

PARLIAMENT OF WESTERN AUSTRALIA

LEGISLATIVE COUNCIL

**REPORT**  
**OF**  
**STANDING COMMITTEE**  
**ON**  
**LEGISLATION**  
**IN RELATION TO THE**  
**ACTS AMENDMENT**  
**(CONTRIBUTION TO LEGAL AID**  
**FUNDING) BILL**

Presented by the Hon Garry KELLY (CHAIRMAN)

JULY 1990

## **COMMITTEE MEMBERS**

<b>Chairman:</b>	<b>Honourable Garry Kelly MLC</b>
<b>Members:</b>	<b>Honourable John Caldwell MLC</b>
	<b>Honourable Cheryl Davenport MLC</b>
	<b>Honourable Peter Foss MLC</b>
	<b>Honourable Derrick Tomlinson MLC</b>

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**The committee has considered the Acts Amendment (Contribution to Legal Aid Funding) Bill 1990 and has agreed to recommend the Bill to the House, subject to:**

- 1. by majority decision, the amendment of Clause 5 of the Bill to provide that the variation to the trust deed expires on June 30 1993.**
- 2. by unanimous decision, the Attorney General moving amendments in the Committee of the Whole which embrace the principles he outlined to the committee at its meeting on Thursday June 28 1990 which were as follows:**
  - (a) that the Legal Aid Commission would receive 60% of earnings of the Public Purposes Trust Fund with the proviso that the trust fund be left with at least \$1 million dollars annually for disposal at its discretion; and**
  - (b) that the amount taken from the trust fund for the year ended June 30 1990 would be limited to \$400000.**

It is the intention of the Committee, where practical, in future to give a distillation of the evidence and arguments in its reports so that members may be acquainted with the factors considered by the Committee. Such a summary would enable the House quickly to determine the relevant matters requiring specific discussion in the Committee of the Whole.

Unfortunately, until such time as a permanent officer is appointed to assist the Committee the preparation of such a report is beyond its resources. We urge that the early appointment of such a person to enhance the work of the committee and enable the House to derive the maximum benefit from that work.

In considering this Bill the Committee has taken evidence from the Executive Director of the Law Society of WA, Mr Peter Fitzpatrick AM, a Transcript of his evidence is included as Appendix A, and the Attorney General, Hon J M Berinson QC MLC. Both the Attorney General and Mr Fitzgerald identified the almost unlimited demand for legal aid funding.

The Law Society indicated some of the uses the Public Purposes Trust money has been put. A copy of documents tendered to the Committee is included as Appendix B. Some of these uses are of a direct legal aid nature whilst others are beneficial to legal aid by way of education or the provision of facilities for free legal aid. Among these uses are measures which avoid recourse to legal aid.

The reason for the current proposed increases in contributions to legal aid include changes in the Legal Contribution Trust Act to divert money to increase the Solicitors' Guarantee Fund, increased demands for and increased costs of legal aid and reduced Commonwealth funding. The committee accepted the argument that the amendments proposed were necessary to maintain an adequate level of funding for legal aid but was concerned at the extent and duration of the usage of funds and also to ascertain if alternative sources should be explored. There was concern that the presently accrued capital amount of the Public Purposes Trust Fund would be diminished. The amendments proposed by the Attorney General ensures that a minimum of one million dollars be held for discretionary disbursement by the Law Society.

The committee also heard evidence from the Law Society that the contribution to legal aid in the Eastern States jurisdictions was derived from lawyers trust funds, and that these trust funds earned interest largely on money lodged as a result of the conveyancing monopoly enjoyed by the legal profession in those States.

The Law Society and a majority of the committee were of the view that since lawyers do not have a conveyancing monopoly in this State, the interest earned by settlement agents' trust funds and real estate agents' trust funds should be considered as a source of at least partial funding for the Legal Aid Commission.

The committee by majority inserted a sunset provision in clause 5 to allow for the consideration of a number of the above matters over the next three years, including the fact that it appears that present demands on the two trusts dealt with in the Bill may be altered substantially over that time.

LEGISLATIVE COUNCIL

**As reported from the Legislation Committee July 1990:**  
Words inserted are shown roman underlined with a single rule.

**A BILL**

FOR

**AN ACT to amend the *Law Society Public Purposes Trust Act 1985* and the *Legal Contribution Trust Act 1967*.**

The Parliament of Western Australia enacts as follows:

**PART 1—PRELIMINARY**

**Short title**

1. This Act may be cited as the *Acts Amendment (Contributions to Legal Aid Funding) Act 1990*.

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**Commencement**

2. (1) This Act, other than Part 3, shall be deemed to have come into operation on 1 July 1989.

(2) The provisions of Part 3 shall come into operation on such day as is, or days as are respectively, fixed by proclamation.

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A74917/4/90

**PART 2—LAW SOCIETY PUBLIC PURPOSES TRUST ACT 1985****Principal Act**

3. In this Part, the *Law Society Public Purposes Trust Act 1985\** is referred to as the principal Act.

5 [\*Act No. 60 of 1985.]

**Section 3 amended**

4. Section 3 of the principal Act is amended, in subsection (2), by deleting “shall hold and stand possessed of” and substituting the following—

10 “ shall, subject to section 5, hold, stand possessed of, and apply ”.

**Section 5 inserted**

5. After section 4 of the principal Act the following section is inserted—

**Variation of the effect of the Trust Deed**

15 “ 5. (1) On and after the date of the coming into operation of section 5 of the *Acts Amendment (Contributions to Legal Aid Funding) Act 1990* the Law Society, as trustee of the Trust Deed, shall hold, stand possessed of, and apply all moneys received from banks in accordance with arrangements made  
20 under section 3 (1)—

(a) without regard to the restriction as to expenditure in grants to persons whose primary object is the provision of legal aid, referred to in clause 4 of the Trust Deed;

25 and

(b) as though there were a standing recommendation of the Allocations Committee approved by the Attorney General that the Trustee pay or apply in respect of each Accounting Period, at such time or times as the

Attorney General may determine, 60% of the moneys received after that date from banks, as representing interest on trust moneys held in trust accounts kept with the banks, to the credit of the Legal Aid Commission of Western Australia established under section 6 of the *Legal Aid Commission Act 1976*,

but in all other respects upon the trusts declared by the Trust Deed.

(2) In subsection (1), "Accounting Period" and "Allocations Committee" have the meaning respectively ascribed to those 10 terms in the Trust Deed. "

#### NEW

(3) This section expires on June 30 1993.

### PART 3—LEGAL CONTRIBUTION TRUST ACT 1967

#### Principal Act

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6. In this Part the *Legal Contribution Trust Act 1967\** is referred to as the principal Act.

*[\*Reprinted as at 15 August 1974 and amended by Acts Nos. 136 of 1976, 10 of 1982 and 98 of 1985.]*

#### Section 4 amended

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7. Section 4 of the principal Act is amended by deleting the definitions of "Part", "prescribed percentage" and "section".

#### Section 11 amended

**8. Section 11 of the principal Act is amended—**

(a) by repealing subsection (1);

(b) in subsection (2)—

(i) by deleting “the prescribed percentage” and substituting the following—

“ 70%, or such lesser percentage as is prescribed, ”;

5 (ii) by inserting before “financial year”, in both places where it occurs in paragraph (a), the following—

“ relevant period of a ”;

and

10 (iii) by deleting “of this subsection occurred” and substituting the following—

“ occurred,

15 and for the purposes of this section the relevant periods shall be taken to be the 6 months prior to 31 December, and the 6 months prior to 30 June, respectively, in relation to each financial year, or such other periods as are prescribed ”,

and

(c) in subsection (3), by deleting “two thousand dollars” and substituting the following—

20 “ \$500 ”.

**Section 22 amended**

**9. Section 22 of the principal Act is amended, in subsection (3) (b),**



by inserting after “the rate of five per centum per annum” the following—

“ or, where some other rate is prescribed, at that prescribed rate ”.

**Section 54 amended**

10. Section 54 of the principal Act is amended in subsection (1)—

(a) by deleting “one hundred dollars” and substituting the following—

“ \$500 ”; and

5

(b) by deleting “five dollars” and substituting the following—

“ \$25 ”.

**Section 56 amended**

11. Section 56 of the principal Act is amended, in subsection (2)—

(a) in paragraph (a)—

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(i) by deleting “, not exceeding sixty-five per centum, of” and substituting the following—

“ applicable to ”; and

(ii) by inserting before “of a financial year” the following—

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“ in a relevant period ”; and

(b) in paragraph (h), by deleting “one hundred dollars” and substituting the following—

“ \$500 ”.

FITZPATRICK, MR PETER

Executive Director, Law Society of WA,  
68 St George's Terrace,  
Perth, examined:

The CHAIRMAN: Thank you for your attendance today. I am sorry you had to wait for a while, but we had some business to transact.

Mr FITZPATRICK: That is all right. I have been gainfully employed talking to the staff out there about research.

The CHAIRMAN: The Committee is about to start considering the Acts Amendment (Contribution to Legal Aid Funding) Bill. I understand from talking to you on Friday that you are not very happy with the legislation, but that perhaps the Law Society was prepared to go along with the idea behind the Bill and that there may have been some change in your attitude. Perhaps you could outline what you feel about the thrust of the legislation.

Mr FITZPATRICK: The views that I express today are the views of the Council of the Law Society. These moneys, which are clients' moneys held in solicitors' trust accounts, have been set up in trust in an arrangement with the banks and the Law Society to pay interest into what is a charitable trust. That has been in existence now for some four years. The trust makes a number of allocations each year, and in the past three or four years that has been somewhere in the order of \$5 000 to \$750 000 by way of grants to organisations concerned with legal aid, law education, and so on in terms of the objects of the trust. I have run off for the Committee copies of the names of the recipients of grants for the last two financial years, 1988-89 and 1987-88, the latter giving some indication of grants still outstanding from 1986-87. They might assist when we come to talking about these matters. Although the second list says 1986-87 at the top, it is just referring to grants hanging over from the previous financial year.

The Law Society, as trustee of the fund, is concerned that these moneys are likely simply to find their way into what we could best describe as the bottomless pit of legal aid, and that all of the very worthy projects in which we have been involved over a number of years are likely either to be scaled down or, in the case of some new projects, simply not taken on, on the basis that they will find their way into legal aid and eventually be the subject of utilisation there for somebody's property settlement for their divorce or something much narrower than what the fund has been able to achieve for the community good at the present time.

To give the Committee an idea of the sorts of projects involved, one project we have had approved, and for which we are now awaiting parliamentary time in order to get a Bill to amend the Legal Practitioners Act, is what is called the legal resources scheme, where \$500 000 of this money has been set aside to set up a separate trust which will provide funds to pay for civil litigation for people who are unable to afford to pursue civil litigation claims.

Mr FITZPATRICK (continuing):

We have also approached the Lotteries Commission who have indicated support for an application of a further \$0.5 million provided it comes from this fund. It will give \$1 million so that we will be able to take on specific litigation for people, provided the cases are likely to be winnable cases. We will enter into agreements with lawyers that the costs will be either full, partial, pro bono or no costs. The client will agree, upon the successful completion of a case, that a percentage of the winnings will be paid back into the fund; that is, between 10 and 20 per cent. That is a contingent arrangement because currently people are unwilling to enter into such an arrangement; that is why we require legislative amendment. The difference between that and a normal contingency fee is that the amount will not be paid to the lawyer but put back into the fund to ensure the perpetuity of the fund. In that way we hope that the fund will build up over time. If we take the experience of another place - and the only other place the system has been implemented in a limited way is Hong Kong - we will go into a decline in funds for the first two to three years as costs go out. But as we start to recover, after about four or five years, the amount of accumulated funds will become significant. That is an example of what we can do with this money.

Our concern is that we have a charitable trust; it is not Government money and by an Act of Parliament the fund is to be taken away and passed across to the Legal Aid Commission - which is in many cases a much narrower use than that to which we put the money through the Public Purposes Trust.

The application and grants document contains an interesting mix. Because the whole concept of legal education fits into the objectives of the trust, from time to time the Government has applied and received grants from the fund. One of the larger grants made was that of \$250 000, spread over two years, to computerise Western Australian legislation onto compact disk. Grants have made to refurbish books in the Supreme Court Library, and to the University of Western Australia's law library which was destitute in terms of the number of acquisitions to meet the number of students. The Murdoch University law library has tapped into the fund to assist with library acquisitions. We have set up the Francis Burt Law Centre, designed to educate school students about the law. Presently, about 6 000 students go through that centre each year. That centre is also entirely reliant on these funds. The legal advice van, purchased through the fund, travels to suburban shopping centres to provide free legal advice, and the van appears every Friday in the Murray Street Mall outside Myers to provide free legal advice. We are in the process of setting up a shop front lawyer in the Law Society premises where members of the public can walk in and receive legal advice at a minimal cost - for those who can afford it, the cost will be about \$10 for 20 minutes.

Hon Peter Foss: Is a lot of the advice provided through volunteers? Is it advice which would otherwise fall at the door of the Legal Aid Commission?

Mr FITZPATRICK: Yes, to a large extent. When we started we had a problem with the Legal Advice Bureau and the Legal Aid Commission because at 8.30 in the morning a great flock of people would arrive. Now the legal advice van is a free legal service set up by the Citizens Advice Bureau. The next stage will be the shop front lawyers, with support to a number of community law centres where we provide funds to either acquire a lawyer or assist in general funding so that they can take on a wider range of cases. We have been able to reduce demands on the Legal Aid Commission each morning. Of all the States in Australia, Western Australia probably has the best reputation in terms of people being able to get at any stage legal advice at either no cost or a minimal cost of \$10. I am not aware of any other State that can make that claim.

Hon PETER FOSS: Perhaps members of the Committee are not aware of how legal aid started. When I started out, all legal aid was provided pro bono by lawyers. After that, it was decided such advice should not be provided for free but should be financed by the Government - both State and Federal. Of course, as tends to happen, once the funded version is introduced, the free version falls off. Then we find that not enough funds exist to meet the demand, the funds are reduced and so the squeeze is applied from both ends. People's requirements fall in different areas - some of which are well served and others receive no service.

The trust fund you have mentioned is one which will allow anybody in need to receive legal aid, but the massive number of people above the desperately poor do not receive legal aid at all. The fund will allow those people to receive legal aid and you are trying, in some cases, to avoid people getting into legal problems by public education. Everyone presumes to know the law but no-one is taught it. Some of the free legal aid going back into the community is worthwhile but it does require resources - the people to provide the service and somewhere to carry that out. It is a worthwhile effort. My concern would be that if some of the activities were reduced, the overall service of legal aid to the people of Western Australia would be reduced; we would have more money in the funded part, but if we removed the free activities we would also remove the educational side which is stopping people getting into trouble and needing legal aid. It may be a short-sighted move; we may provide less legal aid to people because more people get into trouble and we have fewer resources to tackle the problem.

Mr FITZPATRICK: No doubt the effect of this legislation will put more money into the hands of fewer recipients of legally aided support. I should point out that over the past few years we have tried to build up the caucus of the fund. It has not reached its potential by any stretch of the imagination. On Friday I quickly projected the net balance

of the fund was likely to be \$5.5 million at 30 June. We have been allocating up to \$750 000 each year by way of grants. But we have attempted to build up the fund so that it will have significant earnings of its own, and we will not be drawing off the interest each and allocating that by way of grants.

We receive a great number of applications each year. From memory, the applications received last year amounted to about \$2 million, and we had to discriminate through those. A lot of worthy applications were rejected on the basis that we did not have the money for it. There is a great demand for this type of funding and certainly for the provision of what we call a very basic type of legal aid - legal support - to people including everything from education through to the scheme whereby we actually fund litigation for people. It falls within the objects of this trust and the way in which we are applying moneys to it.

The CHAIRMAN: In his second reading speech, the Attorney General said -

For example, the present reserve in this State is \$1 million, whereas in South Australia, which has a similar population to Western Australia, the reserve is more than \$7 million. This is calculated on the basis of \$5 000 per lawyer in South Australia.

Mr FITZPATRICK: That refers to the legal contribution trust which is a different fund. They are quite separate funds, both of which are caught up by this legislation. I will explain the differences because even the legal profession gets confused between the two. There are two avenues of earning interest on solicitors' trust accounts. There is a statutory requirement for all legal practices that operate a trust account to set aside a certain percentage of money which is placed in a special account by the bank. The interest on that money is utilised to provide a fidelity fund in the event of defalcations by legal practitioners. That is called the legal contribution trust and the money is put into a fund which is called the solicitors' guarantee fund, a self-explanatory title.

This Bill is an omnibus amendment Bill to the public purposes trust and the legal contribution trust. The Bill picks up a number of amendments to the legal contribution trust that we have suggested to increase the catchment area of legal trust accounts that will have to contribute to that fund.

Over a number of years, that fund has dispersed money to four or five areas. The second last of those areas is the Legal Aid Commission. Again, over a number of years, there have been a few defalcations in Western Australia and other than the administrative expenses associated with the fund, about 90 to 98 per cent of the money has been hived off into legal aid. When I first took over this appointment at the end of 1985, there was only \$500 000 in the solicitors' guarantee fund which I thought was scandalous given that there have been more sizable defalcations than that in many other States and in New Zealand which has a very bad history.

We are attempting to build up the fund. One avenue of doing that is an increase of 65 to 70 per cent; that is the percentage of the minimum balance the solicitors have to set aside in this fund. We have lowered the amount. If the minimum balance falls below \$2 000, they do not have to maintain something in the fund. We have tried to lower that figure to \$500. In the last couple of years we have built up the fund to \$2 million. The comparable profession in South Australia which has very similar arrangements to ours has about \$10 million in its fund. The Committee is probably aware of a defalcation in Victoria by a sole practitioner which totalled \$21 million. It is an insurance fund; we have to plan for that eventuality. One can imagine the furore in Western Australia if there were a defalcation of \$4 million or \$5 million. We would throw our hands in the air and say that we only have \$2 million or \$3 million in the kitty and

the Government will have to pick up the rest or we would pay out a pro rata portion. We are attempting to build up the amount.

Hon PETER FOSS: Does that reduce the money available to legal aid?

Mr FITZPATRICK: It does, because we have not been able to hive off the 90 per cent that it has been getting in recent years. In fact, that money should always have gone to build up the fund and only a small percentage of it should have gone to the Legal Aid Commission. The way it seems to work is that the State Budget seems not to take that into account when that money goes across. It simply finishes up going into the Consolidated Revenue Fund because it has not been predicted each year as a certainty of coming across. It has become a bit of a bonus in recent years -

Hon PETER FOSS: Did you say it went into the Consolidated Revenue Fund?

Mr FITZPATRICK: Yes. The ongoing payment to the Legal Aid Commission is reduced by that amount out of Consolidated Revenue. That has been occurring for a number of years. Certainly, that has dried up. The rest of the money from interest on solicitors' trust accounts, other than the legal contribution trust, falls into the public purposes trust. Therefore, interest is derived in two quite separate ways. Obviously, the amendments to the legal contribution trust will have an effect on the earnings of the public purposes trust because only so much money is in it. If we prop up one, less will go to the public purposes trust and the public purposes trust earnings are likely to fall significantly in future because interest rates will start to come down.

We are also noticing that, because of the economic conditions, there is not as much money in the solicitors' trust accounts because the turnover is not as great and the large corporate work which puts large sums of money into trust accounts for short periods has fallen off. The legal profession in this State does only about 20 per cent at most of conveyancing work and there is no great difference there. However, there is not as much large corporate work being done for money to be placed into trust accounts. Therefore, there has been a fall-off in the earnings of the public purposes trust.

Hon PETER FOSS: The Attorney General said that, at present, you are not expending more than 40 per cent anyway and by requiring you to put 60 per cent into legal aid, the only effect would be that you would cease accruing to your capital amount; in other words, you would still be expending just as much on public purposes, but you would not be building up the capital amount. What do you say to that?

Mr FITZGERALD: That is not true. We certainly would not be able to take on new grants and we would have to look closely at the ones we are funding currently to see whether we have



the capacity to support them in the same way. The 40 per cent range would total about \$400 000 to \$500 000 on top of which another \$400 000 to \$500 000 would be coming through from the funds which are actually held. We would probably have up to \$1 million a year if we were to utilise everything that the fund has now. That would fall away to about \$900 000 per annum if this legislation were passed. That figure includes allocating most of the money that comes through and not allowing for a buildup in the fund.

Hon PETER FOSS: Are you saying that three things have happened to cause a drop off in the amount of interest coming into the fund - there has been an absolute reduction in the amount of money you are handing out which means that you will have to curtail some of the current projects; that you could not make any increases in the amount of those allocations to take into account the cost of those processes increasing with inflation; and you cannot contemplate any new projects?

Mr FITZPATRICK: We would be struggling to maintain the status quo without looking at any new projects - that is the best way of describing it. If the legislation goes through in its current form with its retrospective provisions, another million dollars would be lost. That would reduce the fund from \$5.5 million to \$4.5 million by the end of the year. I am not sure how one can take money out of a charitable trust by the stroke of a legislative pen; but if it can be done, that would remove another million and put it back into legal aid.

Hon PETER FOSS: The Attorney General said that at his suggestion the Law Society was building up capital to enable the society to set up a college of law type operation. At the time it was discussed there were concerns about articulated clerks. Do you agree that is what the capital was for?

Mr FITZPATRICK: The college of law was one thing discussed, but there are equally and more important matters which we would look at. For example, the Legal Aid Commission is to look at setting up some sort of insurance fund. The college of law was mentioned in passing, but it is not something which we are planning in any great detail at this stage. It is inevitable that a college will have to be provided in the next two or three years.

Hon PETER FOSS: Why do you say that?

Mr FITZPATRICK: We have now reached the stage where each year there are 210 graduates from the University of Western Australia and 120 law students are enrolling at Murdoch. Even taking into account the wastage rate the graduates coming out of the universities cannot be placed in the profession as articulated clerks. The profession could not cope with it. There is still a demand for lawyers over and above the existing structure. We would need to reach the demand for lawyers, but we would have to provide the avenue for them to carry out their practical training.

The CHAIRMAN: Obviously, you are not happy with the grant from the public purposes account. From the society's point of view is there room for compromise? Perhaps it has already been decided.

Mr FITZPATRICK: No, it has not. Three or four things would need to be considered. We are not keen on the retrospectivity of the legislation. These moneys have been paid by the banks into a charitable trust and for them to be taken out and paid, contrary to what the objects of the trust and terms of the deed currently allow, seems to us to be a matter of concern. As I said at the outset, the society believes these moneys can make a greater contribution to the community than simply ploughing that amount of money into legal aid. One of the things that might be possible is for the society's trustees to agree on some form of voluntary amendment to the deed, rather than legislate for its need with the Attorney. I do not have a figure we could put on that - 60:40 to the society is certainly quite severe.

The CHAIRMAN: Have you negotiated with the Attorney General over that?

Mr FITZPATRICK: As to whether there is a need for legislation to do this?

The CHAIRMAN: And negotiate about it as well.

Mr FITZPATRICK: Currently the deed allows for 30 per cent of the allocations in one year to be paid to recipients who have

a primary legal aid function such as community law areas. The Committee will see from the list provided the allocations made to the Legal Aid Commission. I think an allocation of \$125 000 was allocated last year. There is the capacity for the society to make a contribution to Legal Aid and Legal Aid is free to apply to the society each year. The Government, when this legislation was first drafted, decided to limit 30 per cent of the allocations - not the prime source of money, but the amount set aside for allocations each year - made each year so that money drained was not into Legal Aid..

Hon PETER FOSS: I refer to the allocations made in 1988-89 and have crossed those which were granted strictly for legal aid and those for preventive legal aid. I know the Sussex Street Community Law Service at Gosnells very well because it is in my electorate and it is doing a phenomenal job. The practicality of the legal aid it provides is fantastic and I have heard wonderful reports about it. The Youth Legal Service in Fremantle is also for legal aid; the Financial Advice and Welfare Service and SLGC is preventive legal aid; the Legal Aid Commission is obviously legal aid.

Mr FITZPATRICK: The society has said that it will allocate money to organisations whose primary purpose is to provide legal aid and it has allowed us to provide a greater allocation to those people who fit within that area. Even though it may be for a form of legal aid and the sole object was to provide for legal aid we would be limiting the amount of money we could allocate to each of them. We have taken the broadest possible interpretation of that.

Hon PETER FOSS: If these were taken away, the effect would be that the allocations would be purely for legal aid. The Sussex Street Community Law Service, Youth Legal Service, Financial Advice, SLGC, Legal Aid Commission are all legal aid. University of Western Australia and the State Archives are not legal aid; Citizens Advice Bureau and Riverland are legal aid and the Crown Law Department is not. From the list provided to us it can easily be seen which allocations will be used for legal aid and those which will not be used for legal aid. The organisations which are not taking some step towards assisting the community in avoiding legal problems or providing legal aid type service are receiving a total allocation of \$340 000.

Hon DERRICK TOMLINSON: The amendment is doubling the proportion of the public purposes fund?

Mr FITZPATRICK: No, it is not. At the moment the Legal Aid Commission is only entitled to 30 per cent of \$700 000 set aside for allocation. This is talking about taking 60 per cent of the moneys earned at source from the banks, so we are looking at \$1.4 million which is likely to be earned this year. Approximately \$900 000 will be allocated to the Legal Aid Commission as distinct from a maximum of \$200 000. Only 30 per cent is set aside for allocations. This will turn off the tap at source of 60 per cent of the moneys which flow into this fund. It will leave the fund with 40 per cent

of the residue coming from the bank and whatever earnings it has on other assets.

Hon DERRICK TOMLINSON: That is a quite substantial shift.

Mr FITZPATRICK: Yes.

Hon DERRICK TOMLINSON: What other sources are there to fund legal aid in this State?

Mr FITZPATRICK: I will distribute a letter which I wrote to the Attorney General in which I canvassed the possibility of exploring the use of moneys held by settlement agents and real estate agents who were performing 80 per cent of the conveyancing work in this State. That money goes through solicitors' trust accounts in the Eastern States where there is a conveyancing monopoly, if I can call it that, held by solicitors. As larger sums of money go through their trust accounts they are able to divert more money to legal aid.

My figures are nearly two years old and I do not know whether significant changes have occurred in the interim. Quite sizable sums are held by real estate agents or settlement agents in either fidelity funds, deposit trust accounts or various other accounts such as the home buyers' assistance fund which were not being overutilised. I discovered, for instance, that another of those funds, the education facility account, was at one stage providing furniture and equipment for the Ministry of Consumer Affairs.

I have no evidence of any of the banks entering into an agreement with the agents for the residue of the moneys outside these funds set aside by them. I find that interesting. My brief calculation is that on average roughly \$22 million is held by agents which could be earning interest. It is interesting because agents have much lower requirements as to what they have to set aside in their trust accounts. I think the amount is 35 per cent. As you know from this legislation, our percentage will be increased to 70 per cent in an attempt to build up the fidelity fund.

The reason the figure has been kept low is that there is almost no demand on those funds whereas we have been giving money to the Legal Aid Commission out of our fidelity guarantee fund. It would be interesting to see what the real estate agents have as they had \$9.5 million in their deposit trust accounts and the projection by the department to which I spoke was that that would increase to \$12 million by 1 August 1988. I am drawing this matter to your attention because perhaps there is scope for manoeuvrability here. I know this falls outside the immediate province of the Attorney General.

Hon PETER FOSS: What do they do with their deposit trust accounts?

Mr FITZPATRICK: If you read the letter I think you will see that the deposit trust account is equivalent to the legal contribution trust account. It pays money into the fidelity guarantee fund which is like the solicitors' guarantee fund, from memory.

Hon PETER FOSS: So they have \$9.5 million in there, do they?

Mr FITZPATRICK: Yes, in their fidelity fund.

Hon PETER FOSS: So they put it between the fidelity guarantee fund, the home buyers assistance fund and the education facilities fund.

Mr FITZPATRICK: I think the \$12 million projection was accurate when I prepared this letter because the \$9.5 million was the last audited figure available. You are looking at \$18.5 million between those two funds at about that time as compared to the legal profession at that time which had about \$1.1 million and now has only \$2 million in both of those funds.

Hon PETER FOSS: They are the deposit and not the amount earned, are they not?

Mr FITZPATRICK: Yes.

Hon DERRICK TOMLINSON: It may be attractive to suggest that to avoid what might be described as a raid upon the Law Society Public Purposes Trust Act we should encourage the Government to make a raid on another trust account, but that is of questionable ethics, I suggest, from a politician's point of view. What other sources exist? That is a latent source of funding. Who pays for legal aid; is it simply the lawyers trust account or does it come from a public allocation?

Mr FITZPATRICK: Legal aid in this State is paid on a proportional basis, 75 per cent by the Federal Government and 25 per cent by the State Government. However, the Federal Government has been withdrawing its level of funding and is trying to work its way back to an agreement of about 60 per cent Federal funding and 40 per cent State funding, which is what it is in other States. There is obviously a squeeze on the State's Budget to make up the shortfall. I am sure this is one of the motivating factors for this legislation because this year the commission was able to cover its expenditure and run at a small profit. The problem lies ahead as the Federal Government's allocation for next year will be less than for the previous year and someone has to make up the shortfall.

Question the ethics of this, if you like, but the reason I have raised the matter of settlement agents and real estate agents is because moneys for legal aid are provided from solicitors' trust accounts in other States because of the large amount of money held for conveyancing transactions. However, this State has deregulated that environment and lawyers no longer carry the bulk of the conveyancing market, which is now carried by other people. The reason money can be taken from solicitors' trust accounts, have interest paid on it and be put into legal aid in other States in sizable proportions is because they have the total conveyancing market, which we do not have here. The interest on that

money will not be utilised and will be left untapped while at the same time a relatively small fund which provides a considerable amount of money for legal aid will have 60 per cent of its income taken away by this legislation.

That is the reason I raised this matter, to draw your attention to what happens in other States. The Attorney General will argue, quite rightly, that in other States the Governments do not have to contribute proportionately as high an amount to legal aid as the Government of this State does. The reason for that is a lot of the money comes from interest on trust accounts.

Hon PETER FOSS: In other words, we have given what was seen as lawyers' work in other States to settlement agents and real estate agents in Western Australia.

Mr FITZPATRICK: Yes. All that money is going through those accounts. If this is true perhaps the banks and the agents should look at setting up something similar to the public purposes trust type system of paying interest on the remaining moneys which are being held and utilised by them with no interest being paid.

Hon PETER FOSS: The Attorney General has said that this is public money and therefore the Law Society has no say with respect to it. I do not think it is quite correct to describe them as public moneys as they are really client moneys. What used to happen, I think improperly, was that lawyers had huge trust accounts on which no interest was paid. That did not do the client much good, but he had to have that money in the lawyer's trust account to make a settlement. However, the interest benefit went entirely to the banks.

Hon PETER FOSS (continuing): This was at a time when one could not pay interest on cheque accounts. A subsidiary benefit accrued to the lawyers in that they were very welcome customers in banks because the banks could hold large deposits with the trust accounts on which no interest had to be paid. In a way it was an improper advantage secured by lawyers in that by shifting their trust accounts they wielded a certain amount of financial clout with banks. That clout disappeared with the introduction of the public purpose trust fund; this was an appropriate move because the money is really the earnings of the client and the money should go back to the people dealing with lawyers for the purposes of their legal transactions.

Real estate and settlement agents are obtaining the financial clout by continuing to maintain trust accounts on which no interest is paid with no benefit to the client. That is an undesirable state of affairs in that those funds should be subjected to interest. Perhaps it is not practical to put money back to the individual client, but the benefit should go to the client in the process of the transaction. This was attempted with the home buyers' assistance fund which was intended to be returned to the relevant home buyer; however, I do not know if that is necessarily correct.

Mr FITZPATRICK: It was necessary to buy the house through an agent to be eligible; therefore, it was a narrow provision.

Hon PETER FOSS: I am not sure what the education facilities account did.

Mr FITZPATRICK: That was provided for the cost of the education of agents, but lawyers have to pay their own legal education costs!

Hon PETER FOSS: It is recognised that the obligation is to channel the money back to the people who are its original source, but that is not happening with real estate and settlement agents. A good argument exists that the money should be directed towards legal aid and to the problems arising when people make the relevant legal transaction. Although it should be looked at as desirable, the real estate and settlement agents would complain if they had to take away the clout they hold with the banks. I am pleased to say that the lawyers did not complain as they supported the change because they could see the ethical problem of using the financial clout to the benefit of the lawyer and not to the benefit of the client.

How we direct the money back to those who are putting the money forward I do not know, but whether this justifies putting the money into legal aid is another point. The basic principle is that the interest should be paid to the benefit of the client involved and not to Consolidated Revenue Fund - this is unassailable.

Hon DERRICK TOMLINSON: I accept the argument about directing the client's money into an interest bearing account which



should be used by legal aid for legal purposes; however, I need to be convinced that the money from real estate and settlement agents' trust fund - even those settlement agents that are generating income from functions which were previously the domain of lawyers - should be channelled into legal aid for legal purposes.

Mr FITZPATRICK: In all other States, that is the way it is working. Money from conveyancing transactions - which happen to be performed by lawyers - is used to fund legal aid.

The CHAIRMAN: Are you saying that because these duties are performed by non-lawyers in Western Australia it reduces the size of the cake available?

Mr FITZPATRICK: Considerably. For example, if a large settlement - commercial perhaps - was to take place in a law office, the client's money would not be left in the solicitors' trust account because the money would earn no interest for the client. Real estate and settlement agents earn a lot of money through short term, one or two day, deposits because of the large volume of such transactions. Every conveyancing transaction which takes place involves such a deposit and people do not move these sums of money around in fixed deposit accounts if they are deposited for only one or two days. After that time the agent writes out a cheque for the client. The large volume of transactions generates a considerable amount of money for the banks, albeit for a short period, but a residue build-up is involved which cannot be invested for other purposes.

The argument legitimately advanced by the Government is that other States have such a system by which the State Government does not contribute to legal aid because it derives its money largely from interest earned by solicitors' conveyancing transactions. The amount of interest earned in Western Australia is not nearly the same because of the deregulation of the legal market through an Act of Parliament. The defalcation case in Victoria has meant that the Government will have to start funding legal aid again because \$21 million has to be picked up by the lawyers' fund.

Hon PETER FOSS: Another area mentioned earlier involved the small number of small suburban practices in Western Australia. In other States these practices are involved in small suburban disputes of the sort that our Legal Aid Commission is not capable of handling because people are above the destitute level, yet the people in these minor disputes cannot afford the legal services. Not many practices in Western Australia operate with the small overheads involved in suburban practices. One reason for this is that these practices are not very remunerative and financially sustainable because the bread and butter work is not available - this is given to real estate and settlement agents. Those suburban transactions in Victoria would cover an awful lot of the overheads with the suburban practices.

In Western Australia the settlement agents have taken the more remunerative work and the less remunerative work has been taken on by the legal service. This has led to an imbalance in Western Australia, whereas in Victoria and New South Wales the suburban practices would constitute a large proportion of legal practices. I do not know what the proportions are in Western Australia - the percentage is growing - although the figures are nowhere near the levels interstate; it would not be 10 per cent in Western Australia.

The CHAIRMAN: Peter has made his point about the thrust of the legislation. Are there any more questions?

Mr FITZPATRICK: We are sympathetic with what the Government is trying to achieve with the taking of this money and putting it to the legal aid purposes in the best interests of everybody, including the recipients in the long term. I can sympathise with the problems in that the Government looks over the border and sees the solicitors' trust accounts' moneys being poured into the legal aid services in those States. We need to cast the net a little wider because of the way the conveyancing practice is conducted.

The CHAIRMAN: Thank you for your time, Peter.

[The witness retired]

## 1988/89 APPLICATIONS

In July 1988 the Law Society of Western Australia as Trustee, invited the public to submit applications for funds. The Society set aside an amount up to \$700,000.00 for allocation in the 1988-1989 year. Applications were to close on 30 September 1988.

An information booklet entitled "Information for Applicants" was made available from the Law Society of Western Australia on request. It sets out guidelines for prospective applicants in the preparation of a formal application.

Prospective applicants were encouraged to discuss their preliminary ideas with the Secretary of the Trust in advance of submitting a formal proposal.

Thirty two applications were received, three of which were subsequently withdrawn. Preliminary consideration was given to the applications by the Review Committee and the Allocations Committee met on several occasions to discuss the applications.

The following applications submitted in the 1988/89 period were recommended and approved by the Attorney-General.

SUSSEX STREET COMMUNITY LAW SERVICE (INC) \$17,500.00

Funds were granted to assist in the continuation of the established community based legal service catering to the needs of the local population with emphasis on catering to the particular needs of low income people.

GOSNELLS DISTRICT INFORMATION CENTRE \$2,500.00

Funds were granted for upgrading the established library.

YOUTH LEGAL SERVICE AND FREMANTLE  
YOUTH CENTRE \$50,000.00

Funds were granted for a project designed to pilot the delivery of local legal services relevant and accessible to 12-20 year olds in the South West Metropolitan Region of Perth and to ensure ongoing quality support for repeat offenders.

FINANCIAL ADVICE AND WELFARE SERVICE \$7,500.00

A grant was allocated to reprint the Resource Kit for Welfare Workers, to produce an agency/information pamphlet and to purchase some library items. The grant was made on the condition that it is matched dollar for dollar by the Fremantle City Council.

SLCG (INC) \$7,500.00

Funds were made available to produce a manual which will contain concise, relevant and easily accessible information about the legal rights and responsibilities of people with intellectual disabilities in Western Australia and people who provide services to people with intellectual disabilities in WA. The grant was made for the first stage of the project. A seeding grant had previously been allocated to produce a draft of the proposed manual.

LEGAL AID COMMISSION OF WESTERN  
AUSTRALIA

\$125,000.00

Funds were granted to carry out market research into legal aid requirements, the production of a Duty Lawyer Handbook and the production of a new Application for Legal Aid form.

THE UNIVERSITY OF WESTERN AUSTRALIA,  
LAW SCHOOL

\$150,000.00

Funding was granted to upgrade the collection of the reports, books and periodicals in the Beasley Law Library. This follows the grant of \$200,000.00 made in 1987/88. Both grants are conditional upon them being matched on a dollar for dollar basis by of Western Australia. It is expected that an application for a further \$150,00.00 will be made in the 1989/90 period.

STATE ARCHIVES

\$70,000.00

A grant was made for funds to preserve historical records of the Supreme Court; to restore damaged documents; to microfilm records; and to make records available to researchers.

MICHAEL KOOPERMAN -(ADULT  
MICRANT EDUCATION SERVICE, TAFE  
EXTERNAL STUDIES COLLEGE)

\$7314.00

Funds were granted to produce a glossary of legal terms found in the multifarious pamphlets of the Legal Aid Commission. The terms will be translated into five community languages and then be compiled in booklet form. The grant was made on the condition that the applicant liaised with the Legal Aid Commission on the project.

LAW LIBRARY, SUPREME COURT OF WA

\$6407.00

Funds were granted for binding or rebinding recently acquired materials, and rebinding damaged older library materials.

LAW LIBRARY, SUPREME COURT OF WA

\$25,216.50

Funds were granted for the purchase of Bibliographic items of a capital nature.

CITIZENS ADVICE BUREAU OF WESTERN  
AUSTRALIA

\$25,000.00

The applicant was granted funds for 50% of the cost of providing a continuing legal information and advice service for 1989/90.

VIRGINIA RIVALLAND AND JOHN MOSELEY  
(6UVS FM:Universities Radio Limited)

\$10,150.00

Funds were granted to produce a series of radio programmes on the law, with particular application to the school curriculum of year 11 and 12 Law Studies.

CROWN LAW DEPARTMENT

\$120,000.00

This application for the second moiety of a grant allocated in 1987 as a contribution to the establishment of a computerised legal information retrieval system containing the consolidated Western Australian Acts and Regulations was approved.

STATE ADVISORY PANEL FOR TRANSLATORS  
AND INTERPRETERS

\$2,500.00

Funds were allocated for the publication of a booklet entitled "How to use an Interpreter"

LAW SOCIETY OF WESTERN AUSTRALIA - LAW  
WEEK COMMITTEE

\$19,000.00

Funds were granted to conduct Law Week in 1989.

THE FRANCIS BURT LAW CENTRE

\$36,000.00

The Applicant was granted funds for the 1989/90 operating budget of the Law Centre.

THE LAW SOCIETY OF WESTERN AUSTRALIA

\$18,000.00

Pamphlets designed to inform lay persons about various common legal problems and access to legal services were printed with funds from a previous grant from the Trust. These are now in need of reprinting and funds have been granted for this purpose.

## PROJECTS IN PROGRESS DURING THE 1988/89 YEAR

### GRANTS APPROVED IN 1985/86 FINANCIAL YEAR

JAMES A THOMSON

\$1,000.00

A grant was made from the Public Purposes Trust to assist in the compilation and publication of a book with the tentative title "The Western Australian Constitution: Materials, Cases and Comments".

Although the completion of this project has been interrupted, progress has been made with research and gathering of material.

LAW SOCIETY OF WESTERN AUSTRALIA  
LAW MUSEUM COMMITTEE

\$38,000.00

In 1986 funds were granted for the restoration of the Old Supreme Court Building (now known as The Francis Burt Law Centre). During the 1988/89 period the balance of \$5296.00 was paid out and the building and restoration work completed.

THE LAW SOCIETY OF WESTERN AUSTRALIA  
LAW PRACTICE MANAGEMENT COMMITTEE

\$35,900.00

This grant was given for the purpose of producing twelve pamphlets designed to inform lay persons about various common legal problems and access to legal services.

To date an amount of \$26,565.00 has been expended on six pamphlets. These pamphlets have been widely circulated to law firms and community law centres and a further grant has been approved for re-printing.

The outstanding six pamphlets are in the process of being written.

### GRANTS APPROVED IN THE 1986/87 FINANCIAL YEAR

MURDOCH UNIVERSITY - COMMERCE DEPARTMENT

\$7,000.00

A grant was approved to supplement the University's existing law book collection.

At the end of the 1988/89 period purchases to the amount of \$6545.00 had been made.

DR DAVID SANG  
DEPARTMENT OF PSYCHOLOGY  
UNIVERSITY OF WA

\$500.00

Funds for pre-publication costs of a short glossary of Australian-Vietnamese Legal Terms were approved and made available.

Progress on the project is still continuing.

PERTH TECHNICAL COLLEGE

\$8,615.00

Funds were approved and paid to conduct a legal interpreting course for Polish and Vietnamese interpreters who work in the Law Courts and with lawyers.

The proposed courses were conducted. The applicant advised that an amount of \$2400.00 was still available from the grant and requested that this be used to conduct an additional shorter course in Spanish. This request was approved.

WESTERN AUSTRALIAN COLLEGE OF  
ADVANCED EDUCATION

\$15,200.00

A grant was approved to produce a video on developing legal literacy in the community.

The script has been written and approved and production is to commence in July 1989.

YOUTH LEGAL SERVICE

\$25,191.66

Funds were granted to publish and distribute to disadvantaged children in WA, four editions of Streetwise Comics relevant to legal issues.

Considerable work has been done in adapting comics produced in the Eastern States to suit local needs and the comics are in the process of being published and distributed.

LAW SOCIETY OF W A  
LAW MUSEUM COMMITTEE

\$800.00

Funds were approved for the development of an audio script for The Francis Burt Law Centre.

Delay was experienced in the production of this script due to the necessity to find an alternative producer. Final approval of the script is at present in hand.



THE LAW SOCIETY OF WESTERN AUSTRALIA \$50,000.00  
THE FRANCIS BURT LAW CENTRE COMMITTEE

Funds were approved for the operating budget of the Centre.

The Education Officer at the Centre has been busy with projects relating to mock trials and schools visits, and the centre is open to the public for two mornings each week. Of the amount approved \$4,128.00 is still to be expended.

LAW LIBRARY - SUPREME COURT OF W A \$8,000.00

The Law Library was granted monies to fund the balance of rebinding, repairs or conservation and preservation of damaged library material.

The work on the library materials is proceeding and an amount of \$3379.00 has been expended over the 1988/89 period.

THE LAW SOCIETY OF WESTERN AUSTRALIA \$35,900.00  
LAW PRACTICE MANAGEMENT COMMITTEE

This grant was given for the purpose of producing twelve pamphlets designed to inform lay persons about various common legal problems and access to legal services.

To date an amount of \$26,565.00 has been expended on six pamphlets. These pamphlets have been widely circulated to law firms and community law centres and a further grant has been approved for re-printing.

The outstanding six pamphlets are in the process of being written.

CHILDRIGHT \$8,650.00

Funds were made available as a seeding grant to establish an organisation for promoting law reform for children.

An amount of \$3126.00 has so far been expended on this project.

CHRISTIAN JUSTICE ASSOCIATION

\$3,000.00

\$1000.00 was advanced to assist in the establishment of a 12 month driver training project with the aim of educating disadvantaged (mainly Aboriginal) youth with respect to the traffic laws and to assist them to obtain and retain driving licenses.

In July 1988 the first graduates of the scheme were presented with their driving licenses.

The amount of \$2000.00 is still to be expended by the applicant for purposes outlined in the conditions of the grant.

CITIZENS ADVICE BUREAU  
AND LAW SOCIETY OF W A

\$33,000.00

Funds were granted for the establishment of a Legal Advice Service at the offices of the Citizens Advice Bureau between August 1987 and August 1988.

During the period the grant was fully expended and regular quarterly reports and verification of expenditure on the operation of the project have been received.

FREMANTLE MIGRANT RESOURCE CENTRE

\$9,600.00

A grant was made of \$2.00 from the Trust for every dollar from the Centre up to \$9,600.00 to produce a video entitled "So you Want to Buy A Car?".

The video has been produced and is in the process of being edited and prepared for final narration. A copy of the video free of copyright restrictions is to be provided to the Trustee.

GRAHAM MCDONALD ON BEHALF OF  
THE ESTATE OF JOHN HUELIN (DEC'D)

\$2,000.00

Funds were granted for the purpose of checking sources, cross references and editing the late John Huelin's Draft thesis "On the Road to Equality".

A request for advance payment of the amount was met and expenditure verified. Approaches are being made to the W A Government to have the completed manuscript published.

KALAMUNDA COMMUNITY LEARNING CENTRE \$285.00

A grant was made for the preparation of a series of eight talks to bring members of the Learning Centre and the Local Community up to date on subjects such as Family Law, Consumer Affairs, Wills and Estate Problems, Law Courts and Legal Aid, Equal Opportunities, etc.

The project has been completed and payment of the grant has been made in full.

LAW LIBRARY - UNIVERSITY OF WESTERN AUSTRALIA \$6,600.00

Funds were approved for library acquisitions in connection with the Master of Laws by coursework. The amount was approved on the basis that funds should not be allocated for series, loose leaf or journals unless the applicant was able to assure the Allocations Committee that ongoing funds can be provided.

During the 1988/89 period the amount expended on acquisitions was \$2420.00.

GRANTS APPROVED IN THE 1987/88 FINANCIAL YEAR

LAW LIBRARY - UNIVERSITY OF WESTERN AUSTRALIA \$24,380.00

Funds were made available for the purchase of library materials to strengthen the holding in the Beasley Library of basic report series on the basis that funds for purchasing future series will be available from sources other than the Trust.

To date an amount of \$18,055.00 has been expended on purchases. The applicant has requested that the conditions of the grant be varied so that the balance of the monies can be spent on purchasing a back set of the Fleet Street Reports (supplemented with funding from other sources). The request has been approved by the Trustee.

THE UNIVERSITY OF WESTERN AUSTRALIA \$14,950.00  
LAW REVIEW

A grant was approved to assist in computerisation of the University of Western Australia Law Review. An application for monies to purchase capital items which were considered as priority was approved.

To date only \$180.00 of this amount has been expended. Further consideration is being given to the type of equipment to be purchased. Any variation will be referred to the Trustee for approval before being purchased.

S L C G (Inc)

\$1,000.00

A modest seed grant was made to enable the applicant to prepare a project proposal to increase the awareness of the role of the law of intellectually disabled people.

A draft manual relating to Intellectual Disability and the Law has been produced and submitted to the Trustee and a further application has been made to the Trust for funds to produce and distribute the manual.

LAW LIBRARY

\$20,000.00

SUPREME COURT OF WESTERN AUSTRALIA

Funds were approved for the acquisition of desirable major bibliographic works for the Supreme Court Library which, although present in equivalent libraries, could not otherwise be afforded by the Law Library. So far \$13442.87 has been expended on purchases.

LAW LIBRARY

\$4,000.00

SUPREME COURT OF WESTERN AUSTRALIA

Funds were granted to pay the salary of a suitable person to work on the Western Australian Case Digest of Supreme and District Court Judgements to enable it to be taken up as part of an on-line computerised data base.

To date none of this grant has been expended but the applicant advises that a suitable person is in the process of being appointed.

CROWN LAW DEPARTMENT

\$120,000.00

The applicant was granted an amount of \$240,000.00 in two moieties of \$120,000.00 each as contributions to the establishment of a computerised legal information retrieval system containing the consolidated Western Australian Acts and Regulations; and to provide this information in an effective and timely manner. It was agreed that a Trust would be established into which the various monies would be paid. The first moiety was approved. State Cabinet approved other funding necessary to initiate the system.

The whole of the first moiety of \$120,000.00 was paid out during the 1988/89 period.

AUSTRALIAN BROADCASTING CORPORATION

\$25,000.00

A grant was approved to assist in funding the production of a television education series entitled "Living with the Law", supported by appropriate ancillary material aimed at high school students and school leavers. Funds had been sought from other Law Societies and Law Foundations and a total amount of \$405,000.00 had been granted to assist with the project. The project has been completed and a copy of the video of the series has been submitted to the Trustee. The series is currently being telecast.

GASCOYNE REGION - DEPARTMENT FOR SPORT  
AND RECREATION

\$770.00

Funds were approved for the holding of seminars on legal responsibility and incorporation for sporting and community groups in the Gascoyne Region. This project has been completed and the expenditure verified.

GERALDTON EMERGENCY RELIEF ORGANISATION

\$750.00

The grant was made for the establishment of a legal library as a free service to the local community. All purchases have been made and the expenditure verified.

BOOGURLARRI COMMUNITY HOUSE

\$500.00

The applicant was granted funds to assist in creating a legal resource library, including videos, and to provide information in community languages where possible. The applicant was advised to make a further application when more information is available as to certain outstanding requests. To date purchases amounting to \$431.00 have been made and expenditure verified.

LAW LIBRARY  
SUPREME COURT OF WESTERN AUSTRALIA

\$5,235.00

Further funds were granted for in-house automation of the Western Australia Case Digest held in the Supreme Court and Central Law Courts Branch Libraries as a preliminary to making this digest more accessible, particularly to country practitioners. The grant was approved subject to reports being supplied at suitable stages of the project, including plans for on-line access to the profession.

The applicant has advised that action on this grant will be taken by the end of July 1989.

THE LAW SOCIETY OF WESTERN AUSTRALIA  
EQUAL OPPORTUNITY COMMITTEE

\$23,000.00

The applicant was granted funds for a survey investigating the implications of the influx of women practitioners into the legal profession, it being considered that the results of such a survey would be of use and benefit to both the legal profession and the community in general.

The organisation approved to do this survey has since gone out of business. The applicant sought approval for a variation to the conditions, asking that an alternative firm be appointed. Approval has been given and arrangements are in hand for their appointment and the commencement of the project.

DEFACTO RELATIONSHIPS LAW REFORM LOBBY

\$1,726.00

Funds were approved to publicise submissions and create community awareness of the current law and to stimulate public debate on development proposals for reform. The grant was for monies to be used for a seminar relating to research and education.

The seminar has been conducted and the report to the Trustee indicated that it was extremely successful. All monies have been expended.

JANE FLEMING AND THE LAW SOCIETY OF  
WESTERN AUSTRALIA

\$10,000.00

Funds were granted to record a series of oral history interviews and to undertake appropriate preparatory research with selected senior members of the legal profession. These interviews are currently being conducted. It is envisaged that a further application will be made to the Trust for funds for transcribing the tapes. Copyright is to vest in the Law Society of Western Australia as Trustee of the Public Purposes Trust.

LAW LIBRARY  
SUPREME COURT OF WESTERN AUSTRALIA

\$50,000.00

Funds were granted for the acquisition of part held periodicals and law reports in order to bring the Library near its goal of a minimum collection. The Supreme Court Library Committee will select the materials and they are to be approved by the Trustee.

An amount of \$8654.00 was expended during the 1988/89 period.

THE FRANCIS BURT LAW CENTRE \$34,895.00

Funds were granted to meet the 1988/89 operating budget for the Centre. One of the conditions of the grant was that the Committee examine and report on the possibility of obtaining revenue from other sources. \$25,833.00 of the grant monies was expended in the 1988/89 period.

CITIZENS ADVICE BUREAU OF WESTERN AUSTRALIA \$10,500.00  
(INC)

Funding was approved to continue the Legal Advice Service at the offices of the Citizens Advice Bureau. The service is supplemented by an after hours service operated on a voluntary basis by Law Society members. The Allocations Committee recommended a grant on condition that this be matched by the Bureau on a \$ for \$ basis.

During the year the whole of this grant was paid out and reports on the operations of the Bureau have been received.

THE LAW SOCIETY OF WESTERN AUSTRALIA \$36,778.00  
COMMUNITY AFFAIRS COMMITTEE

This grant was approved for the purchase of a purpose made vehicle fitted to provide a mobile unit for the provision of free legal advice. The vehicle has been purchased and fitted out and is being used at shopping centres to dispense free legal advice and will visit schools for educational purposes. It was used at the 1988 Royal Show instead of the usual pavilion booth.

THE WESTERN AUSTRALIAN FARMERS FEDERATION \$2,100.00  
AND THE LAW SOCIETY OF WESTERN AUSTRALIA

Funds were approved to supplement sponsorship for the production of a booklet "Legal Guide for the Primary Producer". The booklet is in the process of being written.

NORTHERN REGION LAW SOCIETY - LEGAL \$200.00  
ADVICE BUREAU

Funds were granted to enable the Bureau to purchase reprinted copies of the most commonly referred to State and Federal Acts for use in the Legal Advice Bureau. These have been purchased and the total funds paid out.

THE LAW SOCIETY OF WESTERN AUSTRALIA  
COMMUNITY AFFAIRS COMMITTEE

\$2,095.00

This grant was approved to provide a free legal resource and information service at the 1988 Royal Show. The service was conducted in the newly acquired Mobile Legal Advice Unit funded by the Trust.

SUSSEX STREET COMMUNITY LAW SERVICE

\$20,000.00

The applicant was given a grant for the continuation and expansion of an established community based legal service catering for the needs of the local population with emphasis on catering for the particular needs of the poor. The grant was made to supplement Commonwealth funding. \$15,000.00 of the grant monies has so far been expended.

THE UNIVERSITY OF WESTERN AUSTRALIA  
LAW LIBRARY

\$200,000.00

Funding was approved to assist the Law School Library in acquiring books, periodicals and law reports. An express condition of the grant is that the University contribute an equal amount from its own resources. The monies are to be expended on works recommended by the 1988 Robinson Cox Fellow and approved by agreement between the Dean of the Law School and the Trustee of the Public Purposes Trust. To date no monies have been drawn on the grant.



FURTHER 1986/7 GRANTS

At the beginning of the 1987/88 year there were several applications outstanding from the previous year. Those were approved during the 1987/88 year, allocating funds available as part of the 1986/87 allocation. They were as follows:

THE UNIVERSITY OF WESTERN AUSTRALIA  
LAW REVIEW \$14,950.00

The applicant sought funds to assist in computerisation of the University of Western Australia Law Review. An application for monies to purchase capital items which were considered as priority was approved.

S L C G (Inc) \$1,000.00

A modest seed grant was made to enable the applicant to prepare a project proposal to increase the awareness of the role of the law of intellectually disabled people.

LAW LIBRARY  
SUPREME COURT OF WESTERN AUSTRALIA \$20,000.00

Funds were approved for the acquisition of desirable major bibliographic works for the Supreme Court Library which, although present in equivalent libraries, could not otherwise be afforded by the Law Library.

LAW LIBRARY  
SUPREME COURT OF WESTERN AUSTRALIA \$4,000.00

Funds were granted to pay the salary of a suitable person to work on the Western Australian Case Digest of Supreme and District Court Judgements to enable it to be taken up as part of an on-line computerised data base.

CROWN LAW DEPARTMENT

\$120,000.00

The applicant sought an amount of \$240,000.00 in two moieties of \$120,000.00 each as contributions to the establishment of a computerised legal information retrieval system containing the consolidated Western Australian Acts and Regulations; and to provide this information in an effective and timely manner. It was agreed that a Deed of Trust would be established into which the various monies would be paid. The first moiety was approved. State Cabinet approved other funding necessary to initiate the system.

1987/1988 APPLICATIONS

In July 1987 the Law Society of Western Australia as Trustee, invited the public to submit applications for funds. The Society set aside an amount up to \$500,000.00 for allocation in the 1987-1988 year. Applications were to close on 30 September 1987.

An information booklet entitled "Information for Applicants" was made available from the Law Society of Western Australia on request. It sets out guidelines for prospective applicants in the preparation of a formal application.

Prospective applicants were encouraged to discuss their preliminary ideas with the Secretary to the Trust in advance of submitting a formal proposal.

Thirty four applications were received. Preliminary consideration was given to the applications by the Review Committee and the Allocations Committee met on several occasions to discuss the applications.

The following applications submitted in the 1987/88 period were recommended and approved by the Attorney General.

**CRIME SUMMIT**

**-THE LAW SOCIETY OF WESTERN AUSTRALIA** \$6,104.00

The applicant requested assistance in meeting the travel and accommodation arrangements of four eminent criminologists who took part in the 'Crime Summit' conference held in Perth to consider crime in Western Australia. The conference was considered to be highly successful.

**AUSTRALIAN BROADCASTING CORPORATION** \$25,000.00

Assistance was sought to help in funding the production of a television education series entitled "Living with the Law", supported by appropriate ancillary material aimed at high school students and school leavers. Funds had been sought from other Law Societies and Law Foundations and a total amount of \$405,000.00 had been granted to assist with the project. Regular reports have been received from the producers with the twenty proposed episodes estimated to be completed by November.

**GASCOYNE REGION - DEPARTMENT FOR SPORT AND RECREATION** \$770.00

Funds were approved for the holding of seminars on legal responsibility and incorporation for sporting and community groups in the Gascoyne Region.

**GERALDTON EMERGENCY RELIEF ORGANISATION** \$750.00

The grant was made for the establishment of a legal library as a free service to the local community.

**BOOGURLARRI COMMUNITY HOUSE** \$500.00

The applicant was granted funds to assist in creating a legal resource library, including videos, and to provide information in community languages where possible. The applicant was advised to make a further application in the forthcoming year when further information is available as to certain outstanding requests.

LAW LIBRARY  
SUPREME COURT OF WESTERN AUSTRALIA

\$5,235.00

Further funds were granted for in-house automation of the Western Australia Case Digest held in the Supreme Court and Central Law Courts Branch Libraries as a preliminary to making this digest more accessible, particularly to country practitioners. The grant was approved subject to reports being supplied at suitable stages of the project, including plans for on-line access to the profession.

THE LAW SOCIETY OF WESTERN AUSTRALIA  
EQUAL OPPORTUNITY COMMITTEE

\$23,000.00

The applicant sought funds for a survey investigating the implications of the influx of women practitioners into the legal profession, it being considered that the results of such a survey would be of use and benefit to both the legal profession and the community in general.

CREATIVE COMMUNITY RADIO

\$2,950.00

The applicant sought funds so that High School students can promote awareness of law related issues on local Community Radio through a series of law awareness programmes directed at school children. The bulk of the money requested was for the purchase of portable tape recorders with microphones to conduct interviews. The grant was approved on the condition that when the interviews were completed, the equipment would become the property of the Public Purposes Trust Trustee. The equipment can thereafter be borrowed for any similar subsequent programmes.

DEFACTO RELATIONSHIPS LAW REFORM LOBBY

\$1,726.00

Funds were sought to publicise submissions and create community awareness of the current law and to stimulate public debate on development proposals for reform. The grant is for monies to be used for a seminar relating to research and education.

JANE FLEMING AND THE LAW SOCIETY OF  
WESTERN AUSTRALIA \$10,000.00

Funds were granted to record a series of oral history interviews and to undertake appropriate preparatory research with selected senior members of the legal profession. It is envisaged that a further application will be made to the Trust for funds for transcribing the tapes. Copyright is to vest in the Law Society of Western Australia as Trustee of the Public Purposes Trust.

LAW LIBRARY  
SUPREME COURT OF WESTERN AUSTRALIA \$50,000.00

Funds were granted for the acquisition of part held periodicals and law reports in order to bring the Library near its goal of a minimum collection. The Supreme Court Library Committee will select the materials and they are to be approved by the Trustee.

THE FRANCIS BURT LAW CENTRE \$34,895.00

Funds were granted to meet the 1988/89 operating budget for the Centre. One of the conditions of the grant was that the Committee examine and report on the possibility of obtaining revenue from other sources.

CITIZENS ADVICE BUREAU OF WESTERN AUSTRALIA \$10,500.00  
(INC)

Funding was sought to continue the Legal Advice Service at the offices of the Citizens Advice Bureau. The service is supplemented by an after hours service operated on a voluntary basis by Law Society members. The Allocations Committee recommended a grant on condition that this be matched by the Bureau on a \$ for \$ basis.

THE LAW SOCIETY OF WESTERN AUSTRALIA  
LAW WEEK COMMITTEE \$18,500.00

A grant was approved for the operation of the 1988 Law Week programme.

THE LAW SOCIETY OF WESTERN AUSTRALIA  
COMMUNITY AFFAIRS COMMITTEE

\$36,778.00

This grant was approved for the purchase of a purpose made vehicle fitted to provide a mobile unit for the provision of free legal advice. It is proposed that the vehicle will be used at shopping centres to dispense free legal advice and visit schools for educational purposes. It will also be used at the Royal Show, thus obviating the need for expensive annually-mounted displays.

THE WESTERN AUSTRALIAN FARMERS FEDERATION  
AND THE LAW SOCIETY OF WESTERN AUSTRALIA

\$2,100.00

Funds were approved to supplement sponsorship for the production of a booklet "Legal Guide for the Primary Producer". It is intended that the W A Farmers Federation will liaise with the authors of the booklet to ensure that the contents are appropriate and will distribute copies to its members.

NORTHERN REGION LAW SOCIETY - LEGAL  
ADVICE BUREAU

\$200.00

Funds were granted to enable the Bureau to purchase reprinted copies of the most commonly referred to State and Federal Acts for use in the Legal Advice Bureau.

THE LAW SOCIETY OF WESTERN AUSTRALIA  
COMMUNITY AFFAIRS COMMITTEE

\$2,095.00

This grant will enable a free legal resource and information service to be provided at the 1988 Royal Show. The service will be conducted in the newly acquired vehicle funded by the Trust.

SUSSEX STREET COMMUNITY LAW SERVICE

\$20,000.00

The applicant sought a grant for the continuation and expansion of an established community based legal service catering for the needs of the local population with emphasis on catering for the particular needs of the poor. The grant is made to supplement Commonwealth funding.

THE UNIVERSITY OF WESTERN AUSTRALIA  
LAW LIBRARY

\$200,000.00

The applicant sought funding to assist the Law School Library in acquiring books, periodicals and law reports. An express condition of the grant is that the University contribute an equal amount from its own resources. The monies are to be expended on works recommended by the 1988 Robinson Cox Fellow and approved by agreement between the Dean of the Law School and the Trustee of the Public Purposes Trust.



A REPORT ON PROJECTS PREVIOUSLY APPROVED BUT STILL IN  
PROGRESS DURING THE 1987/88 YEAR

JAMES A THOMSON

\$1,000.00

A grant was made from the Public Purposes Trust to assist in the compilation and publication of a book with the tentative title "The Western Australian Constitution: Materials, Cases and Comments".

Although the completion of this project has been interrupted, progress has been made with research and gathering of material.

LOCKRIDGE COMMUNITY GROUP

\$151.60

A grant was approved for the amount of \$151.60 for funds to provide a library of suitable legal books and statutes.

To date this grant has not been taken up.

MURDOCH UNIVERSITY - COMMERCE DEPARTMENT

\$7,000.00

A grant was approved to supplement the University's existing law book collection.

At the end of the 1987/88 period purchases to the amount of \$5757.85 had been made.

DR DAVID SANG  
DEPARTMENT OF PSYCHOLOGY  
UNIVERSITY OF WA

\$500.00

Funds for pre-publication costs of a short glossary of Australian-Vietnamese Legal Terms were approved and made available.

Progress on the project is still continuing.

PERTH TECHNICAL COLLEGE

\$8,615.00

Funds were approved and paid to conduct a legal interpreting course for Polish and Vietnamese interpreters who work in the Law Courts and with lawyers.

Due to the time lapse in requesting funds and being advised of the grant, the timetable for the conduct of the course was delayed. A report on the outcome is still awaited.

WESTERN AUSTRALIAN COLLEGE OF  
ADVANCED EDUCATION

\$15,200.00

A grant was approved to produce a video on developing legal literacy in the community.

This project is in the process of being completed.

YOUTH LEGAL SERVICE

\$25,191.66

Funds were granted to publish and distribute to disadvantaged children in WA, four editions of Streetwise Comics relevant to legal issues.

Considerable work has been done in adapting comics produced in the Eastern States to suit local needs and the comics are in the process of being published.

LAW SOCIETY OF W A  
LAW MUSEUM COMMITTEE

\$800.00

Funds were approved for the development of an audio script for The Francis Burt Law Centre.

Some delay has been experienced in the production of this script due to the necessity to find an alternative producer.

LAW SOCIETY OF WESTERN AUSTRALIA  
LAW WEEK 1987 COMMITTEE

\$16,000.00

Approval was given for funds to operate Law Week in 1987.

Free legal advice booths were provided at several shopping centres and a phone-in legal advice service was operated at the offices of the Citizens Advice Bureau. An amount of \$16,000.00 was verified and paid out.

THE LAW SOCIETY OF WESTERN AUSTRALIA  
THE FRANCIS BURT LAW CENTRE COMMITTEE

\$50,000.00

Funds were approved for the operating budget of the Centre.

The Education Officer at the Centre has been busy with projects relating to mock trials and schools visits, and the centre is open to the public for two mornings each week. Of the amount approved \$43,343.43 has so far been paid out.

LAW LIBRARY - SUPREME COURT OF W A \$8,000.00

The Law Library was granted monies to fund the balance of rebinding, repairs or conservation and preservation of damaged library material.

The work on the library materials is proceeding and an amount of \$4482.45 has been expended over the 1987/88 period.

LAW SOCIETY OF WESTERN AUSTRALIA \$38,000.00  
LAW MUSEUM COMMITTEE

In 1986 funds were granted for the restoration of the Old Supreme Court Building (now known as The Francis Burt Law Centre). The bulk of the building and restoration work has been completed and funds amounting to \$32,703.57 have been paid out

THE LAW SOCIETY OF WESTERN AUSTRALIA \$35,900.00  
LAW PRACTICE MANAGEMENT COMMITTEE

This grant was given for the purpose of producing pamphlets designed to inform lay persons about various common legal problems and access to legal services.

To date an amount of \$26,565.00 has been expended for this purpose. The pamphlets have been widely circulated to law firms and community law centres.

SUSSEX STREET COMMUNITY LAW SERVICE \$51,500.00

The funds were granted to establish a pilot scheme for the service. The full amount has been paid out and quarterly reports on the operation of the service have been received.

AUSTRALIAN LAW STUDENTS ASSOCIATION \$2,000.00  
CONFERENCE COMMITTEE

The grant was made to subsidise the cost of holding the 1987 Australasian Law Student's Association Conference in Perth.

The amount of \$2,000.00 has been paid to the applicant and will be put towards the cost of publishing the Conference Journal which will consist of papers presented at the Conference during the course of the seminar programme. This will be distributed to Law School libraries throughout Australasia as well as to students who attended the Conference.

CHILDRIGHT

\$8,650.00

Funds were made available as a seeding grant to establish an organisation for promoting law reform for children.

An amount of \$1158.10 has so far been expended on this project.

CENTRECARE EMANUEL

\$2,100.00

These funds were advanced to conduct a series of twenty workshops to help people with disabilities to understand the Law.

A report on the success of the workshops is still being awaited.

CHRISTIAN JUSTICE ASSOCIATION

\$1,000.00

Funds were advanced to assist in the establishment of a 12 month driver training project with the aim of educating disadvantaged (mainly Aboriginal) youth with respect to the traffic laws and to assist them to obtain and retain driving licenses.

In July 1988 the first graduates of the scheme were presented with their driving licenses.

CITIZENS ADVICE BUREAU  
AND LAW SOCIETY OF W A

\$5,000.00

A grant of \$5,000 was approved as an interim amount to carry on the legal advice service until a decision was reached regarding the continuation of the service.

Subsequently a further grant was made to enable the service to continue.

CITIZENS ADVICE BUREAU  
AND LAW SOCIETY OF W A

\$33,000.00

Funds were granted for the establishment of a Legal Advice Service at the offices of the Citizens Advice Bureau between August 1987 and August 1988.

Regular quarterly reports and verification of expenditure on the operation of the project have been received.

COMMUNICARE

\$120.00

Funds were granted to provide a library of suitable books and Acts for the training and information of staff.

The materials have been purchased and expenditure verified.

DISTRICT COURT OF W A

\$2500,000

A grant to the amount of \$2,500.00 was approved to assist in the expenses incurred with having Judge Kern, Dean of the National Judicial College, Reno, Nevada USA deliver a paper to the Conference of Australian District and County Court Judges in Perth.

The subsequent amount required was only \$930.05 which has been paid.

FREMANTLE MIGRANT RESOURCE CENTRE

\$9,600.00

A grant was made on a \$2.00 from the Trust for every dollar from the Centre up to \$9,600.00 to produce a video entitled "So you Want to Buy A Car?".

The video has been produced and is in the process of being edited and prepared for final narration. A copy of the video free of copyright restrictions is to be provided to the Trustee.

GRAHAM MCDONALD ON BEHALF OF  
THE ESTATE OF JOHN HUELIN (DEC'D)

\$2,000.00

Funds were granted for the purpose of checking sources, cross references and editing the late John Huelin's Draft thesis "On the Road to Equality".

A request for advance payment of the amount was met and verification of expenditure at the conclusion of the project is expected.

KALAMUNDA COMMUNITY LEARNING CENTRE

\$285.00

A grant was made for the preparation of a series of eight talks to bring members of the Learning Centre and the Local Community up to date on subjects such as Family Law, Consumer Affairs, Wills and Estate Problems, Law Courts and Legal Aid, Equal Opportunities, etc.

To date the talks have not been held and therefore no request has been made for reimbursement of funds.

LAW LIBRARY - UNIVERSITY  
OF WESTERN AUSTRALIA

\$6,600.00

Funds were approved for library acquisitions in connection with the Master of Laws by coursework. The amount was approved on the basis that funds should not be allocated for series, loose leaf or journals unless the applicant was able to assure the Allocations Committee that ongoing funds can be provided.

During the 1987/88 period the applicant has not requested any reimbursement of funds.

LAW LIBRARY - UNIVERSITY  
OF WESTERN AUSTRALIA

\$24,380.00

Funds were made available for the purchase of library materials to strengthen the holding in the Beasley Library of basic report series on the basis that funds for purchasing future series will be available from other sources than the Trust.

For the period an amount of \$18,055.00 was expended on purchases.