such events.

I was similarly appalled by another photograph of Laurie Connell being taken to the cells. I support the legal system in this State, particularly the jury system even though it has sorely tested some of my friends, including Mr O'Connor in the last few months. However, it is not in the best interests of justice in this State to humiliate people, after being convicted of so-called crimes, by putting them in the back of an ordinary police van and taking them away in the full view of the photographers. Humiliation is the last thing someone should face after being convicted, regardless of whether it is a former Premier of the State or an ordinary citizen who has been convicted of a minor or major crime. The fact that 12 peers have sat in judgment on a person, and the judge has passed sentence, should be enough. We should have a method in the present system to take a person from the court in a covered vehicle which will not allow a photograph to be taken. People are taken to the court in a covered prison van. Any decent thinking person in this State would be appalled by the sight of a person obviously in shock after receiving such an unexpected sentence.

Ray O'Connor was not expecting to receive such a sentence that morning. I know that because I picked him up at home and took him to court. He was so confident that he would not go to gaol, he did not take a bag with him. That is not the only humiliation he faced. He went to the East Perth lockup after his court appearance and he was treated extremely well by the police at the lockup. Subsequently he was sent to the Wooroloo Prison Farm, where his treatment was exemplary. The prison officers treated him not only as a normal human being but also with respect, as they do with most people up there, particularly those prisoners who toe the line. I go and see Ray O'Connor as much as I can, as do many of his friends. I do not mean to criticise any of his former colleagues, and nor does he. He has accepted his fate. He knows that he must serve

another 53 days. He will come out of prison on 20 August, after serving six months of an 18 month sentence. The prison officers and the prisoners treat him with respect, but it was an appalling situation when he had to go back to court last week on a second charge of criminal defamation. For the information of members who are not familiar with the prison system, I will explain what happens. When a person goes to prison everything is taken from him, and he is issued with prison garb.

Hon Mark Nevill: The politicians in Singapore use the charge of criminal defamation. They pour out massive amounts of money and as a consequence they are destroyed week after week.

Hon P.H. LOCKYER: I do not want to comment on the actual charge. The basis of the whole system is that a panel of 12 jurors is chosen, they deliberate and produce a verdict. I accept that situation. In Mr O'Connor's case he was dressed in a suit when he arrived at the prison farm. It was taken from him and he received his prison garb which is green. Everything is green, including the shoes. He went to trial last week. They ran him down to Perth in the prison van on Wednesday for a full day in court on a legal argument about whether certain evidence would be accepted. He was allowed to dress in the suit and shirt that he had with him at the prison farm. When he returned to the prison farm it was late in the evening, and the laundry was closed. Members should bear in mind that he is allowed only one shirt, and he cannot wash that shirt himself. The next day he had to dress in that soiled shirt to appear in front of the judge and jury. He is a decent man and he wants to look his best because he is trying to convince those 12 men and women who are sitting in judgment of him that he is a good bloke. He was uncomfortable because he was wearing a soiled shirt, and during one of the breaks he asked his brother to get his family to bring him a shirt from his home because he wanted to change. His brother brought him a fresh shirt, but he was not allowed to have that shirt because he was a prisoner at Wooroloo prison farm and he was allowed only the shirt he was wearing. I am using Mr O'Connor as an example, but that sort of rule should not be applied to anyone in this world. It takes away a person's dignity. He had to wear that same shirt until the trial was finished. He was convicted on Friday afternoon, and he had to spend that night in the East Perth lockup. He had to wear that shirt until he returned to the prison farm on Saturday. I do not blame the prison officers at Wooroloo. They were as appalled as I was when they heard about this. I blame the system within the Central Law Courts. I hope that, if nothing else, my few words in this place will change that appalling situation. If they are worried about security, they should get someone to go over the shirt with a fine toothcomb. He should be allowed a dozen shirts, if he wants them. A person is entitled to retain his dignity in any situation.

Mr O'Connor has never dodged anything in his life. He has asked me to tell reporters the exact time he will come out of prison on 20 August. I will pick him up. I am not afraid to stand by Mr O'Connor. He deserves to go back with his family. He will talk to reporters if they want to talk to him, but he wants an undertaking that once he talks with them they will leave his family alone. Mr O'Connor will have served his penalty, and he deserves to be left alone, just like anybody else in this world who goes to prison or serves some form of penalty. Once it is done with, I believe in the old adage that a person should be left alone.

I was appalled also by the actions of Lake Karrinyup Country Club Inc, to which Mr O'Connor belonged for many years. One of his greatest joys, during his time in Parliament and when he left the Parliament, was a game of golf. Mr O'Connor was a proud member of Karrinyup golf club. That club was not very nice about things. The club wrote Mr O'Connor a letter in prison, and said that it thought he should resign. The implication was that if he did not resign, it would probably kick him out. The club probably has some by-law to that effect; I have not looked into it. I will never set foot on that golf course, nor would I want to be involved with a group of people who kick a man when he is down. Mr O'Connor resigned the day after he received the letter, and saved the club the trouble of kicking him out. Plenty of people would have said, "You must kick me out." He did not do that. I am appalled by the club's stance. Members of that club should be ashamed of themselves. Anywhere else in the world, once a person has

paid the penalty, that is the end. I do not know, but they could be charged under equal opportunity legislation for something like that. The group of people who run the Karrinyup golf club - there must be some decent people among them - can feel very proud of themselves, because it was almost the final straw for Mr O'Connor. He has had just about everything tossed at him in the past few months. Apart from one occasion when I saw him in prison, when he could not help but let his tears flow, he has taken it on the chin. He has never whinged. Even though he maintains his innocence, he accepts that he has been found guilty and he will take the penalty. I hope that those august people at the Karrinyup golf club who may have a well run club and who will not have someone who has been convicted of a crime playing on their golf course, can look at themselves in the mirror every day without thinking, "There but for the grace of God go I." I promise that I will never put a foot on that golf course. I hope they are now satisfied with the steps they took. If that was designed to hurt Mr O'Connor, I can assure them that it was like drilling a red hot poker into his heart. It was the final straw. He had looked forward to playing golf when he got out of prison. He was looking forward to going to his club and having a hit.

I am not here to defend Mr O'Connor. I say this not just for Ray O'Connor but for the many people who go to prison for various reasons. Any member who has a chance should visit this prison. I know what Mr O'Connor has done in the few months he has been there. He writes letters for people who are illiterate; he coaches the local football team; and he tries to give the local Aboriginal kids some advice. The prisoners at Wooroloo do a lot of good work. Mr O'Connor is not the only person who does that. I have told him that as a former member he is entitled to come into this place, and I hope that any member who sees Mr O'Connor in the corridors of Parliament House does not ignore him. I do not expect members to tell him that he has done the right thing, but I hope he is not ignored.

I made some comments this week about prostitution that have generated some raucous comments from various areas.

Hon Mark Nevill: Is this first hand knowledge?

Hon P.H. LOCKYER: I will admit that, like most people, I was no angel in my youth. I made those comments deliberately. I did not spend as much time with the committee chaired by Hon Muriel Patterson as I would have liked, but I commend her for having the guts to look at a subject that people love to brush under the carpet. Hon Muriel Patterson will make some recommendations to the Minister for Police and I urge the Government to look at her report closely. If it does not want to make a decision, it must at least accept that it cannot leave the situation as it is at present.

I do not support people in the sex trade, as they like to call it, around Perth. However, they are just like all of us; they are human beings. I commend Hon Muriel Patterson for looking at some of the establishments and talking to some of the people concerned. Some people in the community do not accept that members of Parliament should do that. Whether we like it or not a burgeoning sex industry is out of control in this State, particularly in the metropolitan area. The days of containment, of expecting the police to keep the industry under control, under wraps and slightly away from the public eye, are well and truly over. For some reason Kalgoorlie is allowed to operate a number of brothels in Hay Street. They have been operating for longer than I care to remember. I am sure Hon Mark Nevill, who knows the town, knows where they are.

Hon Mark Nevill: They are some of my prized constituents.

Hon P.H. LOCKYER: They are indeed. They are human beings. Many of the girls in the sex trade in Perth are not in it because they want to be; they are in it because they are either supporting kids or trying to survive. They have a variety of reasons - too many to list here. The days of expecting the five members of the vice squad to look after that containment policy are over. One massage parlour a week starts up in Perth. Those members who have nothing else to do on Saturdays should look in the personal column of *The West Australian*. It covers four or five pages now, and it gets bigger every week. Members should go for a massage for their sporting injuries. I promise members they

will get far more than that. Those involved in the sex industry are as worried about it as everybody else. I am not saying that we should make it open slather; however, we should get people who are expert in the trade. I understand that in Victoria - Hon Muriel Patterson visited that State - an area of the industry has been legalised. The factor which concerns me is that we have a situation which is right for the Mafia-type figures to be involved; where people are operating from a variety of businesses, from massage parlours to girls soliciting in the street. Males are involved in the industry and people operate from home. There is a policy of half containment which is supposed to be run by the police. However, the job is far beyond them now; they too are screeching.

I saw the Commissioner of Police on television on Monday night. He is waiting for some guidance from the Government. It is time that guidance was given. One possibility is to license those in the trade. Some people say that would drive the business underground - I do not know. However, I do know - I am sure Hon Muriel Patterson will have something to say about this - that we cannot leave it as it is. Why should Kalgoorlie have a set of brothels in Hay Street when there is not one in Karratha or Port Hedland? I know that in Port Hedland a person who operates an escort service vigorously wants to have a set of brothels. I am not necessarily in favour of having brothels there; perhaps we should close the ones in Kalgoorlie - heaven forbid. However, unless members and the Government of the day pull their heads out of the sand and consider this matter, whatever will happen in the end will not be to the advancement of people in the industry. Drugs, pimps, and mafia-type people will simply get worse. That is my lecture for the night! I support the Bill.

**HON MARK NEVILL** (Mining and Pastoral) [9.32 pm]: The other night in the adjournment debate I made some comments about Kalumburu and the access into that community and I mentioned that I would have a few comments to make in the Supply debate about the war effort of the Kalumburu Aboriginal people. It is now 50 years since the end of the 1939-45 war and few people know about the contribution people at Kalumburu made during that war. Kalumburu is situated at the apex of Western Australia, in the Kimberley, between Derby and Kununurra. When Western Australia was bombed by the Japanese there were no suitable airstrips in that area for the allied bombers to use. Father Seraphim Sands, who has now retired to the New Norcia Benedictine -

Hon P.H. Lockyer: He is a wonderful man.

Hon MARK NEVILL: Yes. He was at Kalumburu during the war. I had the good fortune to go to Kalumburu in 1964. I chartered a plane when I was 16 to see my brother whom I had not seen for a number of years. He was a crocodile shooter along that coast. I was treated to the most magnificent meal I have ever had, cooked by the Spanish sisters. Kalumburu was an absolute oasis; it grew everything, and it had beef. The people there were incredibly healthy and proud.

At the request of the Australian Air Force, Father Sands, the missionaries and Aborigines there were asked to construct an airfield. If members have been to Kalumburu they will know that there are no flat gravel areas - it is just rugged sandstone. Kalumburu Mission was built near a big waterhole on the Drysdale River. Four missionaries and 50 Aborigines hewed four airstrips out of that sandstone plateau. They did not have explosives, bulldozers or graders; they removed all the rocks with picks, sledgehammers, crowbars, and those sorts of implements. They cracked the big rocks by cutting down timber, lying it against the rocks, setting fire to it, and pouring water over the rocks when they got hot. It took them two or three months to build that airstrip, working day and night. The Truscott Air Force base which Santos used for an oil exploration program in the Timor Sea was operational only for the last six months of the war. I think that was commissioned in mid-1944. For two and a half years Kalumburu was the only airfield from which the allied forces could attack the Japanese in the Dutch East Indies, as it was called then.

In February 1942 the Aboriginals and missionaries saved about 120 people from the SS *Koolama* when it was bombed near Lesueur Island. The people of Kalumburu

rescued also the crews of six allied bombers which crashed in that area on their takeoff or return. They salvaged five of the six planes which crashed in rugged country, and there are still parts of those planes at Kalumburu. In September 1943 Kalumburu was bombed. One of the priests, Father Thomas Gil of the Order of Saint Benedict, and five Aboriginal people were killed. Most of the buildings were damaged. I have always heard that the bombing was accidental, but there is real doubt about that. Twenty years ago I heard the story that only the Pago Mission, which was to the north, was on the Japanese maps and the new Kalumburu Mission to the south was not. Because it was not on the maps, the Japanese bombed it. However, they dropped a considerable number of bombs on one end of the airstrip as well as the mission because, I think, of intelligence information which said that all the allied soldiers were camped at one end of the airstrip. They were - but fortunately it was at the other end of the airstrip. If they had bombed the other end of the airstrip they would have killed a couple of hundred people.

The other thing the Aboriginal people at Kalumburu did was unload from the barges thousands of tonnes of ammunition and supplies for the allied soldiers. These were unloaded mainly at Pago and then brought down to Kalumburu. About 50 Aboriginal men worked as maintenance workers on the Truscott air base during its construction and while it was operating. There was also a radar station at the Truscott strip and a Loran communications station on Sir Graham Moore Island.

It is important that the efforts of the Aboriginal people and the missionaries at Kalumburu are acknowledged because people tend think that it was only the white people who defended Australia. In fact, the people at Kalumburu can be very proud of the effort they put in. I have wanted to put it on the record so that it is documented in at least one place. Father Sands has written a number of books on Kalumburu that unfortunately I could not get hold of recently. Presumably there may be some mention of the efforts of these people. There is a brass plaque at the church at Kalumburu that commemorates the efforts of the people during the war. However, 50 years on it should get some public recognition. The federal member for Kalgoorlie and I are taking the matter up with the Governor General in the hope that some military acknowledgement can be made of the people of Kalumburu. I do not know what form that should take. Certainly some of those people are still alive and perhaps they can have some more formal recognition.

I now wish to raise a matter that is of great concern to me. First, I want to comment about the absolute failure of this Government, particularly the Minister for Police, to answer questions put on the Notice Paper. I have dozens of questions on the Notice Paper, none of which has been answered. Unless we get reams of answers tomorrow, we will probably be waiting until the next session before we get any. I do not believe that that is the way elected members of this Parliament should be treated. The questions that I have asked are not politically embarrassing; they are calling on the Police Force in this State to answer legitimate questions - questions which it should be able to answer without any fear. However, unfortunately, that does not seem to have come about. Some of those questions are quite simple to answer; others may take a little more research. In particular, none of the questions that I asked on the Fairclough case has been answered and that is just not acceptable.

Today a received a reply - I would not call it an answer - to a question without notice of which some notice had been given. I put it in at about 10 or 11 o'clock yesterday. It is a question to the Attorney General, through the Minister representing her in this Chamber. There are five parts to the questions, the first of which is -

(1) Has the Director of Public Prosecutions responded to a memorandum dated 29 December 1994 from Acting Inspector R.M. Thoy seeking an opinion as to the autonomy of police persons involved in investigations?

The answer to that is quite simply yes or no. The second part asks -

(2) If yes, when was the response sent to Acting Inspector R.M. Thoy?

That just requires the date on the letter. The third part asks -

(3) Was an opinion provided to Acting Inspector R.M. Thoy?

The answer is yes or no. He asked for an opinion; did he give him an opinion or did he make some sort of perfunctory reply? The fifth part asks -

> (5) If no opinion or response has been sent to the memorandum, why has there not been a reply to this memorandum?

That may require a sentence or two, but basically the question revolves around a memorandum that Acting Inspector Thoy wrote to the DPP complaining about Deputy Commissioner Les Ayton's ordering him to stop an inquiry into the investigation about the cars stolen from Mr Richie Brennan. Members might have been aware of the case some months back about a Rolls Royce and a couple of Mercedes. Brennan is a farmer from Bullsbrook, and no matter what he does he cannot get his complaint investigated. A police officer is involved in this. I will not make any judgments about that police officer, but these questions need to be answered. This is a very simple question. Why, after two days, have I failed to get an answer? The initial response to my question was -

> (1)-(5) The Attorney General was unable to provide an answer in the time that was available and asks that the member put the question on notice.

They have had two days; they could have given me the answer tomorrow. However, I have been asked to put it on notice, which means that I will not get an answer for two or three months unless I embarrass them into giving me an answer sooner. That is just not good enough. The DPP has that letter on his file. If he is unsure which letter it is, a phone call to me by one of his staff would enlighten him and perhaps I can send him another copy. I do not believe that is good enough. The lack of answers that we are getting from the Minister for Police is really showing a contempt for this House.

The other matter I want to raise is the media statement the Director of Public Prosecutions issued after the police "raid" on his house. This statement is quite extraordinary. I will not deal with the detail in the statement that relates to the burglary of the house next to the DPP's. However, I want to demonstrate to this House the dishonest way in which the DPP has gone about presenting the information. By presenting it very dishonestly he has somehow made it look as though I released the information about his son. That just cannot be substantiated. His opening paragraph says -

> I had thought that by declining to comment on rumours involving my 14-year-old son, no news media would see sufficient public interest in airing a story exclusively concerned with a juvenile's alleged offences in circumstances where the child's identity would inevitably become known. I was wrong. I thought that following the Leader of Opposition, Mr McGinty's, clear statement that families were off limits as far as attacks on public figures were concerned no Labor politician would try to raise in Parliament matters of a private nature about the actions of a juvenile. Again, I was wrong.

Quite clearly Mr McGinty is my leader, so he is referring to me. He is linking me with raising matters in Parliament of a private nature about the actions of a juvenile that would reveal the identity of the child. He does not mention the media. He does not mention in those two paragraphs that Channel 10 broke the story. I wrote a letter to the editor today because the view that I released the information about the boy appeared in three articles in *The West Australian* and I thought that, after Saturday's article, I should write a letter. The letter to the editor states -

> The article on parliamentary privilege (Saturday 24 June) needs correction.
>
> My question did not "lead to details being published about an alleged theft involving Mr McKechnie's 14 year old son". Channel 10 broke the story about the police visit to the DPP's house. My question (attached) in Parliament referred to an offence report. It identifies no person.
>
> John McKechnie named his own son as being the subject of the police visit. There is no possible way that Mr McKechnie's son could be identified by my question. It is also impossible to identify the boy from the Minister's answer to the question (copy attached).

> Consequently, the statement made by Mr McKechnie that the question would have inevitably led to the identity of his son is not borne out by the facts clearly on the record. The story and the identity of the boy was divulged by an over eager media and Mr McKechnie himself.

Mr McKechnie identified his son as the person involved. My question refers to an offence report. It does not mention anything about Mr McKechnie and it does mention anything about juveniles. Frankly, none of the Press picked up the fact that it even related to McKechnie's son. The response says -

> I thank the member for some notice of this question. The Minister for Police has provided the following reply -
>
> (1)-(19) The matters referred to in the offence report specified by the member relate to offences committed by juveniles. The matters were dealt with by way of an appearance before a juvenile suspended action panel in one instance and a formal written caution in the other. In view of the fact that these matters relate to juveniles I believe it is not appropriate to answer the member's questions in more detail. If the member or any other persons have concerns regarding the police handling of the matter these concerns should be referred to the Ombudsman.

None of the reporters in the Press Gallery had a clue that the question related to that matter. All it refers to is an offence report and gives a number at the top.

Hon Max Evans: Did you know about the son at that stage?

Hon MARK NEVILL: I knew about the son and I knew about the daughter. Many press people in Perth knew about it. However, anyone reading it, if they twigged, may have thought that it related to the daughter because it does not refer to "boys" but to "persons".

That myth has been successfully generated and reproduced on a number of occasions. It is the dishonest way it has been put in the media statement that makes it look like I revealed his son's name. Channel 10 broke the story; the reporter revealed the son's name, I think, deliberately. On page 3 of his statement, Mr McKechnie says -

> By Monday the media had the story. By Wednesday a politician, Mark Nevill, had given notice of questions in Parliament, full answers to which would inevitably expose my son.

I was not given a full answer to the question I asked in 11 parts. Even if I had been given all the answers, it is not clear that the son would have been identified. However, the fact that I was not given a full answer means that his son was not identified by my question. I could go through the 11 questions for members, but I do not think that would achieve much. Mr McKechnie complained about my asking questions in the Parliament and said -

> . . . especially when his leader has deplored personal attacks and, I had thought, forbidden them.

I have not attacked Mr McKechnie personally. Everything I said about the Director of Public Prosecutions has been argued. Probably the most outrageous thing I said was that there is an unhealthy relationship between the Director of Public Prosecutions and the Deputy Commissioner for Police. I believe I can substantiate that and I will do that to a degree in a minute because these matters are very complex and I will need more time than is available to members to go into the detail.

He has tried to make out that I have attacked him personally. We can ask questions about the activities or behaviour of any public person in this State and I did that. In one interview Mr McKechnie complained about my asking questions. Mr McKechnie's office is independent and there is very little accountability. To whom is the DPP accountable? The only really effective system of accountability is questions in Parliament. He was quite exemplary in answering questions until the one I asked yesterday and he does not seem to be too keen to answer that. I recall also that I asked another 15 or 20 questions about the Fairclough case and he has not answered those

either. When I first began asking questions, I received answers the next day. When he found that his answers got him into a lot of bother in the Waghorn-Christmass case, suddenly the efficiency ceased and I am now not getting prompt answers. I am not interested in the DPP's children; I am interested in the DPP's behaviour and I am concentrating on that. I have no reservations at all about any parent accompanying his or her child to a police station. However, because of the reports I have received in both cases, I have been concerned about the DPP's behaviour and have asked questions to which I have failed to receive answers.

I do not have the cutting with me, but the cover story of the country edition of the *Sunday Times* was about the police report on Mr McKechnie's behaviour when he went to the police station about his daughter's charge. That investigation was carried out by a Sergeant Trevor Porter, who works under Mr McKechnie in a special investigations task force. I have said that I believe that is highly improper. It amused me to see in that newspaper that the report of that investigation by Mr Porter had been released under FOI legislation. They must have agreed to releasing it. However, it is a report about an investigation into Mr McKechnie's behaviour when his daughter was charged. They are prepared to release that, but they will not answer my questions about the other matter because they involve juveniles. That case involves juveniles also and there is no consistency in the situation. The article in the *Sunday Times* was, in my view, another calculated leak to the Press to put certain matters in a very favourable light. I asked a question in this House which has not been answered about the number of charges of juveniles relating to stealing as servants that have been reduced to cautions. Then there appeared in a neat little story in the *Sunday Times* about the case being a marginal one.

A police officer whom I have defended in here, Detective Sergeant Bradley Waghorn, was somehow linked into that story in the *Sunday Times* as though he overheard some detective in a corridor. That was thrown into that story quite gratuitously. I have never discussed this matter with Detective Sergeant Waghorn and I did not know whether he was aware of it and I still do not know. My information did not come from that source at all, but somehow his name has been muddied by throwing it into the pot in that *Sunday Times* article. Therefore, members can see the devious way that this matter has been dealt with.

Mr McKechnie accuses me of engaging in a campaign, along with the Police Union and John Quigley, a lawyer, of undermining the office of the Director of Public Prosecutions. I have never spoken to Mr Stirling, the Secretary of the Police Union, in my life. I have never telephoned the Police Union. I have never been to the Police Union. To my knowledge, I have never spoken to any member of the Police Union executive. However, this conspiracy theory is going around.

It is quite clear how my interest in this matter arose. I have been investigating fisheries matters for about 18 months and I have a lot of embarrassing information for the Fisheries Department which I have not yet released publicly. The Fisheries Department knows about that and the police know about the use of listening devices and surveillance equipment. I believe that a senior police officer in charge of internal affairs was responsible for this link into the Fisheries Department and the supply of that equipment. Graeme Campbell has been having fights with the DPP about two cases in Kalgoorlie, where the chief Crown witness in each case wanted to withdraw their evidence but the DPP would not let them, and as a result that person was convicted. When Graeme Campbell made his comments in the Federal Parliament about the DPP and the Deputy Commissioner of Police, his telephones ran hot for a number of days and there were huge lists of the people who had telephoned. Unfortunately, the federal member for Kalgoorlie went to Russia for a month about three or four days later, so I was the bunny who was left to contact all of those people and follow up all of the different cases, because his office is incredibly busy and I do not believe the people in his office would have the time or the skill to investigate those cases.

I have been working through those cases, and I will go through the whole lot, because members will find out if they make any inquiries around my electorate that anyone who comes into my office for help is never shown the door. I investigate thoroughly every

matter that is brought to my attention, and that creates a lot of work, but I do it. I have never fobbed off anyone who has come into my office with a genuine complaint. I worked through a case the other day for a Mr Chikonga. Frankly, I do not think he has any grounds for complaint. He is serving time in Canning Vale Prison and has a number of grievances. I have heard them, and I am not convinced. One matter which is of concern is the delay in his receiving the warrant, but I do not believe that is very serious. I have some questions on notice in the Parliament, and I will contact that man when I get the answers and say that I do not believe his views about the actions of the DPP are correct. That will obviously depend upon the answers that I receive, but that is my preliminary view.

I have also asked eight or nine questions about Ray O'Connor's case. I think it is very difficult for members opposite to ask those types of questions. I think the way in which he was treated by the royal commission investigators and the DPP was quite appalling. I have asked those questions to establish the facts and, depending upon the answers, I may proceed further with that matter. I do not particularly care from what political party people come. I have never bothered, and I do not think many members here bother, to ask people about their political views before I decide what I will do for them. I judge each case on its merits and try to be as objective as I can. I have learnt in investigating these matters to not trust anyone, particularly police officers. One must be incredibly sceptical of everything one is told and try to check every bit of information that one receives.

On page 5 of Mr McKechnie's statement, he says -

> Mr Nevill makes meaningless assertions designed to cast doubt on the integrity of the DPP by such phrases as an "unhealthy relationship" between Mr Ayton and Mr McKechnie. I don't know what that means.

There was a case in 1982 in regard to a man called Brian Love and there have been two trials. There is a mountain of evidence, with some 3 000 or 4 000 pages of transcript and other public documents. A former police officer has spent a lot of time going through that evidence with a fine tooth comb for the federal member for Kalgoorlie, and he has included in a statutory declaration only evidence which is incontrovertible and supported by documentary proof. I seek leave to table a photocopy of that statutory declaration. That document has already been tabled in federal Parliament, and I wish to table it because obviously I do not want to read through large slabs of it tonight.

Leave granted. [See paper No 442.]

Hon MARK NEVILL: In my view, that document will indicate the relationship between Les Ayton when he was a detective sergeant in 1982 and John McKechnie when he was a Crown solicitor in 1982. Also of interest is a Crown Prosecutor Robbins. More will be said about that on another day.

Mr McKechnie also accused me of abusing parliamentary privilege. Even if members ignore what I am saying tonight, I do not know how he can substantiate that charge. Mr McKechnie says that my leader has deplored personal attacks. He then states -

> Has nothing been learned by politicians in the past 4 years?
>
> Have they not heard the public indignation about abuse of parliamentary privilege?

I would like Mr McKechnie to tell me where I have abused parliamentary privilege. I have been in Parliament for about 12 years, and I cannot remember saying anything in Parliament that I would not say outside Parliament. Parliamentary privilege is something that I guard jealously, and I certainly would not condone its being removed by anyone. It is something that I would use in a situation where I was absolutely convinced that something was occurring, but could not prove it. I do not believe I have abused parliamentary privilege. If Mr McKechnie thinks I have, he should state how I have abused it.

This is good stuff for the electronic media. After this little dishonest episode by the DPP,

I came out as a condemned man having somehow revealed his son's identity and being an unsavoury person. I believe I have acted with integrity in this matter. The question I asked in Parliament was very carefully crafted so as not to identify his son. His claims in that respect cannot be substantiated.

When I asked questions on the Waghorn-Christmass case, I asked the DPP whether he had any new evidence for his ex officio indictment of Waghorn and Christmass. As part of the answer the DPP tabled a letter to Malcolm McCusker QC which said that he had "other material". I pointed out the next day that that letter predated the preliminary hearing, and that when that letter was written, the only information outstanding was the handwriting reports from the Western Australian and Victorian police experts. That was the "other material" that Mr McKechnie was referring to in his letter to Mr McCusker, because it had not yet been received. When I pointed out to Mr McKechnie that that material had been disclosed in the preliminary hearing he changed the indictment the next day. That is a clear example of the DPP trying to mislead this House. The DPP was trying to suggest that there was other material. That other material was the handwriting reports, which at that stage had not been received. They were received before the preliminary hearing, and they were dealt with during the preliminary hearing. When the indictment was changed we saw the inclusion of the two lots of handwriting evidence from the two experts, which had been left out. The prosecutor has a duty to include all the evidence. The prosecution also called O'Halloran as a witness. O'Halloran was the main witness who would destroy the Crown's case, and my question forced them to call him. Mr McKechnie said the following morning, when McCusker and O'Halloran waited upon him, that he would reconsider his decision. I understand now that that is not the case and that the DPP will proceed, and he is on a hiding to nothing, but he is too proud to reconsider that decision.

Tonight I tabled a 53 page statutory declaration by David MacDonald, the police officer who has gone through all Mr Love's material. It contains incontrovertible evidence to back it up. It clearly shows what the DPP and the now deputy commissioner did in that case. The victim, Brian Love, was charged by then Detective Sergeant Les Ayton for stealing a 10¢ envelope. In answer to a question the other day, the Attorney General said that the State was giving no financial assistance or resources to the DPP; however, in the DPP's private defamation action against the federal member for Kalgoorlie, he has used numerous transcripts from the Government Media Office without permission. That is in a private action. Neither I nor Graeme Campbell can get access to the Government Media Office transcripts for our personal use. Former Detective Sergeant Ayton has charged a man for stealing a 10¢ envelope; I wonder what the DPP's action warrants? It is certainly an unlawful use of Government Media Office transcripts, which should not be available to the DPP for a private action. They are not available to me or the federal member for Kalgoorlie.

I would like the Attorney General to read the report I have tabled tonight, and if she is as convinced as I am and as most other people are who have read the report, she should refer this matter immediately to the Court of Criminal Appeal. It is a black and white case. That document shows incontrovertible evidence that the first trial transcript shows that the second trial of Brian Love was a fraud. At the first trial it was alleged that a false entry was made in a brown binder, which was alleged to be the minute book. The Crown evidence proved that the brown binder was not the minute book of the company involved and therefore Love was entitled to be acquitted; and he was acquitted in the first trial. In the second trial John McKechnie, who was the Crown Prosecutor at the time, said that the brown binder, which consisted mainly of photocopies, was the minute book of the company and that the genuine minute book was a fabrication. The minute book was in three parts. This might be cryptic to members, but if they read the statutory declaration they will see how it fits together. If volume 2 was a fabrication, and it clearly was not, it still makes no difference, because the Crown's case had failed, because it set out that the brown binder was the minute book and its own evidence was that it was not the minute book. The Crown's evidence in that trial destroyed the claim that it was the minute book of the company. The date of purchase of the minute book also is raised in that affidavit.

The date of purchase of volume 2 is irrelevant because volume 2 was not material and could not mislead the first jury. At the first trial, Love was charged with intent to defraud. That is impossible because all the shares in the company were owned by Love. There were no outside shareholders, no creditors and no tax liabilities. He could not possibly defraud himself, yet he was charged with defrauding his own company. The Crown appealed and the trial judge directed the jury to those facts. The Attorney General referred those directions to the Court of Criminal Appeal, which upheld the judge's direction. McKechnie knew this; nonetheless, he still carried out that prosecution, knowing that Love was innocent. Members will see from the affidavit that it was a totally dishonest prosecution and the DPP should have stopped it. I urge the Attorney General to read that affidavit and to refer the matter to the Court of Criminal Appeal. It is a matter of extreme urgency because the DPP has been successful in getting an expedited hearing, even though it is a civil matter - that is most unusual - for his defamation action. Mr Love, as a witness, would be crucial to Mr Campbell's case. Because he has been convicted quite demonstrably wrongly, he will not be taken as a credible witness. It is incumbent on the Attorney General to convince herself of that fact by reading that affidavit and to ensure that Mr Love's case goes to the Court of Criminal Appeal.

The evidence to back up that statutory declaration is incontrovertible. It says that the behaviour of Mr McKechnie and Mr Ayton, which goes to the crux of this whole matter, is the substantive issue. Their behaviour has resulted in this man being convicted and gaoled. The affidavit contains the incontrovertible proof that that was a fraudulent trial and their behaviour warrants serious action. I hope the Attorney General, in the interests of justice, will consider taking that course of action. This is an issue about which a member could talk for some time; I will be going through all of these cases with a fine tooth comb. Some people have brought to me very strong grievances, and I do not believe everyone who brings a grievance to me. The ones I am pursuing, I have no doubts about. These people must be accountable for their actions. I believe they have been getting away with behaviour which is unacceptable and they are almost a law unto themselves in the way in which they can protect themselves.

**HON J.A. COWDELL** (South West) [10.24 pm]: I will refer to an exchange between members in the Tasmanian Parliament in a debate on 4 April 1995. *Hansard* records -

> **Mr Rundle** - The Greens are always telling us that the whole world is watching Tasmania.
>
> **Mrs JACKSON** - I do not think they are and the whole world has certainly missed this.

The Legislative Council of Western Australia has certainly missed the change to which Mr Rundle and Mrs Jackson were referring. No doubt Hon George Cash, the Leader of the House, would not have missed the monumental proceedings that have taken place recently in the Legislative Council of Tasmania and would be well aware of those things, as he is well aware of telling members opposite how entitled they are to be humble. I draw the attention of members to the Legislative Council Electoral Boundaries Act 1995 which has passed through that Parliament and, of course, is now law in Tasmania. This is monumental legislation in Tasmanian history. Division 3, section 13(2) states -

> In making an initial redistribution proposal, the Redistribution Committee must consider all of the suggestions and comments lodged with it under section 11 (1) and take into account the following objectives:-
>
> *(a)* the first priority is to ensure, as far as practicable, that, if this State were redistributed in accordance with the initial redistribution proposal, the number of electors enrolled in each electoral division would not, 4 years and 6 months after the distribution, be less than 90% or more than 110% of the original divisional enrolment;

Section 13(4) states -

> . . . but in no case is any variation from the quota to exceed 10%.

The Legislative Council of Tasmania has reformed itself - incredible as that may sound. It has introduced one-vote-one-value. The case that is to be heard by the High Court of Australia in September of this year no longer applies to the Legislative Council of Tasmania. It is now applicable to only the Western Australian Legislature, the Legislative Assembly and the Legislative Council, now the sole example of malapportionment in the Commonwealth of Australia, if members accept the variants of five remote seats in Queensland. It is worth while quoting from the speech of the Tasmanian Attorney General, Mr Cornish. It is a pity that certain National Party members are not able to appreciate fully this speech of the Liberal Attorney General of Tasmania. I am sure it would excite them, were they able to hear these words.

Hon George Cash: I am certain they will read them with great interest, as they will read your one-vote-one-value Bill when you introduce it.

The DEPUTY PRESIDENT (Hon Sam Piantadosi): There is too much audible conversation. The member cannot be heard.

Hon J.A. COWDELL: I am sure the members will be excited no less with the interjection of the Leader of the House. Mr Cornish, the Attorney General and member for Braddon, states -

> Second, the bill provides for the requirement of an equality of electors within each electorate within a tolerance of plus or minus 10 per cent, thus enshrining within that tolerance the principle of one vote, one value.

He further states -

> The Government is proud to have introduced this important, and some might say long overdue legislation into the Legislative Council itself. It is legislation which by its passage will in a most positive way reinforce the principles of representative democracy in Tasmania.

The other persons in the Assembly heartily applauded and acknowledged the Leader of the House and the Liberal Government in this regard, albeit following on at some distance from the proposals that had been presented previously. Of course, in Tasmania there was an inquiry - the Morling inquiry - which evidently involved expenditure between $500 000 and $600 000. This was seen as a positive result from the inquiry and the expenditure of state funds. Certainly, it was a substantial outcome in legislative terms compared with that so far in this State from the expenditure of $30m on the Western Australian royal commission, or the $4m or $5m about to be expended on the Commission on Government. I hope to be proved wrong on the latter point. The member for Denison, Mr White, in the debate on this matter stated -

> One of the interesting things that is taking place in Western Australia is a court case which I believe will result in the High Court bringing in a decision that will ensure that there will be a necessity for one vote, one value as the law of the land. I believe the Legislative Council here is doing what it has always done and that is avoid the impact by allowing sufficient reform to keep it within the bounds of acceptability. If we were really genuine in the old days about reform of the Legislative Council, no reform should have taken place.

It was a reform to pre-empt the ruling of the High Court. This Government and this Parliament also have time to act before judicial determination overtakes them. The Commission on Government will report on the electoral system of the Legislative Council and Legislative Assembly on 22 August this year. The Government has time to consider this report and act before the High Court sits to hear the Western Australian case, certainly before the High Court brings down its judgment. The Tasmanian Parliament and Legislative Council have acted before judicial determination, and Western Australia also has that opportunity.

I refer to certain other matters of an electoral nature: Of course, cases have been presented in recent times to the Commission on Government and some of those cases have been very persuasive. I refer to the official submission of the Liberal Party, under the signature of Dr David Honey as state president of that party. I must say the Liberal

Party of Western Australia has put some sound proposals to the Commission on Government. There are of course some less sound proposals, but in a spirit of consensus let us dwell on the sound proposals in that document. I humbly draw to the attention of the Government these proposals.

Hon George Cash: Please do not be too humble for a few minutes. I will be right back.

Hon J.A. COWDELL: The Liberal Party submitted that electoral districts should always be drawn by impartial commissioners. One cannot but agree with that. It is a refreshing change to see that the bad old ways have been eschewed together with the idea of Parliament drawing the boundaries, as was the wont of the previous Liberal Governments with respect to the statutory seats. The Liberal Party's submission states -

> The chosen single member must always represent 50% + 1 of the enrolled voters. This principle immediately rejects the validity of first past the post electoral systems and demands that the only effective measure of majority will within the single electorate is the continuation of the system of preferential voting.

The submission states further -

> That given that the single member election is the basic expression of the most important democratic right - to choose who governs, the legitimacy of the TPP be recognised as the electors ultimate choice as to who is preferred to govern.

An endorsement of the preferential system and the compulsory preferential system, that I cannot but agree with. The Liberal Party submission varies slightly from the terms of reference in items 16 and 17 on the electoral system. The submission diverges onto the role of the Legislative Council, which is not essentially an electoral system term of reference; nevertheless, it contains some sound proposals. I quote -

> While the LC undeniably has an important role in providing each voter with secondary range of advocates in government its parliamentary function is not to form a government but review the decisions of the government that has been formed in the LA.

The Liberal Party believes that the Legislative Council's operational mechanisms, structural representation and committee system should be strengthened to allow it to act as an effective check on the Executive Government. I hope members opposite take to heart their party's submission, which also states -

> The LC must be imbued with a sense of its own independence, an understanding of the necessity of that independence and most importantly the means to assert that independence.

I look forward to some variance from the slavish government and ministerial line in this Chamber, in accord with the official Liberal Party submission that members of the party should show more independence. I quote further -

> Currently the LC represents an ineffective model of bicameralism. Certain mechanisms must be retained indefinitely as an unquestionable part of the LC and other measures must be introduced or reintroduced.

That is a very considerable and worthwhile submission to the Commission on Government.

The submission of the Liberal Party argues that the Legislative Council committee system should be strengthened along the lines of the federal Senate. We on this side of the House look forward to the far reaching findings of the ad hoc backbench committee that one day it will communicate with us in a spirit of consensus about how we can achieve that.

Hon Cheryl Davenport: They do not need to any more; the Standing Committee on Legislation has not met for months.

Hon J.A. COWDELL: That is true, but this is the ad hoc committee which will suggest changes so that we can implement the directives of the Liberal Party of Western

Australia. We look forward to the members' report in this regard. Then of course it is good to see, although not to the approbation of all members opposite, the very strident statement, "A revision to the 17, two member province system and the rural weighting that existed until 1986 would be unacceptable." That is the official pronouncement of Dr Honey. His further commendation is that, "It is the Liberals Party's firm belief that only the party that wins over 50 per cent of the vote should be able to form government." A refreshing change, no doubt born of a singular road to Damascus experience with the 1989 State poll; nevertheless, a change of sentiment.

The Liberal Party skirts the issue of malapportionment, not coming out wholeheartedly for; indeed, how could it as the sole state division of the party that still supports malapportionment. Not taking it head on, Dr Honey says -

> The principle of equality should never be seen as an issue of overriding importance... malapportionment is a complex issue that must be examined with bipartisan caution and with the interests of Western Australian voters as paramount.

No doubt the bipartisan caution is a reference to discussions between the National Party and the Liberal Party to achieve an appropriate outcome. Nevertheless, he says -

> The instance of malapportionment should be considered to see its effects on outcome that should always be fair.

At least an admission that there should be fairness in the result that the party achieving 50 per cent, plus one of the popular vote should form the Government. That brings me to the conclusion that malapportionment must therefore be on the way out. On behalf of the Liberal Party, Dr Honey, with Mr Buxton appearing, I think in his own capacity, appeared before the Commission on Government and answered a number of questions. He commented that the Legislative Council should represent a different temporal majority from the Legislative Assembly, a view with which, once again, I must agree. However, it was interesting to see Dr Honey's response to a range of key issues put by the commissioners. For instance, with respect to a double dissolution, should there be a mechanism for resolving disputes between the Legislative Assembly and the Legislative Council? Normally the response of the Liberal Party has been a definite no - no dispute resolution procedure other than the Conference of Managers. It was refreshing to hear Dr Honey's response to this question, when he said -

> In terms of a double dissolution, we didn't include that in the submission and I suppose the omission is clearly there because we didn't resolve that matter firmly ourselves and so I suppose that's the way to put it. It's a matter that would need discussion and resolution and is not a matter that I could give any firm opinion on here.

The Liberal Party no longer flatly rejects the proposal of an appropriate dispute resolution procedure and double dissolution mechanism. On the proposal for publicly funded election campaigns, Dr Honey says -

> Again, this is a matter that I suspect there might be a unanimity of views in terms of political parties and the community at large might not be so enthusiastic, but political parties are clearly, I believe - in terms of our form of government, the political parties are the second most important institutions outside Parliament because quite clearly our whole system of government cannot function without political organisation.
>
> This has been recognised in a number of States -

That is, the component of public funding. To continue -

> - and obviously at the federal parliamentary level, through the introduction of public funding for political parties, and I believe in the fullness of time public funding for political parties in this state will come, and it is a matter which I believe ultimately would get the support of, or will be supported by our party.

There is much to take notice of concerning the action of the Liberal Government of the

State of Tasmania and the claims of the Attorney General of that State to which I have referred with respect to reform of the electoral system of its upper House to introduce the principle of one-vote-one-value.

There is much in the proposals put forward on behalf of the Liberal Party WA Branch by the State President, Dr Honey, that the Commission on Government should take note of. On one point in that submission, the Liberal Party expresses some equivocation on the question of voluntary or compulsory voting, or as it should more appropriately be put, compulsory attendance or universal attendance. I do not think any party can contemplate the concept of voluntary enrolment to begin with as a separate component from voluntary voting. We need only consider the American experience and all the problems caused there with voluntary enrolment and non-participation in the system. At the local level, if we were to opt for voluntary enrolment, it would lead to the ripping up of all agreements with the Commonwealth on joint enrolment procedures. Members should be in no doubt that the Commonwealth will not change on this issue. With redistribution we could not ensure equality of districts if we had voluntary enrolment because of course there could be a considerable fluctuation between the drawing of the boundaries on the basis of voluntary enrolment and the final numbers in constituencies when it came to polling day. It would preclude any sort of equality in terms of numbers if we were to move to voluntary enrolment. Of course, the alternative means of effecting some sort of equality is to use the population figures. I remember the cries of protest from the conservative side of politics when the Whitlam Government proposed to use population as the basis for drawing up electoral boundaries rather than enrolled electors. It clearly cannot be contemplated.

The second component, the idea of voluntary voting, cannot be contemplated when one considers the practicalities of the situation. The concept of government legitimacy must be taken into account when considering the sort of turnout that would occur if a voluntary system were introduced. When the Commonwealth introduced universal attendance the turnout was around 50 per cent. A conservative Government, at the commonwealth level, recognised the necessity to introduce compulsory attendance with that sort of turnout. It was a similar situation in Western Australia when the Labor Government introduced compulsory attendance for the Legislative Assembly in 1936. Of course, it was a coalition Government in the 1960s which, in its reforms involving the abolition of property franchise, introduced compulsory voting for the Legislative Council. The last voluntary vote for this Chamber in the early 1960s resulted in a turnout of 41.7 per cent. We cannot contemplate a return to that level of attendance to public duty. Of course, 41.7 per cent is not necessarily the bottom line. We need look only to the attendance at local government elections in Western Australia, where the average attendance throughout the 1980s was in the order of 24 per cent, to see where we bottom out. Even if the figure was somewhere between 24 per cent and 41 per cent, the last voluntary turnout for this Chamber, it would not be a satisfactory figure at around one-third.

The Government has admitted the need for a certain level of turnout of vote for the Government to have legitimacy. It recognised this by way of the very expensive experiments taking place in local government. For example, postal ballots are being sent to everyone. In the recent Perth City Council poll the cost of postal ballots was approximately $450 000. It is an expensive experiment and it achieves nowhere near the turnout that compulsory attendance does; a proven system which is currently in place. Western Australia would be a joke under the federal system if it were to have a state Parliament elected on a 40 per cent turnout with the Government of the day receiving 21 per cent when the Commonwealth Government may enjoy a mandate from 53 or 54 per cent of the citizens of Western Australia. What a joke the standing of this Parliament would be in the federal system. There are a number of compelling reasons why we should not adopt the initial inclination of some members of the Liberal and National Parties.

Of particular concern is the turnout of the youth vote. In the United States the turnout can be as low as 18 per cent in the 18 to 24-year old bracket. That is hardly an effective training for a generation that will have to uphold a democratic nation. Of course, there is

the component of civil culture. Some people would argue that compulsory voting does not perform any educative role. It has not done that, but by the same token the removal of this one exercise of involvement by many people in the democratic process would hardly help the educative role either.

With respect to the terms of reference of the Commission on Government we should not overlook the spectre of corruption. When one looks to the United States system and privatises electoral enrolment and puts it in the hands of the political parties or individuals, it leads to a greater corruption of the system. Those who have the money will turn out to vote. Members who have read the various biographies on Lyndon Johnson and other remarkable United States' political figures will be aware of how the voluntary vote was used to assist in rigged elections. The Liberal Party's submission to the Commission on Government includes some very worthwhile proposals for the electoral system. I have already referred to same, but it would be a great mistake to try that experiment. We have the opportunity to act after the Commission on Government brings down its first phase 1 report on 22 August. We also have the opportunity to act before the High Court starts hearing the case on one-vote-one-value and brings down its judgment.

In conclusion I will refer to the latest round of industrial reforms proposed by this Government. I did read the paper circulated by the Minister for Labour Relations and I have examined the key features of the proposed industrial relations legislation. The Government has refined its attack on the trade union movement. This set of proposals centres around six ideas to attack the organised representation of workers in this State. First there is the old straight-jacket trick: Lock the workers into the state award system. It is a little like putting up the Berlin Wall to keep the workers in the industrial utopia that is created this side of the wall. There could be no other reason. The Western Australian Government's directive states that where a union of a stated federal body seeks federal award coverage for employees covered by state awards, the state organisation can have all its rights in respect of that award and the employees covered by it cancelled. The tenor of the ministerial directive is very clear: The Minister may cancel the rights of the organisation, and there will be no appeal against the cancellation. The replacement organisation cannot decline to take over coverage. An organisation that has its rights cancelled in respect of a particular award loses the right to represent employees covered by that award, forever. If the Minister fails to act, and a future Labor Minister may choose not to act, an employer may apply to the Industrial Relations Commission for action. In certain circumstances the state Industrial Relations Commission is then obliged to cancel the rights of the state organisation in respect of that award, and appoint another organisation in its place. If anyone even thought about heading out of the new state industrial utopia that person would be shot on sight.

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

## ADJOURNMENT OF THE HOUSE - ORDINARY

**HON GEORGE CASH** (North Metropolitan - Leader of the House) [11.01 pm]: I move -

That the House do now adjourn.

*Adjournment Debate - Fremantle Hospital, Patients Awaiting Admission Delays*

**HON TOM HELM** (Mining and Pastoral) [11.02 pm]: I bring to the attention of the House a situation at the Fremantle Hospital last Sunday. I will outline some details that were relayed to me over the telephone. Mr Joseph Pszczola, who has emphysema, was taken to the Fremantle Hospital emergency unit on Sunday, 25 June 1995, by his daughter. He was suffering from pneumonia, a chest infection, a bladder infection and heart failure. The doctors in the emergency unit decided that he be admitted to the hospital at 4.00 pm. He was placed in a corridor with approximately 13 other patients until a bed could be found for him. This corridor was being used as a general thoroughfare by other patients and staff of the hospital. There were beds on either side of

the corridor and most of the patients awaiting admission were on drips and oxygen. Mr Pszczola was also on an electrocardiograph machine which failed to work and was abandoned. Mr Pszczola was in great distress and attempted to pull off his oxygen mask and remove the drip whereupon his daughter had to run to the main admission desk to obtain assistance. A female patient in obvious distress was wandering up and down the corridor completely disoriented; she appeared to be drugged and confused. She was left to her own devices and not attended to. There were too few staff to attend to the patients awaiting admission. Mr Pszczola was finally admitted to a ward at 6.00 pm on Monday, 26 June 1995.

I am talking about Fremantle Hospital, and about a patient who, to my untrained eye, was in a serious condition. He is an old man, and he sought attention at the emergency unit. It took 26 hours for him to be removed from the corridor containing about 13 other patients, and to be put into a hospital bed. I am talking about Fremantle, not Sarajevo. I am not talking about Soweto or some third world country on the African continent. I am talking about Fremantle, and this is 1995. In those circumstances, surely something is radically wrong with our society. Surely, something needs to be done. If this happened in Port Hedland Hospital, there would be an outcry - and rightly so.

I am a friend of the daughter of this man. She rang me out of frustration, I suppose, to explain the circumstances. She and her husband could not understand why her father was subjected to that sort of treatment in this day and age. They are hard working people. They pay their taxes, as do her father and mother; and yet they were subjected to this sort of treatment. It is a disgrace. It surprises me that members on the government front bench are laughing. I refer to the Ministers for Education and Transport.

Hon N.F. Moore: It has nothing to do with what the member is saying.

Hon TOM HELM: Maybe this is a joke, when we think about the Minister responsible -

Hon E.J. Charlton: With respect, I saw your colleagues doing the same thing.

Hon TOM HELM: The Minister should not interject.

Hon E.J. Charlton: I need to interject because you always use such an occasion to denigrate someone.

Hon TOM HELM: This shows the Minister's ignorance and stupidity.

The DEPUTY PRESIDENT (Hon Barry House): Order! If the Minister ceases his interjections, and the member directs his comments to the Chair, I am sure it will be easier for the member to continue his comments.

Hon TOM HELM: Obviously the laughing hyenas on the other side of the House do not understand what I am saying. The Minister responsible for the distress of this patient is the Minister for Health, and I wonder if this is part of a grand new plan so that we will look at health services in this State in a different light. Perhaps we will build hospitals without wards. Perhaps we will build hospitals with long corridors, and we can whack all the patients into a corridor. We would need fewer staff, facilities and amenities. Perhaps the cost of hospital treatment would then be within the realms of this State. The situation is an utter disgrace and a tragedy, but people on the Government side of this Chamber find it a joke.

*Point of Order*

Hon E.J. CHARLTON: My colleague and I were discussing a different issue. At the time, I noticed opposition members were also smiling but I do not think they were treating this issue as a joke. The member should not reflect on government members and accuse them of being critical or denigrating the serious issue to which he is referring.

The DEPUTY PRESIDENT: That is not a point of order, but the Minister has made his point.

*Debate Resumed*

Hon TOM HELM: I thank the Minister for his comments. I note them. Obviously he

understands why I was angry when I saw members laughing, although I did not see any opposition member laughing.

It is important for the family concerned to know that someone will take up the matter on their behalf. I have taken it up with the shadow Minister for Health so that he can progress the matter, because Fremantle is not near my electorate. The matter can best be taken up by a member from the area, such as the Leader of the Opposition in the other place, the member for Fremantle; and his deputy, the shadow Minister for Health.

The most frustrating aspect is that we all think these things happen to someone else. When such events are reported in a newspaper we regard them at arm's length. We do not think it will happen to us, but when it does we must reconsider our position. When I went to see the Deputy Leader of the Opposition in the other place, the shadow Minister for Health, he gave me a copy of his press release dated 15 June. In part, it states that programs have been affected negatively by the Budget; that is, the public health allocation is down by 6.15 per cent; community health is down by 6.6 per cent; secondary and tertiary hospitals are down by 6 per cent; and continuing care is down by 7.25 per cent, in real terms. A person waited 26 hours to be admitted to hospital, and we know that the Health budget is to be reduced, so we have real problems. They need to be addressed, but they will not be addressed by cutting funding to the public health system.

Question put and passed.

*House adjourned at 11.10 pm*

## QUESTIONS ON NOTICE

### MINISTERIAL PORTFOLIOS - CHRISTMAS CARDS

539. Hon TOM STEPHENS to the Minister for Transport:

(1) What was the number and total cost to the Minister's ministerial budget allocation for Christmas cards that were sent out by the Minister last year?

(2) Did the Minister send cards to other Ministers?

(3) Who printed the cards?

(4) How many Christmas cards were unused?

Hon E.J. CHARLTON replied:

(1) 941 Christmas cards were sent out last year at an approximate cost of $977.

(2) Yes.

(3) State Print.

(4) 59.

### MAIN ROADS DEPARTMENT - STAFF REDUCTIONS

985. Hon JOHN HALDEN to the Minister for Transport:

Main Roads is planning to reduce its work force by a further 15 per cent following a reduction of 10 per cent since February 1994 and as Main Roads has a history of under expenditure and fund carry-over (in the vicinity of 10 per cent of the annual budget, i.e. underspent $30m) -

(1) Can the Government guarantee that Main Roads will be able to effectively spend its current budget plus the additional funds of $100m from the 4¢ petrol levy with these staff reductions?

(2) Is it correct that Main Roads retired employees, including those in receipt of redundancy packages, have been re-employed by Main Roads as hourly rate contracts (through agencies or private businesses) without competitive tender?

(3) Can the Minister provide a list for the last 12 months of all ex Main Road payroll employees who have been employed on hourly rates contracts including the following -

(a) the reasons for leaving employment, that is redundancy, retirement or resignation;

(b) the agency/business the re-employment was through;

(c) the total hours;

(d) the rates of pay; and

(e) whether any of these were subject to competitive tendering?

Hon E.J. CHARLTON replied:

(1) It must be understood that the number of Main Roads staff is not directly related to its expenditure program. For many years there has been a limited carry-over of funds at the end of each financial year for committed works and outstanding payments to creditors for work performed and this is likely to be the case into the future. It is neither practical nor efficient to spend funds for the sake of spending them to suit an "end of year" target. Payments to contractors and suppliers are only made when the supply of services or goods has been satisfactorily performed. Unspent funds are retained by Main Roads.

(2)-(3)

The Commissioner of Main Roads has informed me that people previously employed by Main Roads have been re-engaged as contractors and through employment agencies over the past 12 months. The commissioner assures me he has examined the conditions that apply to past contracts and he is satisfied that they represent value for money.

PRISONS - PRISONERS INFECTED WITH HEPATITIS C AND AIDS

1768. Hon BOB THOMAS to the Minister for the Environment representing the Attorney General:

(1) What progress has been made towards mainstreaming hepatitis C and AIDS infected prisoners?

(2) Have prison regulations been developed to properly manage this process?

(3) Are all prison staff made aware which prisoners have these communicable diseases and details of the disease?

(4) If not, why not and what information is made available to the staff?

(5) What is the procedure if a staff member comes in contact with a disease transferring medium from a prisoner?

Hon PETER FOSS replied:

The following reply has been provided by the Minister assisting the Minister for Justice -

(1) Hepatitis C prisoners are placed in prisons in accordance with their security rating and institutional behaviour. HIV positive prisoners are not currently mainstreamed, but progress is being made towards this. A blood borne communicable diseases training package has been developed within the Ministry of Justice to assist the proper integration of appropriately assessed HIV positive prisoners into prison populations.

(2) A director general's rule relevant to the placement and management of HIV positive prisoners is currently being developed in conjunction with key stakeholders.

(3) Prison staff are expected to manage every prisoner as potential HIV positive. This is the only means to guarantee staff safety. The issue of selected prison staff being made aware of a prisoner's HIV status is currently the subject of ongoing discussion between the Western Australian Prison Officers Union and Corrective Services management.

(4) See (3).

(5) Staff are advised to follow procedures based on universal infection control procedures. These include preventive measures, the use of protective equipment, and recommended responses to reduce potential risk of exposure.

WATER AUTHORITY - SEWERAGE INFILL PROGRAM
*Contractors, Broken Water Mains*

2157. Hon SAM PIANTADOSI to the Minister for Water Resources:

(1) How many broken water services mains have been reported damaged due to infill sewerage contractors carrying out their work?

(2) Will the Minister please table their locations, time that they were reported and the time that they were fixed?

(3) Will the Minister please table the cost of effecting repairs to those services?

Hon PETER FOSS replied:

(1)

| | |
|---|---|
| Perth North | 49 |
| Perth South | 18 |
| Goldfields & Ag | 1 |
| South West | 9 |
| Gt Southern | 4 water mains; 0 property connections |
| Mid West | 8 water mains; 6 property connections. |

(2) Yes. I now seek leave to table this document. [See paper No 441.]

(3) No cost to the Water Authority in all cases except for those where the damage was caused by the construction branch of the Water Authority.

MINISTERIAL PORTFOLIOS - ALCOHOL AND LIQUOR EXPENDITURE

2643. Hon TOM STEPHENS to the Minister for the Environment:

What Government funds have been spent on alcohol and liquor supplies for -

(a) the Minister's office; and

(b) each department or agency within the Minister's portfolio areas, for the years 1993-94 and 1994-95?

Hon PETER FOSS replied:

Considerable resources would be required to be diverted from government business to answer this question. I am not prepared to divert these resources. If the member has a specific question I will endeavour to provide a response.

KALGOORLIE - SULPHUR DIOXIDE LEVELS

3034. Hon J.A. SCOTT to the Minister for the Environment:

(1) Is the Minister aware that sulphur dioxide levels in Kalgoorlie have exceeded the Environmental Protection Authority's one hour limit on several occasions this year?

(2) Will the Minister list the days on which the 2 000 micrograms per cubic metre limit was exceeded for the one hour average and the values measured by the Department of Environmental Protection on those occasions?

(3) Has the ten minute average for sulphur dioxide for the Kalgoorlie region exceeded 4 000 micrograms per cubic metre on any occasion this year?

(4) If yes, on what dates, at what locations, and what were the levels recorded?

(5) Have sulphur dioxide readings been taken in the vicinity of Kalgoorlie Regional Hospital this year?

(6) If yes, when were they taken, what were the levels recorded, and by how much did they exceed World Health Organisation limits?

(7) Is the Minister aware that his department considers that "sulphur dioxide can have severe health impacts and particularly to those individuals subject to respiratory disease" and that "its effects are made worse in the presence of particulate matter which is of respirable size or present in the sub-micron range"?

(8) Is the Government concerned at the high levels of dust and sulphur dioxide that are being recorded in Kalgoorlie?

(9) If yes, what does the Minister intend to do about it?

(10) If no, why not?

(11) What are the main sources of respirable dust and sulphur dioxide in Kalgoorlie-Boulder?

(12) Is the Minister aware that the EPA's air quality guidelines published in May 1993 specify a one hour average sulphur dioxide limit of 350 micrograms per cubic metre?

(13) If yes, how does the Minister justify a limit of 2 000 micrograms of sulphur dioxide per cubic metre for residents of Kalgoorlie?

(14) On how many occasions this year have the Western Australian air quality guidelines been exceeded in Kalgoorlie?

(15) What is the World Health Organisation limit for the one hour average level of sulphur dioxide?

(16) On how many occasions this year has the World Health Organisation's sulphur dioxide limit been exceeded at the Kurrawong Aboriginal settlement, and by how much was it exceeded?

Hon PETER FOSS replied:

(1) The one hour limit set under the environmental protection policy for sulphur dioxide in the goldfields has been exceeded only once this year.

(2) The Department of Environmental Protection does not operate sulphur dioxide monitors in the goldfields. A network of monitors is operated by mining companies and the data provided to the department under conditions of licence. The limit of 1 800 (not 2 000) micrograms per cubic metre was exceeded on 24 February 1995, with measurements at the Kalgoorlie Regional Hospital of 2 984 micrograms per cubic metre and at the Kalgoorlie council yard of 2 267 micrograms per cubic metre.

(3) Yes.

(4) On only one date, 24 February 1995, at the Kalgoorlie council yard. The measured maximum 10 minute concentration was 4 098 micrograms per cubic metre.

(5) Yes.

(6) Readings are taken continuously. A detailed summary of recorded levels may be obtained from the Department of Environmental Protection on request. The World Health Organisation regional office for Europe has published a guideline, not a limit, of 350 micrograms per cubic metre. The hospital monitor recorded exceedances of the World Health Organisation guideline on 12 days up to 31 May this year, with the highest hourly average being 2 984 micrograms per cubic metre.

(7) Yes, in relation to very high levels of sulphur dioxide the statement is correct.

(8) Yes, but with the recognition that air quality in the Kalgoorlie region is now vastly better than in the mid to late 1980s as a result of the efforts of both this Government and the previous Government, in cooperation with goldfields mining companies.

(9) This Government is continuing to administer the environmental protection policy which requires progressive improvement of air quality and has negotiated the installation of an acid plant on the Kalgoorlie nickel smelter which will dramatically reduce sulphur dioxide emissions. Dust problems are being managed by mining companies in consultation with Department of Environmental Protection officers based at Kalgoorlie.

(10) Not applicable.

(11) The main sources of sulphur dioxide in the Kalgoorlie area are the Kalgoorlie nickel smelter and the Gidji and Kanowna Belle gold roasters. There are many sources of dust from mining activities. However, I am not aware of any work to determine how much of the dust is in the respirable range.

(12) There are no formal Environmental Protection Authority air quality guidelines other than the environmental protection policies for the goldfields and Kwinana. The May 1993 document referred to by the member was a draft discussion paper circulated by the now Department of Environmental Protection which has not been published.

(13) The sulphur dioxide limit is decreasing annually from 2 000 micrograms per cubic metre in 1993 to 1 400 micrograms per cubic metre in 1997. These limits were established to provide a reasonable and improving level of protection for the population of a city which exists because of the gold and nickel industries, recognising the economic constraint on industries.

(14) There are no such guidelines with this or a similar name in existence.

(15) The World Health Organisation regional office for Europe has published a guideline, not a limit, of 350 micrograms per cubic metre.

(16) The World Health Organisation guideline of 350 micrograms per cubic metre has been exceeded at the Kurrawang Aboriginal settlement on 21 days this year up to 31 May 1995, with the highest recorded hourly average being 1 365 micrograms per cubic metre.

CALM - BUDGET, LAND ACQUISITION ALLOCATION

3146. Hon TOM STEPHENS to the Minister for the Environment:

(1) Was there a budget allocation in the 1994-95 Conservation and Land Management budget for land acquisition?

(2) If yes, what was that appropriation?

(3) Is there a budget allocation in the 1995-96 CALM budget for land acquisitions?

(4) If yes, what is that appropriation?

Hon PETER FOSS replied:

(1) Yes.

(2) $200 000.

(3) Yes.

(4) $200 000.

## QUESTIONS WITHOUT NOTICE

TAFE - BENTLEY CAMPUS
*Child Care Centre, Upgrade; Management Privatisation*

507. Hon JOHN HALDEN to the Minister for Education:

(1) Can the Minister confirm that $650 000 is being spent to upgrade the child care facilities at Bentley TAFE?

(2) Are expressions of interest being sought for private management of this facility?

(3) If yes, will the private operators be contributing to the upgrading from which they will benefit? If not, why not?

Hon N.F. MOORE replied:

(1)-(3) I cannot confirm one way or the other the figure of $650 000, but consideration has been given to privatising the management of TAFE child care. The Executive Director of the Department of Training has in recent times spoken to me about this matter and has suggested that a number of other options could be considered, and they are being considered.

STATE TAXATION DEPARTMENT - WORKPLACE AGREEMENTS

508. Hon N.D. GRIFFITHS to the Minister for Finance:

(1) Are all new employees of the State Taxation Department offered workplace agreements?

(2) If not, are all new employees of the State Taxation Department offered workplace agreements unless there is a strong reason for not doing so?

(3) What are those strong reasons?

Hon MAX EVANS replied:

In order to provide a precise answer I ask that the member put that question on notice.

STATE TAXATION DEPARTMENT - WORKPLACE AGREEMENTS

509. Hon N.D. GRIFFITHS to the Minister for Finance:

(1) Has the State Taxation Department developed a draft generic document which provides for a range of issues as a basis of negotiations with an employee for workplace agreements?

(2) Are the terms of any such workplace agreement entered into ratified by the Cabinet labour relations subcommittee?

Hon MAX EVANS replied:

(1)-(2) From memory the State Taxation Department has drawn up a draft workplace agreement, and such agreements are ratified by a subcommittee of Cabinet, but I do not think the workplace agreement for the State Taxation Department has been finalised.

COMMUNITY DEVELOPMENT, DEPARTMENT FOR - FREEMAN, ROSEMARY AND SISTERS, ABUSE IN FOSTER CARE COMPENSATION

510. Hon CHERYL DAVENPORT to the Leader of the House representing the Premier:

(1) Is the Premier aware that since early 1993 the Minister for Community Development has been considering Crown Law advice on claims for compensation by Rosalie Fraser and her sisters who suffered abuse while in foster care and is yet to make a decision.

(2) Will the Premier intervene and require that his Minister make a decision urgently?

(3) If not, why not?

Hon GEORGE CASH replied:

I thank the member for some notice of the question. The Premier has advised that he is awaiting a fully researched answer from the Crown Solicitor's Office.

SCHOOLS - RATIONALISATION PROGRAM

511. Hon Val FERGUSON to the Minister for Education:

Is the Minister now able to provide me with an answer to question without notice 496 on the school rationalisation program? The question was -

(1) Under the school rationalisation program how many schools have decided -

(a) to close;

(b) to amalgamate?

(2) How many schools are still involved in the program?

(3) How much has the program cost to administer up to date or, if more convenient, up to 1 June 1995?

Hon N.F. MOORE replied:

Yes. This question required a lot of work to determine the number of dollars being spent on this program. I asked that the question be placed on notice. The member obviously decided that she needed the answer quicker than that, so an officer has spent a fair amount of time today getting the answer. Some figures, which I will identify when I answer the question, are subject to alteration. They will need to be altered when the rest of the work is completed.

Hon Tom Helm interjected.

Hon N.F. MOORE: I want to make absolutely certain that Hon Tom Helm does not suggest that I am misleading the House. I am trying to explain that the pressure that these sorts of questions put on officers to provide quick answers sometimes leads to the wrong information being provided. The answer to question 496 is as follows -

(1) (a) Four;
(b) six.

(2) Forty.

(3) The school rationalisation unit was established in July 1993 to develop a new policy for the Government. Also, at this time, management of all school closures was transferred to the unit. From July to December 1993 the unit was responsible for the administration of the closure of five schools. The recurrent savings from these schools was set aside to meet the costs of the rationalisation unit. These savings amounted to $354 263 in 1993-94 and $740 874 in 1994-95. It is projected that these savings will produce a further saving of $772 878 in 1995-96. Since the application of the policy in September 1994, 10 schools have elected to amalgamate or close. These schools will produce the following savings -

| | $ |
|---|---|
| Annual recurrent savings | 812 039 |
| Notional savings in transportables | 245 000 |
| Costs forgone through upgrades | 3 295 000 |
| Costs forgone in maintenance | 658 855 |
| Asset realisation - projected | 412 625 |

As of 28 June 1995, it is anticipated that a number of additional schools will elect to close. This should lead to significant additional savings in the near future. The cost of the school rationalisation can be broken up into two parts -

Part A -1993 school closures, policy development and application July 1993 to September 1994 -

| | |
|---|---|
| Salaries | $525 689 |
| Contingencies | $176 027 |
| Total | $701 716 |

Part B -Implementation - October 1994 to 30 June 1995

| | |
|---|---|
| Salaries | $266 183 |
| Contingencies | $246 269 |
| Total | $512 452 |
| Total cost | $1 214 168 |

The salaries in part B for the period October 1994 to June 1995 is $266 183. The officer concerned is not adamant that that is the correct figure, and if it changes I will advise the member accordingly.

PUBLIC SECTOR EMPLOYEES - POWERS TO DIRECT TO PRIVATE SECTOR, USED BY GOVERNMENT IF NECESSARY

512. Hon A.J.G. MacTIERNAN to the Leader of the House representing the Premier:

(1) Will the Premier confirm advice given to the Legislative Council by the Minister for the Environment that powers to direct public sector workers to take positions in the private sector may be used by the Government if it deems it necessary?

(2) Has the Premier received any legal advice that a dismissal of a worker who refuses a direction to transfer to the private sector may breach the federal unfair dismissal legislation?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. The Premier has provided the following reply -

(1) In the current circumstances, the power to direct employees to the private sector will not be used; however, the provisions to do so remain, and could be applied if in the future the circumstances required their application.

(2) The Premier is not aware of any such advice.

ABORIGINAL BURIAL SITES - SANDY POINT, PROTECTION

513. Hon TOM STEPHENS to the Minister for Education representing the Minister for Aboriginal Affairs:

What resources can be made available to the Beagle Bay community to protect endangered Aboriginal burial sites in the Sandy Point area known as Bargijuk?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The Minister for Aboriginal Affairs has provided the following reply -

Officers of the heritage and culture division of the Aboriginal Affairs Department have commenced discussions with the Beagle Bay community on protection measures for the burial areas. Resources are available in the heritage management budget of the Aboriginal Affairs Department and funding will be applied to the protection of these areas following further consultation with local community groups.

MAIN ROADS - BROOME-CAPE LEVEQUE ROAD, FUNDS EXPENDITURE

514. Hon TOM STEPHENS to the Minister for Transport:

(1) What funds were spent by Main Roads Western Australia on the Broome to Cape Leveque road in -

(a) 1993-94; and
(b) 1994-95?

(2) What funds are proposed to be spent on this road in 1995-96?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question.

(1) (a) $147 000
(b) $133 000.

(2) 1995-96 - $151 700. That is Main Roads money. There is in addition local government money.

TRANSPORT, DEPARTMENT OF - WORKPLACE AGREEMENTS

515. Hon N.D. GRIFFITHS to the Minister for Transport:

(1) Are all new employees of the Department of Transport offered workplace agreements?

(2) If not, are all new employees of the department offered workplace agreements unless there are strong reasons for not doing so?

(3) What are those strong reasons?

Hon E.J. CHARLTON replied:

I recommend the member put the question on notice.

TRANSPORT, DEPARTMENT OF - WORKPLACE AGREEMENTS

516. Hon N.D. GRIFFITHS to the Minister for Transport:

(1) Has the Department of Transport developed a draft generic document which provides for a range of issues as a basis of negotiations with an employee for a workplace agreement?

(2) Are the terms of any such workplace agreement entered into ratified by the Cabinet labour relations subcommittee?

Hon E.J. CHARLTON replied:

(1) As a general application right across the Transport portfolio, not just the Department of Transport, in certain areas people are encouraged to participate in workplace agreements, if that is their desire. At Westrail, for example, the new patrol officers will be employed on that basis and are being processed in that way. The same applies to a whole range of positions.

(2) If members of the work force in any of the departments within the transport area want to go down that path, they negotiate that with respective agency. The agreement goes to the subcommittee on industrial relations and then to Cabinet, just as enterprise bargaining agreements do. Those on workplace agreements then go away with more money in their pockets and live happily ever after.

EDUCATION DEPARTMENT - TEACHERS, ADDITIONAL, EMPLOYMENT

517. Hon Val FERGUSON to the Minister for Education:

(1) How many additional teachers were employed in the Education Department in the years 1986 to 1995 inclusive?

(2) Is it proposed that teaching staff in head office and district offices will be redeployed back to schools in 1996?

(3) If so, how many?

Hon N.F. MOORE replied:

(1) The number of additional teachers employed in the Education Department in the years 1986 to 1995 is not readily available. A manual check is required to be undertaken which would take a reasonable amount of time and I ask that the member put this question on notice.

(2)-(3) It is possible that a small number of teaching staff in head office and district offices may be redeployed back to schools in 1996.

HOLY TRINITY CHURCH, YORK - HESELTINE, SIR WILLIAM, DISCLOSURE OF INTEREST

518. Hon KIM CHANCE to the Minister for Racing and Gaming:

I refer the Minister to part (5) of his answer to my question without notice 442 -

(1) To whom did Sir William Heseltine disclose his interest in the Holy Trinity Church, York?

(2) Were all members of the Lotteries Commission Board aware of the disclosure prior to making their decision to allocate funds to the Holy Trinity project?

(3) At which meeting of the Lotteries Commission Board were members advised of Sir William's declaration of interest?

(4) Was the disclosure minuted by either the Lotteries Commission Board or the Heritage Advisory Committee?

(5) Will the Minister table the relevant minutes which note the disclosure?

Hon MAX EVANS replied:

I thank the member for some notice of this question.

(1) The Heritage Advisory Committee is chaired by a member of the Lotteries Commission Board, Commissioner Frank Montgomery. Sir William Heseltine disclosed his interest to the advisory committee.

(2) No. The chairman of the heritage committee is the board's formal representative on this committee.

(3) Declaration of interest was given verbally to the Heritage Advisory Committee on 14 April 1994 at Sir William's first meeting. The minutes of that meeting do not formally record the disclosure of interest.

(4) No.

(5) Not applicable.

ROCK LOBSTER INDUSTRY ADVISORY COMMITTEE - INSIDER TRADING BY MEMBERS INQUIRY

519. Hon KIM CHANCE to the Minister for Transport representing the Minister for Fisheries:

(1) Following allegations of insider trading by members of the Rock Lobster Industry Advisory Committee during 1993, did the Minister direct that a thorough inquiry be undertaken?

(2) If so, does the Minister have a report from that inquiry and will he table that report?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. The Minister for Fisheries has provided the following reply -

(1)-(2) As a result of the serious nature of the allegations, information was forwarded to the Crown Solicitor to ascertain whether, on the available evidence, any offences had occurred. The advice received from the Crown Solicitor indicated that no offences had occurred.

DIRECTOR OF PUBLIC PROSECUTIONS - THOY, R.M., ACTING INSPECTOR, MEMORANDUM

520. Hon MARK NEVILL to the Minister representing the Attorney General:

(1) Has the Director of Public Prosecutions responded to a memorandum dated 29 December 1994 from Acting Inspector R.M. Thoy seeking an opinion as to the autonomy of police persons involved in investigations?

(2) If yes, when was the response sent to Acting Inspector R.M. Thoy?

(3) Was an opinion provided to Acting Inspector R.M. Thoy?

(4) If yes, will the Minister table the opinion or the response of the DPP?

(5) If no opinion or response has been sent to the memorandum, why has there not been a reply to this memorandum?

Hon GEORGE CASH replied:

(1)-(5) The Attorney General was unable to provide an answer in the time that was available and asks that the member put the question on notice.

## FIREARMS - LICENCES ISSUED
*Defence Act, Section 24, Repealed*

521. Hon J.A. COWDELL to the Leader of the House representing the Minister for Police:

(1) How many firearm licences or permits have been issued to persons under the age of 18 years in each of the last 10 years?

(2) Does the Government support the repeal of section 24 of the Commonwealth Defence Act 1993, which is the section that deals with rifle clubs?

(3) If yes, has the Government approached the Commonwealth Government with a view to repealing this section of the Defence Act?

Hon GEORGE CASH replied:

I thank the member for some notice of this question. The Commissioner of Police has provided the following information -

(1) It is not possible to answer the question in its present format without considerable resources being applied to research the matter. Persons licensed to possess firearms in this State are not categorised by age.

(2) The Department of Defence advises that section 24 of the commonwealth Defence Act 1903 has been repealed.

(3) Not applicable.

## WESTRAIL - EMPLOYEES, FUTURE EMPLOYMENT

522. Hon A.J.G. MacTIERNAN to the Minister for Transport:

With regard to question 486 I asked yesterday, of which some notice had been given, regarding the future employment of Westrail employees, has the Minister now received the answer to that question? If so, what is the answer?

Hon E.J. CHARLTON replied:

I am very pleased to advise the member that I have received an answer to the question, and I thank her for notice of that question. I am informed by the Acting Commissioner for Railways that he did not advise Westrail employees in the manner suggested by the member. In response to the member's specific questions, I advise as follows -

(1) (a) The provisions of the Public Sector Management (Redeployment and Redundancy) Regulations 1994 of the Public Sector Management Act will apply; and

(b) the provisions of the Public Sector Management (Redeployment and Redundancy) Regulations 1994 set out the terms and conditions under which public sector employees would be treated if their positions became redundant. In both the regulations and government policy there is heavy emphasis on the continuation of employment, by way of redeployment or transfer to the private sector. There are powers under which an employee could be directed to take up an offer of a job with the private sector; they are reserve powers and would be used only in a worst case scenario.

(2) The placing of staff who opt for redeployment will depend on their current skills and the available vacancies to which staff can be placed. Westrail's redeployment and redundancy task force will manage the redeployment of staff in conjunction with the work force management office, where necessary.

(3) No; however, the Acting Commissioner for Railways believes significant

numbers of Westrail employees will seek redeployment elsewhere in Westrail or with the wider public sector.

APPRENTICESHIPS - WORKPLACE AGREEMENTS

523. Hon A.J.G. MacTIERNAN to the Minister representing the Minister for Labour Relations:

(1) Does the Minister condone the termination of an apprenticeship, with the worker then being offered a position under a workplace agreement?

(2) If no, what action will the Minister take to ensure this situation does not occur?

Hon GEORGE CASH replied:

I thank the member for some notice of this question.

(1) It is not legitimate for an employee to be dismissed unfairly. It is legitimate for the terms and conditions of employment for an apprentice to be subject to a registered workplace agreement.

(2) An employee who believes he has been dismissed unfairly, and where a workplace agreement is involved, may refer the matter to the Department of Productivity and Labour Relations for investigation.

MARKET CITY - TRADING HOURS, CHANGES

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

(1) Have buyers using the Perth Market Authority complex at Canning Vale been advised that market hours will change from 30 July 1995, and that future Monday, Wednesday and Friday markets will exclude buyers except from 3.00 am to noon in summer, and 4.00 am to noon in winter?

(2) Has the PMA also advised that it intends that these hours will apply for the next two years?

(3) Will agents be permitted to trade overnight; that is, prior to the markets opening to buyers at 3.00 am or 4.00 am?

(4) If the answer to (3) is yes, has the Minister been advised that sufficient produce will still be available to satisfy buyers' demands when the markets are open to the buyers in the morning?

(5) Has the decision on market hours been made subsequent to the release of a consultant's report on market operations?

(6) Has the Minister had access to this report prior to approving the new market arrangements?

(7) Did the buyers, who will be affected by these changes, have an opportunity to comment on the report's findings prior to the implementation of the changes?

(8) If not, why not?

(9) Will the Minister release the consultant's report?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. The Minister for Primary Industry has provided the following reply -

(1) Buyers have been advised that they will be excluded from the central trading area building between 5.00 pm Sunday to 3.00 am Monday in summer, and 4.00 am in winter; 5.00 pm Tuesday to 3.00 am Wednesday in summer, and 4.00 am in winter; and 5.00 pm Thursday to 3.00 am Friday in summer, and 4.00 am in winter.

(2) Yes.

(3)-(4) Agents may conduct their business at any time.

(5)-(9) The report was commissioned by the Perth Market Authority Board to cover a range of subjects, one of which was trading hours. The opinions of 400 growers and 200 buyers by telephone interview, and 125 in-depth interviews were obtained to produce the report. I understand the board's decision was made following detailed examination of the report, copies of which are planned to be released in the future.

BEAGLE BAY COMMUNITY - BY-LAWS, BOUNDARIES

525. Hon TOM STEPHENS to the Minister representing the Minister for Aboriginal Affairs:

(1) Do the community by-laws for the Beagle Bay community cover only the administrative area known as block 6, or do they extend to the whole Beagle Bay reserve?

(2) If they apply only to the administrative area known as block 6, why?

(3) Will the Government give consideration to extending the community by-laws to the whole reserve? If not, why not?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The Minister for Aboriginal Affairs has provided the following reply -

(1) The community by-laws cover all the lands within the boundaries shown on lands and surveys miscellaneous plan 1097. This is block 6, which is larger than the administrative area, but forms only part of the Beagle Bay reserve.

(2) They apply to more than the administrative area, but only to that part of the Beagle Bay reserve which is block 6 because this was the area proclaimed after discussions with the council members, justices, and the then Stipendiary Magistrate, Broome in 1981.

(3) Yes.

FISHERIES DEPARTMENT - COST RECOVERY FOR SERVICES; CONSOLIDATED FUND ALLOCATION

526. Hon KIM CHANCE to the Minister representing the Minister for Fisheries:

(1) What is the proposed time scale for the introduction of full cost recovery for services by the Fisheries Department?

(2) Is this time scale consistent with recommendation (3) on page 71 of the report of the Fisheries portfolio review?

(3) Will the consolidated fund allocation to the Fisheries Department be increased to a maximum of $14m during the reform process, as recommended on page 71 of the review report?

(4) Recommendation (6) of the review report on page 71 indicates that Fisheries Department activity costs need to be identified and assessed in detail, with internal efficiencies implemented, prior to beginning the user pays approach. Does the Minister intend to defer implementation of the user pays system until the industry has been assured that these safeguards have been put in place?

Hon E.J. CHARLTON replied:

I thank the member for some notice of this question. The Minister for Fisheries has provided the following reply -

(1)-(4) It is proposed that cost recovery will commence in 1995-96, and the

options are currently being discussed with industry. The consolidated fund for the 1995-96 Fisheries Department budget totalled $15.101m.

TAFE - MIDLAND COLLEGE
*Cleaning, Tendered Out*

527. Hon JOHN HALDEN to the Minister for Education:

(1) Is the Minister aware that contracts have been let for the cleaning of the Midland College of TAFE?

(2) Is the Minister aware that prior to the announcement of a successful tenderer, one tenderer has been at Midland TAFE signing workers to workplace agreements?

(3) Is that normal practice? If not, why is this situation being allowed?

Hon N.F. MOORE replied:

(1) I am aware that the cleaning at TAFE colleges is being tendered out, and I presume the same situation applies to Midland as elsewhere.

(2)-(3) I am not aware of the matters raised by the member, and I will seek the information and advise the member.

Hon John Halden: Tomorrow?

Hon N.F. MOORE: When I am ready.

SCHOOLS - ONE ARM POINT COMMUNITY
*Covered Assembly Area*

528. Hon TOM STEPHENS to the Minister for Education:

(1) Will funds be allocated for the construction of a covered assembly area for the One Arm Point community in 1995-96?

(2) If not why not?

Hon N.F. MOORE replied:

(1) I do not know.

(2) I do not have the list with me. I do not know whether One Arm Point was considered to be a school that required a covered area or whether it made a request for one, other than that the matter was raised by Hon Tom Stephens last night. As I pointed out to him then, during the 15 to 18 years he has represented that area he could have had his Government do something about it.

SCHOOLS - SUPPORT SERVICES, FEASIBILITY STUDY

529. Hon JOHN HALDEN to the Minister for Education:

(1) Is the education services division coordinating a study into school support services?

(2) If yes; which school support services will be included in this study?

Hon N.F. MOORE replied:

Questions come from members opposite over a long period and sit in a file for weeks. People spend their time seeking answers to them, but they do not get asked. Two weeks later I have the answer to the question.

(1)-(2) Yes; a feasibility study of school welfare officers, school psychologists, school social workers and visiting teachers - ESL - is being considered.