Legislative Council

Thursday, 1 November 1990

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

PETITIONS - DUCK SHOOTING

Controlled Season Support

Hon P.J. Pendal presented a petition bearing the signatures of 1 252 persons calling for the continuation of controlled duck shooting in Western Australia.

[See paper No 694.]

Similar petitions were presented by Hon Muriel Patterson (46 and 214 persons) and Hon John Caldwell (20 persons).

[See papers Nos 695 to 697.]

PETITION - DUCK SHOOTING

Prohibition Legislation Support

Hon Fred McKenzie presented a petition bearing the signatures of 925 persons urging Parliament not to declare a duck shooting season for 1991 and to legislate for the prohibition of any future duck shooting in this State.

[See paper No 698.]

EVIDENCE AMENDMENT BILL

Report

Report of Committee adopted.

STATE EMPLOYMENT AND SKILLS DEVELOPMENT AUTHORITY BILL

Assembly's Further Amendments

Amendments made by the Assembly now considered.

Committee

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

The amendments made by the Assembly were as follows -

No 5.

Clause 9.

Page 7, lines 1 to 3 - To delete the amendment and substitute the following -

To delete paragraph (c) and substitute the following paragraph -

(c) 4 persons shall be appointed from employee organizations of whom 2 shall be appointed on the nomination of the body known as the Trades and Labor Council of Western Australia;

No 6.

Clause 9.

Page 7, lines 14 to 18 - To delete the amendment and substitute the following -

To delete subclause (2) and substitute the following subclauses -

(2) Where a nomination is required for the purposes of subsection (1)(b) or (c) otherwise than from a body referred to in that provision the Minister shall cause to be published in the *Government Gazette* a notice calling for nominations under subsection (1)(b) or (c), as the case requires, and a copy of such notice,

(a) if the notice relates to organizations which represent employers shall be forwarded to the body referred to in subsection (1)(b)(i); and

(b) if the notice relates to organizations which represent employees shall be forwarded to the body referred to in subsection (1)(c),

and the nomination shall be made to the Minister in writing within 90 days of the date of the publication of the notice.

(3) Where a nomination is required for the purposes of subsection (1)(b) or (c) from a body referred to in that provision the nomination shall be made to the Minister in writing on behalf of the nominator within 90 days after the receipt by the nominator of a notice from the Minister that such nomination is required as is specified in the notice.

Consequential amendment to amendment No 6.

Clause 9.

Page 7, line 20 - To delete "subsection (2)" and substitute the following -

subsection (2) or (3)

Further amendment.

Clause 16.

Page 11, line 2 - To delete the words "at least 2 members" and substitute the following -

all of the members present

No 8.

Clause 17.

Page 11, lines 31 and 32 - To delete the amendment and substitute the following -

To delete the words "and labour market services"

No 11.

Clause 17.

Page 12, lines 7 to 9 - To delete the amendment and substitute the following -

To delete paragraph (d) and substitute the following -

(d) promote the partnership of employers, employees, employer organizations, employee organizations, skills formation providers and government in the provision of skills formation and the development of skills formation policies;

No 12.

Clause 17.

Page 12, line 17 - To delete the amendment and substitute the following -

To delete the words "and approve labour market services"

No 14.

Clause 17.

Page 12, lines 28 and 29 - To delete the amendment and substitute the following -

To delete the words "and labour market services"

No 15.

Clause 17.

Page 13, line 2 - To delete the amendment and substitute the following -

To delete the words "and labour market services"

No 16.

Clause 17.

Page 13, line 11 - To delete the amendment and substitute the following -

To delete the words "and labour market services,"

No 17.

Clause 17.

Page 13, line 16 - To delete the amendment and substitute the following -

To delete the words "and labour market services,"

No 18.

Clause 17.

Page 13, line 18 - To delete the amendment and substitute the following -

To delete the words "and labour market services,"

Further amendment.

Page 14, line 5 - To delete the figure "25,".

No 19.

Clause 18.

Page 14, lines 16 and 17 - To delete the amendment and substitute the following -

To delete the words "or labour market services"

No 20.

Clause 18.

Page 14, line 20 - To delete the amendment and substitute the following -

To delete the words "or labour market services"

No 21.

Clause 18.

Page 14, line 31 - To delete the amendment and substitute the following -

To delete the words "and labour market services"

No 23.

Clause 20.

Page 16, line 6 - To delete the amendment and substitute the following -

To delete the words "and labour market programmes and services"

No 27.

Clause 22.

Page 17, line 21 - To delete the amendment and substitute the following -

To delete the words "or labour market services"

No 29.

Clause 22.

Page 17, line 25 - To delete the amendment and substitute the following -

To delete the words "or labour market services"

No 30.

Clause 22.

Page 17, line 28 - To delete the amendment and substitute the following -

To delete the words "or labour market service"

No 31.

Clause 23.

Page 18, lines 6 to 35 - To delete the amendment and substitute the following -

To insert after line 35 the following subclauses -

(3) Notwithstanding anything in subsection (2), where the Authority -

(a) receives an application in relation to a particular industry made by an association of which an organization of the kind referred to in subsection (2)(b)(i) is a member;

(b) is satisfied that the objects of the association are consistent with the objects of this Act; and

(c) is satisfied that though the rules of the association do not conform with the requirements of subsection (2)(b) and (c) the association would nevertheless perform the functions of a council in relation to the industry in question in a satisfactory manner;

the Authority may, subject to the approval of the Minister in writing, register the association as a council in relation to the industry.

(4) Where the Authority registers an association as a council under subsection (3) the Authority shall incorporate that fact in its Annual Report and shall set out in the Annual Report its reasons for such registration.

No 32.

Clause 24.

Page 19, line 20 - To delete the amendment and substitute the following -

To delete the words "and labour market services and programmes"

No 33.

Clause 24.

Page 19, line 24 - To delete the amendment and substitute the following -

To delete the words "and labour market services"

No 34.

Clause 24.

Page 20, line 3 - To delete the amendment and substitute the following -

To delete the words "and labour market services"

No 35.

Clause 24.

Page 20, lines 7 to 10 - To delete the amendment and substitute the following -

To delete the paragraph and substitute the following -

to promote the partnership of employers, employees, employer organizations, employee organizations, skills formation providers and government within the industry on investment in skills formation.

No 37.

Clause 27.

Page 21, lines 22 to 26 - To delete the amendment and substitute the following -

To delete paragraphs (b) and (c) and substitute the following paragraphs -

(b) 3 shall be persons who in the opinion of the Minister represent employer organizations;

(c) 3 shall be persons who in the opinion of the Minister represent employee organizations of whom 2 shall be appointed on the nomination of the body known as the Trades and Labor Council of Western Australia;

No 38.

Clause 27.

Page 21, after line 28 - To agree to the amendment subject to the following further amendments -

(a) To insert after "(2)(b) or (c)" where twice occurring in proposed new subclause (3) the following -

otherwise than on the nomination of the body referred to in subsection (2)(c)".

(b) To insert after proposed new subclause (3) a further new subclause as follows -

(4) Where an appointment is proposed to be made under subsection (2)(c) otherwise than on

the nomination of the body referred to in that provision a copy of the notice calling for nominations in relation to the appointment shall be forwarded to that body.

No 47.

Clause 31.

Page 24, lines 18 to 20 - To delete the amendment and substitute the following -

To delete the paragraph and substitute the following -

(f) if accreditation of a particular workplace for the purpose of providing skills formation is required by any other written law, or such accreditation is sought from or has been approved by the Board, require that any such place at which the accredited skills formation is to be provided or is provided be approved by the person or body of persons specified by the Board.

No 50.

Clause 35.

Page 26, lines 23 and 24 - To delete the amendment and substitute the following -

To delete the words "and labour market services"

No 52.

Clause 44.

Page 30, line 30 - To delete the amendment and substitute the following -

To delete the words "and labour market services"

No 53.

New Clause 3.

Page 2 - To agree to the amendment subject to the following further amendments -

To delete the word "services" wherever occurring after "skills formation" in proposed paragraphs (a), (c), (d), (g) and (i).

No 54.

New Clause 5.

Page 4 - To agree to the amendment subject to the following further amendments -

(a) In proposed subsection (1), to delete the word "services"; and

(b) In proposed subsection (2) -

(i) to delete the word "service";

(ii) in proposed paragraph (a), to delete the word "service" where twice occurring; and

(iii) in proposed paragraph (b), to delete the word "service".

(c) In proposed subsection (3) -

(i) to delete the word "services"; and

(ii) to delete the words "services are" and substitute the following -

is

Hon KAY HALLAHAN: I move -

That -

(a) the Council not insist on those amendments disagreed to by the Assembly;

(b) agrees to the further amendments made by the Assembly.

The amendments proposed in the message from the other place are acceptable to the Government. I understand there is extensive agreement on the objectives and all the operational aspects of the Bill by all parties in the Legislative Assembly. Members should be aware of the considerable effort made by everyone involved in reaching consensus on the Bill now before the Committee. That consensus underscores the very great importance of this Bill for raising the level of skills of all Western Australians. The Bill before the Committee is a compromise on the original proposal but the Government believes the SESDA legislation in its amended form is workable.

I make two points in that regard: Firstly, the needs of industry for this legislation have in no way diminished over time. Indeed, the continuing development of award restructuring has made the need for comprehensive training legislation all the more important if we are to avoid having our skills and qualifications determined by industrial awards. Members will recall that that matter was canvassed when the Bill was debated in this place.

The second point that brings a note of urgency to this Bill is that the Minister for Productivity and Labour Relations will attend a special conference of Ministers of Labour tomorrow. I am told that consideration will be given at that conference to the proposal in the Deveson inquiry, which looked into award restructuring for increased centralisation of training development and skills accreditation. I am sure that none of us believes that would be in the best interests of the future development of our State. It is not supported by the Western Australian Government and I would be very surprised if it were accepted by Opposition parties. However, without the SESDA legislation we are not in a strong position to argue for continued control by Western Australian industry of the State's training agenda.

The Bill we are now considering is critical to the role and strength of the case this State will put at that conference tomorrow, which will focus much more directly on centralisation of this very important skills development and restructuring area. The Government is seeking a continuing cooperative effort and I acknowledge that that has been the case to date. It has been difficult debating this Bill and understanding the needs of the various sectors of the community. There is now much greater awareness of the problems involved, and a spirit of goodwill has been evident in the attempts to provide a Bill which is acceptable to all parties and which will work. The amended Bill would put Western Australia in a strong position to keep control over these important areas. I ask members to support the motion.

Hon N.F. MOORE: The Minister has moved that we deal with the message en globo, and that we shall not deal with each of the clauses separately and independently.

Hon Kay Hallahan: I do not object if you would prefer to do that.

Hon N.F. MOORE: I have a problem with that because I have yet to resolve two matters involving two clauses. I suggest that the Committee should adjourn the debate to some time during the afternoon so that I can take further advice. Depending on that advice, I shall either oppose the motion now before the Committee so that we can deal with the amendments clause by clause, or I shall support the motion dealing with all the amendments in one hit.

Hon Kay Hallahan: How much time will be needed?

Hon N.F. MOORE: Half an hour. We can deal with the Bill this afternoon after I have checked these two clauses.

Hon KAY HALLAHAN: I am happy to support an adjournment of the debate until a later stage of this sitting, because of the importance of the conference being held tomorrow, and on the understanding that the delay will be between half an hour and an hour.

Hon J.N. CALDWELL: I support an adjournment of the debate for a short period during this sitting. I ask Hon Norman Moore to indicate which two clauses he has difficulty with so that the National Party can consider those clauses also during that adjournment.

Hon N.F. Moore: I am referring to clauses 9 and 27.

Hon GEORGE CASH: It has been brought to my attention that some slight confusion has arisen with regard to two clauses. That confusion may rest with me because I have only just been advised of the possible problem. If the Committee agrees to adjourn this debate to a later stage of this day's sitting in order to consider matters raised by Hon Norman Moore, I suggest a meeting be immediately convened between the Minister and representatives from the National Party and the Liberal Party so that the matter can be considered this afternoon. If these matters can be resolved, clearly we can come straight back into the Chamber and deal with the Bill. It would not be proper to proceed without clarifying these points.

Progress

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

[Continued on p 7015.]

GOLDFIELDS-ESPERANCE DEVELOPMENT AUTHORITY BILL

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Graham Edwards (Minister for Police) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Board of management of Authority -

Hon N.F. MOORE: The board of management of this authority will comprise 10 members. The South West Development Authority and the Geraldton Mid-West Development Authority have only seven members on their boards. I cannot accept the Minister's argument that because this region is larger and more diverse there should be 10 members, because if we look at the geography of Western Australia we see that the region covered by the Geraldton Mid-West Development Authority is similar to the region to be covered by this authority from both a geographical and an industrial point of view. I am happy to go along with 10 members for the time being, but this matter should be considered when the review is done in five years to see whether that number is not too unwieldy and large. Seven seems to be a fairly good number, bearing in mind that the authority will have an input from two advisory committees.

Hon GRAHAM EDWARDS: I note the member's comments. The truth or otherwise of the value of having 10 members will be proved in the future. I disagree with the member about the make-up of the region, but I will not pursue that argument now.

Hon N.F. Moore: You are talking to a former geography teacher.

Hon GRAHAM EDWARDS: The member is talking to a person who was born in the region.

Hon N.F. Moore: So was I.

Hon GRAHAM EDWARDS: Touchè! I would rather the board be over manned than under manned because there is a considerable amount of work to be done, particularly with the two advisory bodies, and considering what could be a demanding situation between the coastal area of Esperance and the inland area of Kalgoorlie, which is where this region differs from the other regions mentioned by the member.

Clause put and passed.

Clauses 6 to 8 put and passed.

Clause 9: Protection of Board members and members of Board committees -

Hon N.F. MOORE: Subclause (1) says -

> A Board member is not personally liable for any act done or omitted to be done in good faith by the Authority, the Board, a Board committee or by that person acting as a Board member.

The Minister may have a simple explanation and my fear may be the result of my lack of knowledge, but who will be liable in the event that a problem occurs in relation to action that has been taken? Will somebody else be liable?

Hon GRAHAM EDWARDS: I understand this is a standard clause, and it is put in place to provide that protection which is reasonable for board members as they go about their business. Any decisions which are made must be made by the board and not by individual members. As to further liability, I will pursue more information for the member if he is happy to progress through this, and I will come back to him with that information.

Hon N.F. MOORE: This is the sort of thing that Hon Peter Foss was talking about in respect of the liability of directors in public corporations. We may need to include in legislation some sort of liability for people who take on the position of board member, rather than simply saying they are not liable for anything that may go wrong, bearing in mind that they are making decisions.

Clause put and passed.

Clause 10 put and passed.

Clause 11: Functions of Authority -

Hon N.F. MOORE: I have serious reservations about this clause, and I raised them during the second reading debate. The clause provides that the functions of the authority are to plan, coordinate and promote the economic and social development of the goldfields-Esperance region. The words "social development" are mentioned several times in the subclauses. I believe the parameters of this clause are too broad for an authority such as this. The name of the authority is the Goldfields-Esperance Development Authority, and I imagine that "development" refers to economic and industrial development rather than social development.

These types of authorities should be hard headed, very lean organisations, which are working at the cutting edge of new technology, using lateral thinking to attract and develop industry, and working in those economic areas which are vital to our economy. If the Government wants someone to worry about the social development of the region it should either set up a new organisation for that purpose or use existing Government departments which are very actively involved in social development. I see here the potential for a considerable overlap and duplication of functions between the authority and other Government departments and authorities involved in social issues. It is a pity that social development has been included in the functions of this authority. I believe that will distract the attention of authority members from their primary purpose. One of the problems with the old regional development committees was that they tended to divert on to issues which were in a sense social, so people would take to them their problems with the local school or hospital, and use those committees as lobbying organisations to try to get Government funding for a range of activities in their communities.

I do not see this authority as having that sort of role at all. It should be a very small think tank operation with its mind firmly fixed on the objective of improving the economic development and circumstances of the region it covers. I am tempted to move to delete the words "social development" but I will not for the time being in the hope that the authority will not become involved too much in that. However, this provides a perspective for this authority which I do not believe should be part of its functions, and I hope that those people who are appointed to the authority do not see the words "social development" as being in any way the most important part of the authority's functions. In fact I hope they will see that as a very minor part of its functions, bearing in mind particularly the need for economic and industrial development at this time. A time will come when the economy is booming, and those authorities may look at social issues then because they have more time, but that time is not now.

Hon GRAHAM EDWARDS: Again I note the comments Hon Norman Moore has made. The important thing to recognise is that the board will set the policy direction for the authority. I do not believe the board will be unduly sidetracked into areas which do not go hand in hand with the general economic development of the region, but I simply do not believe we should set up a body such as this and not give it the ability to consider the social needs of the area it covers and, indeed, to give some opportunity for the reasonable social expectations of a community to be built into the future economic development. I do not believe the board will unduly commit its time or resources to these social matters.

Clause put and passed.

Clause 12: Powers of Authority -

Hon N.F. MOORE: This clause is quite extraordinary and reminds me a little of the Western Australian Development Corporation legislation. Subclause (2) gives the Goldfields-Esperance Development Authority certain powers, and I will read out what some of those powers are -

(a) to purchase, sell, take on lease, mortgage, exchange or otherwise acquire, deal in or dispose of real and personal property;

(b) to improve, development or alter real property;

(c) to divide land, provide energy, water and other services, build roads and construct other works;

It then goes on to say that the authority will have the power to appoint agents and attorneys, and so on. I think that is all right, but when I look at subclause (2)(a)(b) and (c), I wonder what on earth this authority will be doing.

If we think back to the days of the WADC, when we set up that organisation and gave it great powers to become involved in business and do all the sorts of things Government departments now do, I would be very interested to hear from the Minister why it is necessary for the authority to have these powers. For instance, why is it necessary for the authority to provide water, energy and other services? I thought that was what the Water Authority and the State Energy Commission were for, and other agencies providing Government services. Why does the authority have to be in that business? Why does it want the power to build roads? Again, I would have thought that was the job of the Main Roads Department or the local authority. What other works will the authority become involved in? Will it build schools, airports or hospitals? I thought that was what the Building Management Authority was for. As to the powers mentioned in subclause (2)(b) and (c), it sounds as though the authority will be a land development organisation. Will it go into the business of buying and selling land and property; and if so, why?

Regional development authorities should be set up for one purpose, and one purpose only; that is, to facilitate the development of the economy of the region in which they are situated. They should not be set up to duplicate the services and activities of a whole raft of Government departments - or, even worse, to become involved in the things which the private sector does best; for example, subdividing or selling land. Those are not the functions of a development authority.

I did some research into this matter and I noticed that the Geraldton Mid-West Development Authority has the same powers. I suppose I should not complain too much about these provisions in this Bill, as that Bill passed through the House without my complaining about it. However, I did not take as much notice of that authority as I should have done. When I read the Bills and see all the powers those authorities will have, it makes me wonder what on earth they are for and why on earth the Government thinks it is necessary to give them these powers. I look forward with interest to the Minister's explanation.

Hon GRAHAM EDWARDS: I think we will never get into a situation where the authority will go off and construct a power plant. The emphasis of the authority, and the emphasis of its functions, is to plan, promote, coordinate and facilitate, and I am sure that is exactly what we want to see happen. The authority is subject to a number of checks. First of all, the board would have to give approval to whatever projects the authority became involved in, and the Minister would certainly have to agree. I just cannot foresee any circumstances where the authority would become involved in the provision of power, for instance, and certainly it is not envisaged that it will become involved in any commercial subdivisions.

During debate on the Geraldton Mid-West Development Authority Bill it was suggested that the words "construct other works" which appear in clause 12(2)(c) of this Bill could mean that the authority could build a steel mill. Advice from Parliamentary Counsel certainly indicated that it was unlikely or doubtful that the Act could be interpreted in that way. I repeat that the emphasis of the functions of the authority is to plan, promote, coordinate and facilitate.

Hon N.F. MOORE: The Minister has just given me every good reason why we should delete most of this clause. He said that the clause is in the Bill but the authority will not actually

use it. Surely it is in there for a purpose. Can the Minister tell me why it is there, and not tell me why it will not be used? He gave an interesting example of somebody referring to a steel mill in Geraldton, and his advice was that it was unlikely that it could be done. Why was the clause included in the first place?

Hon GRAHAM EDWARDS: The purpose of this clause is to give the authority the ability to fulfil as much as it can the role of a facilitator and coordinator. Were the powers contained in this clause not included in the Bill the authority's coordinating and facilitating capability would be limited. It is in no way envisaged that, for instance, the authority would build a power station. However, in its coordinating role the authority may need to acquire property from a number of owners. It also may need to provide services before the vested property could be used. This would come under the banner of the coordinator and facilitator and would not give the ability to control the power station.

Hon MURRAY MONTGOMERY: This clause creates some concerns. In respect of the answer just given, other Government departments are already able to carry out the duties of purchasing the land and doing what is required. As the Minister indicated, the need for facilitation and coordination does not mean that the authority must operate the project.

Hon N.F. MOORE: While the Minister is collecting his thoughts on the legitimate question from Hon Murray Montgomery, I reiterate that we are asked to give this authority virtually total power to do things which service providers through various Government departments already do. A string of Government departments provide services to the community such as power, water, roads and that sort of thing.

Hon Murray Montgomery: And the acquisition of land.

Hon N.F. MOORE: With this clause the authority could do the same thing. The Bill refers to land "sale, purchase, mortgage, lease and deal-in", which are all terms used regarding real estate and other property. We are asked to give the authority enormous powers and if, as the Minister rightly says, its role is to be a facilitator, I wonder why a facilitator needs the ability to build roads or the capacity to provide water when organisations already exist to do such things. What would happen if the authority decided to provide water to an industrial development with which the Water Authority did not agree? A similar situation could arise with SECWA. I want a far better explanation than that given for the inclusion of these powers before I am prepared to support the clause.

Hon GRAHAM EDWARDS: The Bill contains nothing that would enable the Goldfields-Esperance Development Authority to override departments such as SECWA and the Water Authority. It is important to recognise that none of these departments has the ability to be a facilitator. We get back to the role and emphasis of the authority; that is, to plan, promote, coordinate and facilitate. It does not have the power to override any existing Act, and the other instrumentalities, to which I have referred, are the subjects of existing Acts and do not have the ability to be facilitators. If these powers were deleted the ability of the authority to fulfil its important function would be severely inhibited.

Hon N.F. MOORE: The Minister's explanation is virtual nonsense. The facilitating role and other functions of the authority could be done without these powers. It is nonsense to say that the powers are necessary for the authority to fulfil its role. The Government has decided for some reason or other to put in place an organisation at a regional level which will have the same powers as a Government agency regarding the provision of services. If one were to consider this as an ideological matter, one could say this authority could be the basis for regional government because it is to be allocated such powers. Some people believe that in the long term we should have regional government in Western Australia and Australia. I hope that when this Government is put out of office other legislation will be introduced to ensure that such organisations do not have the power to become another level of government in regional areas.

Hon MURRAY MONTGOMERY: When considering this clause one must consider the trouble other authorities have had as a result of provisions such as the one the Minister intends to leave in the Bill here. I wonder how the Minister can say that the Bill is only creating a coordinating and facilitating role when it is actually creating the attributes held by other Government departments. This matter must be further examined because it is causing concern in the community in that this type of authority is trying to usurp activities in other

levels of government. The authority could become a regional department with the ability to override other areas of government.

Clause put and passed.

Clauses 13 to 17 put and passed.

Clause 18: Funds of Authority -

Hon N.F. MOORE: Clauses 18 to 20 deal with the same issue; that is, the matter of raising funds. We have already discussed the areas in which the authority can operate and the extraordinary powers it will have, considering the nature of the authority. This clause deals with the financial provisions under which the authority will operate. I notice that the authority has the capacity to borrow funds from the Treasurer. I ask the Minister to explain why it will be necessary for the authority to borrow funds if it is a facilitator. If it is facilitating development of industry any necessary funds will be provided through the Consolidated Revenue Fund and the General Loan and Capital Works Fund. I question why it would need that borrowing power and what it will do with the money it borrows.

Hon GRAHAM EDWARDS: The functions of the authority under clauses 18 to 20 are subject to approval by the board, the Minister and the Treasurer. It is not envisaged that the borrowing authority granted under clause 20 will be used, but it is included in the Bill in the eventuality that it is necessary to borrow funds for authorised projects. Once again, that would require the approval of the Treasurer. I reassure Hon Norman Moore that it is not intended by this clause that the Goldfields-Esperance Development Authority would offer guarantees to industry. Any such application would be processed through the industries assistance legislation.

Hon N.F. MOORE: I am interested to learn that the authority will not guarantee funds to industry, but I am interested to know whether it will borrow funds to go into industry and become an equity partner or player in some sort of industrial activity. The Minister has repeated what he said when we debated the previous clause; that is, that it is something that is not expected to be used. The legislation raises concerns for the Opposition, but when we raise a particular concern we are told that it is unlikely that that provision will be used. It must have been included in the legislation for a purpose.

Hon GRAHAM EDWARDS: It is not intended that the authority will become an equity partner. I can only reiterate the previous explanation that I gave.

Hon N.F. Moore: You don't intend for it to go into business?

Hon GRAHAM EDWARDS: No.

Clause put and passed.

Clauses 19 to 23 put and passed.

Clause 24: Establishment and functions of Goldfields Advisory Committee and South-East Coastal Advisory Committee -

Hon N.F. MOORE: I draw the Minister's attention to subclause (2)(b), which refers to social and economic development. Prior to this the Bill has referred to economic and social development. Is it a Freudian slip or is it intended that social development take priority over economic development in respect of the functions of the advisory committees?

Hon GRAHAM EDWARDS: I can only repeat the argument I put to the Chamber earlier; that is, that the board will not be giving unwarranted or undue attention to -

Hon N.F. Moore: These are the advisory committees.

Hon GRAHAM EDWARDS: When referring to the board I was including the advisory committees; they all come under the one umbrella. It is purely a matter of expression. By putting the word "social" before the word "economic" it is not intended to indicate that social development will override economic development. It is important that the board and the advisory committees find the necessary balance between the two.

Clause put and passed.

Clauses 25 to 34 put and passed.

Clause 35: Review of Act -

Hon N.F. MOORE: I will continue to commend the Government on the inclusion of review clauses in legislation, but they do not go far enough. I have said on several occasions that reviews are being carried out by Ministers, and they have a vested interest in ensuring that the reviews are done in the way they want them done. The review of Acts and authorities should be done by someone other than the Minister. In this case we are dealing with a statutory authority and the review should be undertaken by the Standing Committee on Government Agencies. I do not expect to be the chairman of that committee in five year's time but I am sure that whoever is will be happy to undertake that review. It may be the Minister, when he is on this side of the Chamber, who will be chairman of the committee and he may find satisfaction in finding out that what he put to the Chamber today was correct. I suspect that in some cases he will find it was not. There is not much point in undertaking a review if the person who conducts the review runs the organisation. It is important that these reviews be done independently in order that we avoid the bias Ministers may have when looking at organisations which are under their responsibility.

I make it clear, as I normally do when debating review clauses, that while I acknowledge these clauses are new and worth having, at some time down the track we will make them bigger and better.

Hon GRAHAM EDWARDS: I would have been disappointed had Hon Norman Moore not put forward his point of view about this review clause. It is important to recognise that ultimately Parliament has the opportunity to consider the review even though it is undertaken by the Minister. The important thing is that a review will be a requirement of this legislation.

Clause put and passed.

Clause 36 put and passed.

Schedules 1 to 4 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Graham Edwards (Minister for Police), and passed.

COMMUNITY CORRECTIONS LEGISLATION AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon J.M. Berinson (Minister for Corrective Services), and read a first time.

Second Reading

HON J.M. BERINSON (North Metropolitan - Minister for Corrective Services) [3.34 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to introduce a home detention program. It amends the Bail Act to provide an option of home detention as a condition of bail when a person would otherwise be remanded in custody. It also amends the Offenders Probation and Parole Act to allow the release to home detention of certain offenders who are subject to prison sentences of less than 12 months. Home detention provides a stringent alternative to imprisonment for offenders who do not pose a major risk to the community. Participants in the program would be subject to a home curfew at all times, except for authorised absences at approved times, to work, seek employment, attend a community corrections program, seek urgent medical treatment, or for other purposes as directed or permitted by a community corrections officer.

Random monitoring of compliance is an essential feature of the program and may occur at any time. In addition to surveillance by personal contact through home visiting or by telephone, the Bill provides for the use of other monitoring methods, which may include the wearing of a wristlet or other device which can confirm the offender's presence at home. Home detention programs are operating successfully in South Australia, Queensland and the

Northern Territory, as well as in more than 30 American States. Similar legislation is pending in New South Wales, and a pilot program has been drawn up in Victoria. Home detention has proved to be an effective method of diverting appropriate offenders from prison. It allows them to maintain family support and employment, while protecting the community and imposing punishment by rigorously enforced supervision.

The home detention management regime will be similar in most respects for defendants remanded on bail and for prisoners released on a home detention order. However, there are two major differences: Firstly, persons placed under home detention as a condition of bail will not be required to participate in a community corrections centre program. By contrast, prisoners released on home detention will be required to spend eight hours per week on community work or personal development activities if in full time employment, and 12 hours per week if not in full time employment. Secondly, it will be open to defendants on bail to apply to a court for the lifting of a home detention condition after a period of one month or more since the case for bail was last considered. This is consistent with existing provisions of the Bail Act which set down circumstances under which a judicial officer may vary the terms of conditions of bail upon application by the defendant.

I proceed to outline the provisions for home detention as a condition of bail: The Bill provides that a court which is considering such a condition must obtain a report from a community corrections officer as to the defendant's suitability. The report will also address the availability and suitability of the nominated place of residence. The informed agreement of other occupants of the proposed home detention address to cooperate with the program will be an important element, given its very intensive nature. The court must also be satisfied that unless a home detention condition is imposed, the defendant would be remanded in custody. This is to avoid the risk of so-called "net widening" by preventing the release of defendants to bail under home detention, where the court would otherwise have released the defendant to bail on less stringent bail conditions. To be eligible for home detention as a condition of bail, a defendant must also be 17 years or older.

A defendant released on home detention as a condition of bail may leave the place specified in the bail undertaking only in the following circumstances -

To work in gainful employment approved by a community corrections officer (CCO).

With the approval of a CCO to seek gainful employment.

To obtain urgent medical or dental treatment.

To avert or minimise a serious risk of death or injury to the defendant or to another person.

To obey an order issued under a written law - such as a summons - requiring the defendant's presence elsewhere.

For the purpose approved by a CCO.

On the direction of a CCO.

In addition, the defendant must not leave the State, and must comply with every reasonable direction of a CCO, and with any conditions imposed by the Chief Executive Officer of the Department of Corrective Services. For the purposes of checking whether a defendant is complying with a home detention condition, a community corrections officer may at any time enter or telephone the defendant's place of residence, employment or any other place where the defendant is required to attend. A community corrections officer may give directions to a defendant pertaining to the following matters -

When the defendant may leave the place where he is required to remain.

The period of any authorised absence.

The method of travel to be used by the defendant.

The manner in which the defendant shall report his whereabouts.

Any member of the Police Force is empowered to require the defendant to produce a copy of his bail undertaking for inspection and to require a defendant to explain why he is absent from the place where he is required by the home detention condition to remain. The chief executive officer may, in his absolute discretion, revoke bail and issue a warrant directed to

all members of the Police Force to have the defendant arrested and brought before the appropriate court. The court before which the defendant appears may then remand the defendant in custody to appear at the time and place specified, or grant fresh bail in accordance with the Bail Act.

Consistent with existing provisions of the Bail Act, a surety may apply to a court for cancellation of his undertaking in respect of any defendant released to bail on a home detention condition. A police officer who has reasonable cause to believe that the defendant is not likely to comply with his bail undertaking or is, has been, or is likely to be in breach of any condition of his undertaking, may also cause the defendant to appear before an appropriate judicial officer. If the court is satisfied that a breach has occurred, or is likely to occur, or that the defendant is not likely to comply with a requirement of his undertaking, it may revoke bail and either remand the defendant in custody or grant fresh bail, subject to the Bail Act. These powers provide an additional safety net to ensure that any defendant whose behaviour on home detention is unacceptable or who is perceived to present a serious risk, is subject to prompt and appropriate action.

I turn to the next provisions of the home detention legislation as they apply to sentenced prisoners. The eligibility criteria for home detention require that -

> The prisoner is serving a term of imprisonment, or an aggregate of terms of imprisonment, without regard to remission, of less than one year.
>
> The prisoner has served at least one month of the term, or aggregate, or one-third of the term, whichever is the longer.
>
> The prisoner is neither entitled to be released nor eligible to be considered for release on parole.

Subject to these eligibility criteria, the chief executive officer may order in writing that a prisoner be released under a home detention order, and may impose conditions on that order. In determining whether to issue a home detention order in each case, the chief executive officer must have regard to the nature and circumstances of the offence or offences for which the prisoner is imprisoned, the risk to the security of the public that the prisoner's release would impose, and the views of other people residing at the place where the prisoner proposes to remain under the home detention order.

Prison staff and community corrections officers will scrutinise the prisoner's application, his community support, past offence record, response patterns to any previous community based supervision orders, and any other matters likely to bear upon the likelihood of compliance. A prisoner may only be released on home detention after signing a declaration that he understands the obligations and conditions of the home detention order and undertakes to comply with them. A prisoner released on home detention will be subject to the same remission of sentence as applies to other prisoners under section 29 of the Prisons Act. In effect, this means that the maximum period for which a prisoner may be released on home detention will be four months.

Once released to home detention, prisoners will face the same restrictions on their movement away from the approved place of residence as will defendants on bail. The same powers as provided under the Bail Act will also be conferred upon community correction officers to ascertain whether the prisoner is complying with the home detention order, and to issue directions about the time, purpose, destination, and method of travel of any authorised absence from home. However, unlike defendants subject to a home detention condition under the Bail Act, prisoners on home detention will also be required to attend a community corrections centre program. As already indicated, this will entail eight hours per week of unpaid community work or personal development activities for offenders in full time employment, and 12 hours per week for offenders not in full time employment.

There is provision for the restriction of alcohol or other restrictions in a home detention order and for requiring an offender to undergo testing for alcohol or drug use. However, offenders under home detention will not be prohibited in all cases from consuming alcohol or from driving a motor vehicle if qualified to do so.

Where a prisoner has been released on a home detention order, the chief executive officer may at his absolute discretion, and by notice in writing to the prisoner, substitute a different place for the place where the prisoner is required by the home detention order to remain; he may also amend, revoke or impose further conditions on the order.

In his absolute discretion, the chief executive officer may cancel or suspend the order. The effect of such a decision would be to reactivate the original warrant of commitment or other authority for the prisoner's imprisonment. In the case of cancellation of the order, or suspension followed by subsequent cancellation, no credit would be extended to the prisoner for the time served on home detention prior to the cancellation. The prisoner would thus be liable to serve the full unexpired portion of his sentence as at the date of his release on home detention, less any remissions applicable under section 29 of the Prisons Act. This emphasises the intention that home detention will be a tough alternative to imprisonment, and will clearly signal to all participants the high standard of performance required.

Where a home detention order is suspended, but not subsequently cancelled, credit would be given for the period completed under the order. This provides a degree of flexibility, particularly in cases where the order is suspended for administrative rather than disciplinary reasons. Such an event could arise, for example, when for reasons beyond the offender's control the approved place of accommodation ceased to be available. There will be occasions when, pending the making of new arrangements, there is no alternative than to return the offender to custody. If a prisoner has been released on a home detention order, his sentence is deemed to be served if the order is not cancelled, and the offender satisfactorily completes the performance of its conditions and obligations.

The rules of natural justice will not apply to any act, omission or decision by the chief executive officer, either in respect to defendants released on home detention as a condition of bail, or to offenders released from prison on home detention. This provision reflects the status of home detention as a privilege, and is consistent with the provisions of the community based work release program.

Members will note that the Community Corrections Legislation Amendment Bill amalgamates the legislation covering all types of community based supervision orders by repealing the Community Corrections Centres Act. The provisions of that Act are now incorporated in the Offenders Probation and Parole Act. This amalgamated Act is to be re-titled the Offenders Community Corrections Act. This will more accurately reflect the full range of community based supervision orders which are now administered by the Department of Corrective Services.

Members will be aware that the Community Corrections Centres Act, which this Bill repeals, provides for the establishment of community corrections centres and for their management. It is intended that these management provisions will also apply to home detention orders. It is therefore appropriate to draw together the management of all forms of community corrections centre orders - home detention, community based work release and work and development orders - under the umbrella of one comprehensive piece of legislation. Parts 1A, 1B and 1C of the amalgamated legislation preserve all the essential features of the Community Corrections Centres Act.

Community corrections centres are the focal point for the organisation of activity and developmental programs for offenders. The chief executive officer is authorised to approve such programs which may include, but are not restricted, to the following: Community, voluntary or charitable work; programs for the treatment of alcoholics or drug dependent persons; educational, occupational and person-training course; counselling programs; or social and life skills courses.

Internal disciplinary procedures will control an offender's behaviour while at a centre or participating in a program and these procedures will apply to offenders subject to a home detention order. For an offender on home detention, the conditions governing performance of a community corrections centre program are additional to those which regulate curfew observance and the terms of any permit for absence from the approved place of residence.

Disciplinary action lies against any offender whose performance of the community corrections centre program is unsatisfactory, who commits any offence while subject to a community corrections centre order, or who fails to notify a community corrections officer if unable to attend where and when required to do so. All failures to attend, whether for medical or other reasons, require an officer's approval, and evidence to support the absence may be required to be produced.

This Bill achieves two other purposes not directly related to the operation of a home

detention program, but consequential on the amalgamation of the Community Corrections Centres Act and Offenders Probation and Parole Act. Firstly, the Bill repeals part IIIA of the Offenders Probation and Parole Act which deals with probation orders made in another State or Territory. Part IIIA of the Offenders Probation and Parole Act was enacted in 1969. It was intended to overcome the problem that supervision orders imposed against offenders were not enforceable when they moved interstate. To be effective, part IIIA of the Act was dependent upon all States and Territories enacting complementary legislation, but only Western Australia enacted the provision. Accordingly, the provisions in this part have never been used. The transfer provisions in part IIIA relating to offenders on parole were repealed in 1987, having become redundant with the passage of the Parole Orders (Transfer) Act in 1984.

Secondly, the amalgamation has now grouped together the persons appointed under both the Community Corrections Centres Act and the Offenders Probation and Parole Act who supervise community based corrections orders. These include honorary community corrections officers, volunteers, and persons engaged on contract.

Members will also note that probation officers, parole officers and community corrections officers will all be referred to as community corrections officers. This follows from the amalgamation of the Community Corrections Centres Act and the Offenders Probation and Parole Act, because under the Community Corrections Centres Act probation and parole officers were included in the definition of community corrections officers.

The Community Corrections Legislation Amendment Bill represents a new landmark in the management of offenders. It should serve to reduce the high imprisonment rate in this State, with its attendant heavy economic and social costs. In the 1989-90 financial year, the annual cost of imprisonment per prisoner was $46 600. The total cost to the community is in reality much higher, given the costs of welfare and other support for the dependants of prisoners. This is apart from the serious cost in non-financial terms of the effects of imprisonment on family stability and employment prospects.

By comparison, home detention is projected to cost less than $6 000 per annum for each participant. At the same time, it takes a responsible approach to establishing criteria, powers and obligations for home detention management, which will preclude the participation of those who constitute a serious risk to the community. For those in the home detention program, rigorous standards of surveillance will apply, and non-compliance will be dealt with swiftly and effectively.

It is intended that during its first 12 months of operation, home detention will be available only in the metropolitan area, but it will thereafter, subject to available resources, have Statewide application. This will ensure that during its initial stages administrative and management systems can be adjusted in response to operational experience. On the basis of its success in other jurisdictions, there is little doubt that home detention will develop into a most important offender management program. It has scope to develop beyond the areas covered by this Bill, and there will be continuing attention to those possibilities.

I commend the Bill to the House.

Debate adjourned, on motion by Hon George Cash (Leader of the Opposition).

Sitting suspended from 3.50 to 4.00 pm

[Questions without notice taken.]

ROAD TRAFFIC AMENDMENT BILL (No 3)

Second Reading

Debate resumed from 18 September.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [4.26 pm]: This Bill will allow the police in Western Australia to issue infringement notices by mail for alleged speeding offences detected by the radar camera known as the Multanova. Members will be aware that the Government introduced a similar Bill into this House earlier this year, but because of the wording in that Bill -

The PRESIDENT: Order! Yesterday on half a dozen occasions I had to draw honourable

members' attention to the fact that they were carrying on rude, audible conversations while members were addressing the Chair. Although 24 hours have elapsed I have done nothing to indicate that the rules have changed. The rules are still the same and any member who defies the Chair to the extent that members are, will be on the receiving end of my wrath. In the meantime I suggest that members listen to Hon George Cash.

Hon GEORGE CASH: The Bill also covers red light cameras at intersections. There is no need for the Opposition to restate its case. It is prepared to accept the use of Multanova cameras as a technical aid to detect speeding offences. When the legislation to allow the use of the Multanova 6F was introduced by way of regulation in the *Government Gazette* in June 1988 and again in October 1988, the Opposition was not opposed to that measure. While the Opposition was not opposed to the original Bill, it was opposed to the way it was framed, as it was our view it reversed the onus of proof against the person alleged to have committed an offence. The Opposition maintained that the onus should be on the Crown, in this case the police, to prove the offence. We made it clear that we were not prepared to accept legislation that deemed the owner of the car to have committed an offence. We have always believed that the Crown had to prove its case and, although the Government expressed some disappointment that the Opposition was not prepared to accept the earlier form of the Bill, it has now introduced this amended Bill. The amendments adequately cover the questions raised by the Opposition earlier this year. In addition to now not deeming an owner or driver to have committed an offence, the Government has included the following phrase in the Bill -

> the person on whom the notice was served is, in absence of evidence to the contrary, deemed to have been the driver or person in charge of the vehicle at the relevant time for the purposes of the offence alleged in the notice.

I indicate to the Minister that the Opposition intends to move for the deletion of those lines in the Bill and the substitution of the following words -

> the person on whom the notice is served, in the absence of a claim by that person -
>
> (a) to the contrary, or
>
> (b) that notwithstanding proper service of the notice the notice did not actually come to the attention of the person within the time for response or sufficiently within time to allow for response,
>
> shall be presumed to have been the driver or person in charge of the vehicle at the relevant time for the purposes of the offence alleged in the notice.

I signal that amendment to be dealt with at the Committee stage in view of the fact that it may not be possible to deal with the Bill in Committee this afternoon.

Hon Graham Edwards: I am happy to accept that amendment.

Hon GEORGE CASH: I appreciate the Minister's indication in principle that he will accept the amendment when it is moved at the Committee stage.

The PRESIDENT: Order! Perhaps at the Committee stage we shall have the second reading debate!

Hon GEORGE CASH: The Bill in its newly worded form does not include the owner onus provision, and I recognise that the Government has made a considerable effort to clearly indicate that onus of proof has not been reversed.

Hon Graham Edwards: I still disagree that the onus of proof had been reversed with the previous Bill.

Hon GEORGE CASH: I appreciate the Minister's comments but there is a difference of opinion as to whether that was the case. Certainly in its redrafted form the Bill makes it very clear that the onus of proof has not been reversed, although I believe the previous Bill had reversed that onus of proof. If the Minister wants it his way, it could at least be said that the previous Bill was somewhat confusing and that is why there were opinions for and against the propositions advanced.

A further matter raised in this Bill that was not included in the previous Bill is the creation of a road trauma trust fund. It is proposed that one-third of each prescribed penalty paid

pursuant to traffic infringement notices served under section 102(3a) of the Road Traffic Act shall be paid into the road trauma trust fund, along with other moneys appropriated by Parliament for the purposes of the fund from time to time. The Opposition supports the creation of this trust fund. It could be said that the Government would be taking money from Peter to pay Paul because the funds generated from road traffic infringements generally are paid into the Consolidated Revenue Fund. However, by creating this fund the Government has indicated that it wants to pay particular attention to the problems of road trauma in Western Australia. The Opposition has consistently maintained that it joins the Government in a bipartisan approach to trying to reduce the incidence of road trauma in this State. The Opposition clearly supports the Government in this area. I do not intend to canvas the matter of whether the amount of one-third of each prescribed penalty paid is adequate. The Government has decided that one-third is an appropriate proportion, and the various programs and courses it proposes that the trust fund shall deal with or finance will obviously be structured taking into account the money that will be received.

Perhaps the area that concerns me most is the general concept of the very sophisticated way in which the Multanova cameras can detect speeding motorists. I have said before that if they were used throughout the metropolitan area and perhaps also in country areas, or left by the side of the road, these high technology units could become good revenue raising devices for the Government. Reducing the road toll in Western Australia will not work if it is the Government's intention purely to use the Multanova as part of a revenue raising system.

Hon Graham Edwards: I assure you that is not the intention of the Government.

Hon GEORGE CASH: There is a lot more to reducing the road toll than putting Multanova cameras by the side of the road. I remind the House of the three Es often talked about when discussing the methods of reducing the incidence of road trauma: Education, engineering and enforcement. The most important, education, is first. We have an obligation to inform the community, and the reason we want to reduce road trauma and the method that can be used must be clearly understood and accepted by the community. The second E relates to road engineering. Members will be aware that States which have significant grade separation on their roads have less road trauma than do areas without the same type of road design. Perth roads did not have grade separation in the past, but as progress has been made in road engineering through the years the situation has improved. So long as the roads in Western Australia are maintained in a reasonable state, at least the engineering side of the three Es will be recognised in this State. This is not the debate in which to talk about the fact that both the State and Federal Governments are not paying sufficient heed to the state of Western Australian roads, but I raise it in passing. The third E relates to enforcement. It is the last of the three Es and in general terms is the least effective of them. However, it is an important part of the total program. My view is that the greater the police presence on roads, the greater will be the opportunity for reducing road trauma and, indeed, the incidence of speeding offences.

Hon Murray Montgomery: Do you mean a visible presence?

Hon GEORGE CASH: Yes, and that is an important point because when the member mentioned "visible" he immediately reminded me that there is a significant police presence in Alexander Drive in Yokine, which is in my electorate. The police are there almost on a daily basis, but one of the problems is that they are not visible because most of them are hiding behind bushes, and they tend to jump out at the appropriate time, holding a radar gun, and nab somebody. I have said in this place on a number of occasions that I do not think that is effective enforcement; and, indeed, not only has the Government responded by agreeing with me from time to time but also members of the Road Traffic Board, who were good enough to visit Parliament House some months ago and brief us on this Bill, recognised the need for a visible police presence on roads.

Hon Murray Montgomery: It is rather unfortunate that last week a radar gun was run over by some unsuspecting person. That was reported in the newspaper.

Hon GEORGE CASH: That was very unfortunate for the radar gun!

The Opposition is prepared to support this legislation in its redrafted form. I trust that the Multanova speed camera will be used not only in an efficient and effective way, but also in a realistic and practical way, having regard to road conditions in the metropolitan area and

across the State. I will be very interested to review from time to time the success or otherwise of the Multanova camera, and also of having the police mail infringement notices to alleged offenders, in view of the fact that those people will not be deemed to have committed an offence and will be able to claim various defences in respect of the allegations. We support the Bill.

HON J.N. CALDWELL (Agricultural) [4.42 pm]: I am sure the Minister sometimes shudders when representatives of country people discuss anything to do with restrictions on speed and what country people have to go through. Country people in Western Australia have to travel long distances because of the vast size of this State, and because of that they are susceptible to exceeding the speed limit somewhat. We have a fear that "big brother" will cause country people all sorts of strife by giving them fines for speeding offences, and controlling their lives.

I have seen the Multanova camera in operation, and it appears to be an efficient instrument, but I have heard that it sometimes gets overheated in the metropolitan area - I do not know whether that is because of the volume of traffic going past it or because of the amount of traffic that is speeding past it - and that some problems have been experienced with it.

We should all be concerned about speeding, but the most important area to consider is education. That comment will make the Minister prick up his ears because this Bill provides that part of the revenue from speeding fines will be used for driver education programs. That sticks under our skin to some extent because some years ago schools conducted driver education programs. Those programs seem to have disappeared. It is disappointing for the public to find that another instrument will now be put on the roads to raise additional revenue for driver education. I am sure sufficient revenue is already available from speeding fines and the like, so the Government does not have to dangle a carrot in front of the Opposition by saying that if we do not pass this Bill, driver education will not be provided in our society. It is up to the Government of the day to provide enough money to finance education, and to introduce this legislation in order to raise more money for driver education is not warranted. If the Government had prepared its Budget correctly and if it had not wasted enormous amounts of money in other areas, ample money would have been available to fund driver education programs.

This legislation has been introduced because the Opposition parties objected to the previous Bill. The position of the National Party has not changed since the introduction of the first Bill, and as our members do not support this legislation, we would be doing them a disservice were we to support it. We feel very strongly about this legislation, and I do not think we should go back to our members and ask for their consent to this Bill. Therefore, the National Party opposes the Bill.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [4.48 pm]: I thank members opposite generally - despite the comments of the last speaker - for their acceptance that road safety is a matter to which we should take a bipartisan approach. I believe we have largely done that in this debate. I disagree with the comments made by Hon George Cash because I am not of the view that the previous Bill sought to reverse the onus of proof, but it is more important that we come to bipartisan agreement than that we argue about things which are not of great importance.

I am sure that in future the impact and the effect of this legislation on the broader community will prove it to be an effective weapon in the fight against road trauma in more ways than one. I indicate that I am prepared to accept that amendment in principle, and if there is a problem with it, it can be dealt with in another place.

Question put and passed.

Bill read a second time.

Committee

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

Clauses 1 to 3 put and passed.

Clause 4: Section 12A inserted -

Hon DERRICK TOMLINSON: I have reservations about the procedure built into this Bill to

direct money from the traffic infringement notices served under section 102(3)(a) of the Act; in other words, to direct one-third of the revenue gained from the Multanova camera into the road trauma trust fund. In this way revenue generated from infringement notices, instead of going into Consolidated Revenue and then the Parliament considering an appropriation with the proper accounting of the normal Budget process, will automatically be transferred from Consolidated Revenue into the trust fund. That is a dangerous path that we have set this Parliament upon.

We now have two such programs, one relating to the road trauma trust fund, which is part of this Bill, and the other related to the Health Promotion Foundation, which is a part of another Bill. We are establishing a dangerous precedent. Will the Minister say what safeguards he is entertaining, as they do not appear in the legislation before us, to ensure the proper expenditure of what will be a substantial sum of money toward the two causes specified in section 102(3)(a) and (3)(b) related to the prevention of road accidents and injuries and the education and training of road users? We are told that it becomes a function of the board, but apart from the legislation indicating that the board will administer those functions, and apart from the reference to the Financial Administration and Audit Act, there is no indication in the Bill of checks and balances to guarantee that this money appropriated without the approval of Parliament is being spent according to the intended purpose of the legislation.

Hon PETER FOSS: I agree with Hon Derrick Tomlinson; there is an unfortunate trend in our legislation that we are making these hypothecations of revenue. I also join with him in expressing concern that, as well, we are setting up particular trust funds. Both of these trends are undesirable. I think hypothecation is the more undesirable of the two because it is an important but difficult task of Government to set appropriate priorities from all the priorities on the revenue of the State on an annual basis. Every time the Government hypothecates some part of its revenue to a particular purpose it sets for all time what will be the nature of that amount of allocation and in a way that may be unsuitable, either because it is too much or too little.

We have an example of this, for instance, in the Health Foundation where it was understood that $9 million would be available and it now looks as though already in the first year the amount will be $11.5 million. I believe the reason that percentage was set was that it seemed $9 million was a nice sum and it turned out to be 10 per cent, so it was set at 10 per cent. That is an example of how quickly a matter can get out of hand if revenue is hypothecated whether by percentage or by reference to particular fees. The Government has done that in this instance. I sound a note of caution for the future that I do not believe it should be seen as a standard remedy, notwithstanding the political attraction of doing so. In the long term, it is not a good idea.

My second point relates to trust funds. The problem again, as with hypothecation of revenue, is that the Government is getting away from the annual allocation of money by the Parliament. Every time it puts a bit more money into one of these trust funds there is that much less money subject to the annual supervision of Parliament. It is an important principle that it should be subjected to the annual supervision of Parliament and although trust fund statements are required to be prepared under the Financial Administration and Audit Act and that sets out the nature of that trust fund, I do not believe the way in which trust funds are being reported to Parliament at present is as good as the way in which ordinary Consolidated Revenue Fund amounts are reported, and certainly it is not as easily dealt with in the whole context of the Consolidated Revenue Fund as the ordinary allocation. We recently had discussions with officers of Treasury regarding another Bill, the Financial Administration and Audit Amendment Bill, where we tried to get more detail about the trust fund. It became clear that there are difficulties in accounting of trust funds which do not exist when each unit receives an annual grant from the Consolidated Revenue Fund. I do not oppose the clause, but place on record, hoping it will be considered by the Government in future, the fact that setting up trust funds and the hypothecating of revenue is not an ideal way to proceed.

Hon GRAHAM EDWARDS: I thank members for their comments. I point out that the membership of the board consists of the Commissioner of Police as chairman; a member of the Police Force nominated by the Commissioner of Police; the Commissioner of Main Roads, or such officer of the Main Roads Department as the commissioner, with the approval of the Minister and the Minister administering the Main Roads Act from time to time by writing addressed to the chairman nominates to be a member of the board in place of the

Commissioner of Main Roads; the same applies to the Director General of Transport; and community representatives, the first being a person appointed by the Governor on the nomination of the Minister from a panel of names submitted by the Local Government Association Of WA (Inc).

The second is a person appointed by the Governor on the nomination of the Minister from a panel of names submitted by the body known as the Country Shire Councils Association of WA, and the third is a person appointed by the Governor on the nomination of the Minister from a panel of names submitted by a body known as the Country Urban Councils Association. That is a very responsible membership, and indeed the activities of the members of the board over the years have always been very responsible.

The Commissioner of Police is responsible for a budget this year of some $242 million. I do not know that significant amounts of money will be available initially, but we should remember that the Act will be reviewed in five years. I appreciate members' comments and I offer that response.

Hon DERRICK TOMLINSON: I would not attempt to impute any improper motvies on the personalities involved.

Hon Graham Edwards: I was not suggesting that you were.

Hon DERRICK TOMLINSON: I am sure they are all very honourable and honest people. I acknowledge the fact that some of the members of the board are senior officers responsible for the administration of Government departments and are therefore accountable for the expenditure of huge sums of public moneys. I accept that, because the board is composed of senior representatives of Government authorities, as well as representatives of local government authorities and community representatives, we will have a body of wholesome people. However, it is not beyond the realms of possibility that at some time in the future we might have corrupt people on the board. That possibility has been demonstrated by the Fitzgerald inquiry in Queensland. However, let us not impute any wrong motives or wrong character to any of the people who are now members of the board, or who might be members of the board in the future. We accept them as honourable and honest people.

Involved is a principle of accountability. The principle of accountability which we should insist upon is that when public moneys are raised on the initiative of laws enacted by this Parliament, the responsibility for the expenditure of those public moneys and the accounting for that expenditure is through the Minister to this Parliament. Only this Parliament can authorise the expenditure. Because only the Parliament can authorise the expenditure, there should be a proper accounting through the Minister to the Parliament, and a proper evaluation of that expenditure by the Parliament.

My very genuine concern is that by establishing the fund and allowing the board to make its decisions about the expenditure without an appropriation by Parliament, without setting a limit on the expenditure other than that it will be one-third of the revenue generated from Multanova speed infringements, we will not be meeting the principle of accountability which is essential to our parliamentary system. We are taking the responsibility for the expenditure of public moneys and for accounting for the expenditure of public moneys out of the hands of this Parliament and giving it to honourable and honest citizens on a board administering a trust. The principle involved is that of accountability through the Parliament. We are avoiding that.

Clause put and passed.

Clause 5: Section 102 amended -

Hon GEORGE CASH: As I indicated at the second reading stage, I have an amendment to this clause. I move -

Page 3, lines 29 to 33 - To delete the lines and substitute the following -

the person on whom the notice is served, in absence of a claim by that person -

(a) to the contrary, or

(b) notwithstanding proper service of the notice the notice did not actually come to the attention of the person within the time for response or sufficiently within time to allow for response,

shall be presumed to have been the driver or person in charge of the vehicle at the relevant time for the purposes of the offence alleged in the notice.

Hon PETER FOSS: This is a fairly important amendment because, under the terms of the giving of the notice for the purpose of this Bill, the period of time during which people have to respond is not within so many days of the service of the notice but within so many days of the date fixed in the notice. The only limitation is the date of issue, or some other later date in the notice.

I have not researched fully the basis upon which one can say that service is taking place. I am not absolutely convinced that for there to be service the notice must have been received. There is nothing which requires the person to have been served within the time during which he would be required to respond. My serious concern is that a person would be put in the position of having to go to court to prove that he was not the driver simply because he did not have enough time to respond to the notice. This amendment overcomes that problem.

If a person turns up and says, "It was not me," there would be no problem, because the police would have a photograph and they could say, "Here is the photograph; it obviously was you." In 99.5 per cent of the prosecutions, people will receive the document and say, "Yes, I got caught; I shall pay the fine," and that will be the end of it. The whole system can proceed and there will be no difficulty. That is probably what most people in Western Australia would want. They would rather not have the bother of having to go to court to have the case proved against them because they would regard it as a fair cop. This amendment would apply only in the situation where someone said, "It was not me." As soon as he said that, the case would go back to square one and the offence must be proved.

I doubt if matters will come to that, because with the photograph system it will be patently obvious that the police either have or have not got the right person. It is not a big practical problem. This amendment overcomes the principal difficulty I had, and I think it will work very well.

Hon GRAHAM EDWARDS: The Government is prepared to accept this amendment in principle. The crux of the matter is that the police will have the photograph, and that is very good evidence. The matter can be looked at further in another place, and if a difficulty arises it can be addressed.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 6 put and passed.

Title put and passed.

Bill reported, with an amendment.

All Stages - Leave to Proceed

On motion by Hon Graham Edwards (Minister for Police), resolved -

That leave be granted to put the Bill through its remaining stages in this sitting.

Report

Report of Committee adopted.

Third Reading

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

CRIMES (CONFISCATION OF PROFITS) AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon J.M. Berinson (Attorney General), and read a first time.

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [5.12 pm]: I move -

That the Bill be now read a second time.

This Bill strengthens and extends the Government's previous initiatives to combat crime

through the Crimes (Confiscation of Profits) legislation. The principle behind that legislation, and similar legislation throughout Australia, is that criminals should not be allowed to profit from their illegal activities. All too often in the past law enforcement and penalties have not proved to be a sufficient deterrent because criminals were not deprived of the proceeds of their crime. As a result, enjoyment of those proceeds has occurred even after conviction and sentence. In some cases the profits of crime may be so great that even the prospect of a substantial period of imprisonment can appear to be worthwhile if those profits are available after the criminal is released from prison. This is particularly so with corporate and drug related crime, where benefits can run to many millions of dollars. The existing confiscation of profits legislation was an important start towards stripping criminals of the proceeds of their offences. However, experience with the Act has indicated a number of areas where further action is needed.

Continuing criminal conduct: The Crimes (Confiscation of Profits) legislation enables the confiscation of profits derived from a specific indictable offence which has resulted in a conviction. However, on occasions, a person convicted of a particular offence will be found to have assets and wealth greatly exceeding their legitimate income. In many of those situations it would be possible to prove that a criminal has engaged in continuing criminal conduct from which he or she obtained substantial profits. In such cases, however, it is rarely possible to link specific assets to a specific offence. Even where it can be shown that benefits were derived from one of a group of offences, but the specific offence cannot be identified, confiscation cannot occur under the current legislation.

The Bill proposes to deal with this problem in two ways. Firstly, clauses 8, 10 and 11 provide that where an application for confiscation of profits is made in reliance on a specific conviction, a confiscation order can be made in respect of proceeds derived from the commission of some other indictable offence. Secondly, in circumstances where it is possible to identify tainted property or assets which could not have been purchased from the criminal's legitimate income, clauses 8 and 10 also provide for the criminal to explain how that property was legitimately obtained. This puts the onus of proving the source of income and assets upon the only person who is in a position to know; namely, the offender.

The Bill provides two safeguards to prevent confiscation of a criminal's assets which have been legitimately obtained. Firstly, the prosecution carries the initial onus of showing that property may be derived from the proceeds of crime. This may be done by identifying some offence which the offender has committed from which profit would have been derived. It may also be possible to identify a course of criminal activity and show a large discrepancy between the offender's assets and his or her legitimate income. Secondly, only property acquired during the six years preceding the commission of the offence on which the confiscation application is based may be the subject of a confiscation order. The six year period is consistent with similar interstate legislation and the usual limitation period for civil actions. A six year period is generally recognised as the time for which people are able to establish the legitimate sources of their assets and profits either from records or from their recollection.

Drug trafficking: A more stringent approach is taken by the Bill where people engage in the illegal supply of drugs thereby obtaining immense profits but, at the same time, causing great cost and suffering to the community. The potential profits from drug trafficking are enormous and the chances of detection relatively small. Special measures must therefore be taken to deter and preferably prevent the threat to society which this activity poses.

The Misuse of Drugs Amendment Bill which supplements the present Bill will enable courts to declare persons to be drug traffickers. Such a declaration may be made in two circumstances. Firstly, a declaration may be made where a person is convicted of an offence involving the supply of drugs and, at the time when that offence was committed, had been convicted of two similar offences in the preceding 10 years. Secondly, a declaration may be made where a person is convicted of an offence involving the supply of a prescribed quantity of drugs. The prescribed quantity of drugs would usually be of a street value of approximately $15 000. That amount is an indication that large scale drug activities from which substantial profits could be derived are being carried out.

The effect of amendments in clauses 8(c) and 11(b) of the Bill is that drug traffickers will have to account for all profits and assets acquired during the six years preceding the

commission of the first offence. The extension of the period covered by the presumption and removal of the Crown's initial evidentiary onus is acknowledged to be severe, but is justified by the extraordinary nature of this most serious type of offence. These measures are designed to provide a further deterrent to criminal activity and to reduce the prospect of criminals benefiting from their crimes. The Bill significantly strengthens the existing law and is consistent with measures in other jurisdictions, particularly in New South Wales and the United States.

Profits derived from media stories and publications: In recent times an undesirable tendency has developed for criminals who have committed sensational crimes to profit from publicity associated with those offences. Examples include fees paid for interviews, or from selling stories to newspapers, television, or other publishers. Clause 12 of the Bill seeks to deal with this matter by providing for the courts to make special forfeiture orders which will confiscate profits made by criminals from publicity about their crimes.

In many cases profits from these activities will be gained at the expense of the feelings of victims and their families. In these cases, it is entirely appropriate to confiscate benefits obtained by the criminal from any media contracts. However, a special forfeiture order may not be appropriate in all cases; for example, where an offender writes a book about the crime in a responsible manner which is conducive both to the offender's rehabilitation and to the public's understanding of the crime. In such circumstances the offender may be profiting not from the crime but from the effort involved in writing such a book. Guided by proposed section 19C(2), the courts will therefore have a discretion to refuse to make a special forfeiture order.

Restraining Orders: Section 20 of the current Crimes Confiscation Act deals with restraining orders. Where a person has been charged or is about to be charged, or has been convicted of an indictable offence, a restraining order can be made which restricts dealings with that person's property. This prevents the divestment of assets which may be taken to avoid enforcement of a confiscation order. To secure a restraining order before conviction, the legislation requires an affidavit indicating that there is a belief that such divestment is likely to occur. In practice, it has proved very difficult to establish that belief. Accordingly, clause 14(b) proposes to remove this requirement. As a result, assets and profits derived from illegal activities which otherwise might have been divested will remain available for confiscation. For a similar reason, clause 14(c) extends, from seven to 21 days, the period in which a restraining order, made in an urgent case without notice requirements, will be effective. Under section 20(9) of the Act a restraining order can provide for reasonable living expenses. Clause 14(e) of the Bill makes it clear that this is not appropriate where those expenses can be met from assets which are not subject to a restraining order. To provide more effective deterrent to unlawful dealings in valuable assets, clause 14 increases the penalty for breaches of restraining orders.

Embargo notices: Section 31 of the Act enables the police to seize tainted property which is found when executing a search warrant. Clauses 15 and 17 of the Bill enable embargo notices to be served on persons who have such property where seizure is desirable, but because of some reason such as the immovability of the property the seizure is impracticable. Service of an embargo notice prevents those holding tainted property from dealing with or moving that property without the leave of the District Court or, in urgent cases, without the consent of a police officer.

Lifting the corporate veil: Fraud by corporate and financial managers against the public or companies which they manage is a criminal activity from which large profits may be derived. Those profits, particularly when combined with a knowledge of business structures, often enable offenders to evade the consequences of confiscation orders by resort to legal formalities. Proposed section 52A will deal with this problem by enabling courts to lift the corporate veil and look behind legal structures designed to disguise the ownership of illegally obtained assets. Courts will be able to go behind sham legal formalities and transactions to discover the truth. In this way it will be possible to prevent criminals avoiding confiscation under the Act by putting their illegally obtained profits and assets in corporate or trust structures or placing them with relatives without proper documentation. The Bill will apply to assets and profits derived from offences whenever committed, but requires the conviction upon which the confiscation order is made to have occurred after the date on which the original Act commenced. This conforms with the original legislation.

To assist members with the Bill, I now distribute clause notes.

This Bill is a most important measure in the Government's efforts to reduce crime and to ensure that those who do commit crimes do not profit from them. I commend the Bill to the House.

Debate adjourned, on motion by Hon Derrick Tomlinson.

MISUSE OF DRUGS AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon J.M. Berinson (Attorney General), and read a first time.

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [5.24 pm]: I move -

That the Bill be now read a second time.

This Bill to amend the Misuse of Drugs Act is part of the Government's package of measures to combat the criminal activities of those involved in the drug trade. It will provide for the confiscation of assets which result from those activities thereby reducing the potential profits from them. The Bill complements the Crimes (Confiscation of Profits) Amendment Bill by providing for courts to make declarations that, for the purposes of confiscation legislation, specified drug offenders are drug traffickers. A person will be declared to be a drug trafficker in two situations: Firstly, a declaration may be made where a person is convicted of an offence involving the supply of drugs and, at the time that offence was committed, had been convicted of two similar offences in the preceding 10 years. A declaration may also be made where a person is convicted of an offence involving the supply of a prescribed quantity of drugs. The prescribed quantity of drugs would usually be of a street value of approximately $15 000. That amount is an indication that large-scale drug activities from which substantial profits could be derived are being carried out. As a result of a declaration, all property obtained by the drug trafficker in the preceding six years is presumed, until the contrary is shown, to have been obtained from the proceeds of unlawful activity. This result will flow from the crimes (confiscation of profits) legislation.

This Bill is another important step in the fight against drug trafficking and organised crime and I urge the support of all members. I commend the Bill to the House.

Debate adjourned, on motion by Hon Derrick Tomlinson.

STATE EMPLOYMENT AND SKILLS DEVELOPMENT AUTHORITY BILL

Assembly's Further Amendments

Resumed from an earlier stage of the sitting.

Committee

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

Progress was reported after the Minister for Planning had moved -

That -

(a) the Council not insist on those amendments disagreed to by the Assembly;
(b) agrees to the further amendments made by the Assembly.

Hon N.F. MOORE: The Opposition is prepared to support the motion. When I say "the Opposition" I mean that our collective decision is to support the motion. However, I personally do not support some of the amendments and some of the decisions that have been made. No doubt, a number of my colleagues do not agree either.

It should be stated clearly that as a result of the negotiations which took place between the Opposition and the Government a number of compromises were reached. In my opinion the Opposition compromised more than the other side subsequent to previous debate. We now have a piece of legislation which I do not prefer, given my druthers; but I acknowledge that intensive negotiations have taken place between the Government, the union movement and the Opposition, particularly the Opposition spokesman, Mr Kierath.

The main areas where compromise has been reached relate first to the clause dealing with the membership of the State Employment and Skills Development Authority. We have agreed that two members on the authority shall come from the Trades and Labor Council. That was the first amendment regarding representation of employees. However, I draw the attention of the Chamber to another amendment about which I am not happy - that is, that four persons shall be appointed from employee organisations. The amendment passed in this place was that a person shall be appointed by the Minister, and such person who in the opinion of the Minister shall represent employees. The union movement now has four persons on SESDA even though the movement acknowledges it does not represent more than 50 per cent of the work force in Western Australia. That is an amendment which I do not find all that acceptable, but I will go along with it in view of the compromises reached. I would prefer that the situation remain in which the Trades and Labor Council was to have had two assured places on SESDA, and the other places may not be filled by unionists but by two other employee representatives; that is bearing in mind that 50 per cent of all workers are not union members.

Hon Sam Piantadosi: What about the business sector? Would all business be invited to the Chamber of Commerce or other business organisations?

Hon N.F. MOORE: I can see the member's point; he is mounting the same argument, but I am supporting the people I represent.

Hon Sam Piantadosi: I thought you represented all people.

Hon N.F. MOORE: The Confederation of Western Australian Industry gets only one guernsey. Hon Sam Piantadosi is a little like me; he wants the best result for the people he represents.

When considering the accreditation board, it can be seen that the union movement has an assured representation. In fact, the TLC has two out of the three places whereas the employers are represented by three persons appointed by the Minister. It is possible that members of local branches of the Labor Party could sign up with the Confederation of Western Australian Industry and the Minister could appoint them to the board. The members opposite want the best of both worlds.

The amendment to clause 27 is another one I do not support. This refers to the membership of the accreditation board. It states -

> 3 shall be persons who in the opinion of the Minister represent employers organizations;

Further it states -

> 3 shall be persons who in the opinion of the Minister represent employee organizations of whom 2 shall be appointed on the nomination of the body known as the Trades and Labor Council of Western Australia;

The board should not be tripartite as its function is to accredit courses. It is to comprise 10 people who should be the best people for the job. They will decide whether courses should be accredited. The board members should have the necessary technical expertise, and this may not reside in the minds of the persons from the TLC. I am told that in order to negotiate the passage of this Bill it was necessary to agree to the tripartite nature of the board; I do not agree with that. However, I am prepared to accept it in the light of the compromise achieved. I am unhappy with what has come out of the compromise regarding the employer side of the argument because the Bill stipulates that the Minister shall appoint three persons who in his opinion represent employers, yet the TLC can nominate two persons. The Minister could have three stooges in the Labor Party who happened to be signed up members of the Chamber of Commerce and Industry and they could be appointed to look after the views and aspirations of employers. It would be crazy for him to do that, but I would prefer that it be written into the legislation that the employer representatives on that board shall come from nominations of representative organisations. In that case it would not be any three persons the Minister might wish to appoint.

The Assembly message also indicates that the Assembly has disagreed to amendment No 7, which relates to the Commissioner for Equal Opportunity being involved in certain decisions and in providing reports and advice to SESDA. When this matter was debated in this House,

that reference was removed from the Bill. We believed that the commissioner had no more right, responsibility or need to be involved in training matters than anyone else. We did not believe that that emphasis should be placed on this aspect of Government administration. This has been reinserted in the Bill, and that is not something with which I agree. This must have been part of the spirit of cooperation which broke out in recent times.

A number of other matters could create argument, such as the Assembly's returning to the Bill the reference to the employer and employee organisations which we removed. The Opposition applied some conditions to the operations of the industry employment and training councils. Members may recall that the Opposition removed a large wad of the Bill relating to the operations and functions of the IETCs in the belief that they could make those decisions themselves and establish their own codes of practice. We were told by the Minister that it was necessary for those provisions to be part of the Bill for the bodies to receive Government funding. The provisions have been returned with a couple of provisos to ensure that some of our concerns do not eventuate. Most of the other amendments are technical in that they remove the word "services" in places where we had inserted them.

The Bill is now a better Bill than when it first came to this House because the Government has accepted a number of amendments passed by this Chamber. As I am a bit of a cynic, the fact the Government has been prepared to accept what we now have in place means that it probably contains something I will not like at the end of the day! I will be watching SESDA closely to see whether it does the things I hope it will do.

The first time this legislation was introduced it was rushed through at the end of a session because the Government desperately wanted the Bill passed.

Hon Kay Hallahan: We still do.

Hon N.F. MOORE: Since then we have had a parliamentary recess and the Bill sat in the Legislative Assembly for some time. The Bill has now been trotted up to the Council and we are told that it is terribly important to pass the legislation because the Minister is attending a conference and he needs to have SESDA in place to convince somebody that things are legitimate in Western Australia. Therefore, we have to deal with message No 80 in short time. It is painful to deal with these complicated matters in that way.

With those very serious reservations, the Opposition is prepared to support message No 80 in the spirit of compromise. I hope that SESDA will get off the ground and do the job it is supposed to do. We have no complaint about an organisation being involved with training; in fact, such a body is vital for the economic wellbeing of Western Australia. However, whether SESDA will be the ideal organisation is another matter. I have doubts that a tripartite organisation can do the job. However, we will sit back and watch, and in the very near future when we are returned to Government we can do something in a constructive way.

Hon DERRICK TOMLINSON: I support one of the reservations expressed by Hon Norman Moore; I refer to the tendency to institutionalise the employer and employee bodies in this legislation. I agree with Hon Norman Moore that the accrediting authority in the IETCs should involve persons with particular knowledge applicable to the decision making process of these bodies. That knowledge should be accompanied by an openness of mind in evaluating information that is brought before the body. When we argued this Bill at an early stage in this place we exposed a difference in ideology between the Government and some members of the Opposition. The Government is committed ideologically to entrenched functions of employer and employee organisations in peak bodies. Our position has been that, rather than institutionalising those peak bodies, we should be looking for the best people to serve on the bodies. The authority is not served by entrenching the peak bodies of employer and employee organisations.

Entrenchment exposes the processes of SESDA to two possibilities. The first is that of confrontation, which we are very familiar with in the Australian industrial relations scene. It has been the tendency to approach industrial relations from a them and us perspective; the employers are seen as one implacable body and the employees as another implacable body. They are thrown into conflict and then negotiations, or horse trading, enable a compromise to be worked out. It is time we moved away from that. Confrontation has no place in a skills and employment authority. The Bill is not about industrial relations but about enhancing the skills and productivity of Australian enterprise and the Australian work force. For that

reason the people selected to serve on those peak bodies should have expertise or particular valuable contributions to make in the field of skills and employment. They should have open minds in their negotiations. The saving grace in this possibility of confrontation is the Government's acceptance of the Opposition's position that agreements within the bodies should be by consensus. That was agreed to in the authority, but unfortunately the majority decision prevailed at the other level. I sound the warning of confrontation leading to unnecessary conflict and delay in the processes of SESDA.

The second possibility is that, because of the entrenchment of the position of employee and employer bodies, people might be locked out of contention, people who by their knowledge and expertise could make a very valuable contribution to SESDA but will not qualify - not because of their lack of knowledge, or because of what they might be able to contribute, but because they do not belong to one of the entrenched bodies. The Government should be compelled to appoint to its advisory committees the best minds available. To that extent I agree with the reservation expressed by Hon Norman Moore. We have a difference of opinion on the question of tripartism.

Several times in the debate Hon Norman Moore has indicated his opposition to the concept of tripartism. I am not as strongly opposed to it as he is. I do not believe that all wisdom rests with either the employer or with the employee. Nor do I believe that all wisdom rests with training authorities or Government authorities. In fact, consultation between people with the perspective of an employer, an employee, and those people with the perspective of training and public administration could result in a worthwhile decision making process. I accept that there may be representation of those three groups, but I do oppose the notion of their entrenchment in peak bodies.

The final matter I wish to raise is my concern that the legislative authority of this Parliament - sometimes called the sovereignty of this Parliament - is being somewhat eroded in current intergovernmental relations. I draw attention to the Training Guarantee Administration Act No 60 of 1990 of the Commonwealth of Australia. Section 35(2) of that Act says that the Commonwealth may make an agreement with the States or territories for the payment of funds. It says than an agreement is of no effect unless it includes clauses to the effect that the State or Territory supports the training guarantee scheme, and agrees to distribute amounts made to it under the agreement or amounts attributable to those payments on the advice of a specified tripartite body; that is, a body which the State or Territory employer and trade unions are represented. I accept the need to reconsider the respective authorities of State and Federal Governments in contemporary society. However, I believe the State's authority will be eroded if it is compelled to conform to the directions of legislation enacted in Canberra.

Hon J.N. CALDWELL: The position of the National Party was spelt out in the drawn out debate we had some months ago. I think the constitution of the authority will create enormous problems especially in regard to the board. The National Party did not want designated people from the employer and employee groups nominated to those boards. Members realise how important training is to society in Western Australia and in some ways it was a great pity that we had to have this legislation. An enormous number of companies are doing exactly what is proposed in this legislation, and they are probably doing it an awful lot better in their own manner. I hope this legislation will not impede them in any way. I wish the Bill success, but the National Party has grave concerns and will be watching its progress with interest.

Hon KAY HALLAHAN: The Government recognises the efforts of all parties in reaching this consensus. Compromise has been necessary from all sides. The Government does not feel very confident about the unanimous decision making provisions, but, in the interests of having the legislation passed, it has accommodated that. I understand everybody's concerns about the legislation, but all parties have been prepared to compromise to reach this consensus. Everybody involved in the process should be complimented because this is a very important piece of legislation. If we had all held tenaciously to our beliefs, Western Australia would have been the poorer. The legislation has enormous support from both employer and union groups. The WA Chamber of Commerce and Industry, which previously opposed the legislation, has written to the Minister stating its support for the legislation. The skill of our work force has been characterised traditionally by cooperative and consultative relationships between employers and employees. This legislation will

ensure that that productive practice continues. We have warned parties about the entrenchment of training in the industrial relations system, and we have tried to avoid that.

The Minister for Productivity and Labour Relations has given a commitment in the other place - I do it in this place again - that the Government will amend the Bill if that is found to be necessary. I know that members will be closely scrutinising the operations of the legislation. The legislation is good legislation despite the compromises we have all made and it deserves the support of all members.

Question put and passed.

Report

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

ADJOURNMENT OF THE HOUSE - SPECIAL

On motion by Hon J.M. Berinson (Leader of the House), resolved -

That the House at is rising adjourn until Tuesday, 13 November.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [5.54 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Prime Minister Hawke - Boyer Lectures - State Government - Elimination

HON R.G. PIKE (North Metropolitan) [5.55 pm]: The House should not adjourn until I draw its attention to a series of Boyer lectures given by Mr R.J. Hawke and published by the Australian Broadcasting Corporation. I refer to page 18 of the speeches where Mr Hawke said -

> I believe the logical implication of this analysis is that Australians would be better served by the elimination of the second tier of government - that is the States - which no longer serve their original purpose and act as a positive impediment to achieving good government in our current community.

On the same page he said -

> We are delinquents to ourselves and our children if we do not move to meet this crisis with a more appropriate structure of government.

Again on the same page -

> There is no justification now, in terms of the interests and the rights of fourteen million Australians to perpetuate this dangerous anachronism.

That is relevant to today and to the Brisbane conference and we ask ourselves: Has Hawke changed his mind or does he know that, with a Labor Commonwealth Government and Labor Governments in Queensland, Tasmania, Victoria and Western Australia, he is never going to have a better chance to implement his agenda?

I want to tell the House a story about Ben Chifley and the then Clerk of the House of Representatives, Frank Green, who had been the Clerk for more than 20 years. In Green's memoirs he said that after Chifley had introduced the nationalisation of banking legislation and lost a referendum - in the following year Menzies had become the Prime Minister - it was Chifley's habit every now and again to go into Green's office for a whisky. Apparently, on one of those occasions Green asked Chifley whether he would do the same thing again if he had the chance, referring particularly to the nationalisation of the banks, and, of course, to the subsequent electoral results. Chifley replied that he would but that he would have an axe behind his back and he would give the electorate - the rooster as he called it - the handful of wheat first. That is almost a direct quote from Green's book. That is almost exactly the scenario that we are now seeing from the Prime Minister of this country. The question the House should ask itself is, has Hawke undergone a damascene conversion -

Government members interjected.

Hon R.G. PIKE: Members opposite can laugh and do their usual hip hip hooray. However, some of the most famous people in history have written what they proposed to do and then went off and did it. People laughed then as members opposite are laughing now and said it would never happen, but it happened.

Laura Tingle, in *The Australian* of 31 October 1990 in an article under the heading "'Give us more room to move', States urge" says -

> The Treasurer Mr Keating has indicated he is prepared to examine the issue of Commonwealth-State finances. The concessions contained in the Commonwealth's own paper on Commonwealth-State finance relationships were limited to say the least, and the most concrete proposal appeared to be an offer to give the Commonwealth documents to the States two days before the annual Premiers' Conference instead of the present practice of slipping documents under hotel doors on the morning the Premiers meet.

It should be noted that the Special Premiers' Conference was held with no reference at that time to the necessity to hold a constitutional convention. It should also be noted - it has not appeared in any newspaper in Australia - that no news reports on the Brisbane conference dealt with the dominance of the Labor States and the Labor Premiers. With the exception of New South Wales and the Northern Territory, all of the States are Labor States and Hawke was taking advantage of the situation.

We also should note the historic tendency of New South Wales and Victoria to be traditionally centralist States; they have never been strong federalists. That applies particularly to New South Wales because Canberra was originally part of that State. Western Australia, Queensland, Tasmania, and the Northern Territory have always been the strongest States' rights States, merely because they are more isolated and they have been dominated by the more populous States.

I will quote to the House the figures which I prepared this morning -

	148 House of Representative Seats		
	Number	Percentage	
New South Wales	51	34.46)	
Victoria	38	25.68)	61.49%
ACT	2	1.35)	
Queensland	24	16.22)	
Western Australia	14	9.46)	
South Australia	13	8.77)	38.51%
Tasmania	5	3.38)	
Northern Territory	1	0.68)	
		100.00	

If we put together New South Wales, Victoria and the Australian Capital Territory, they have 61.49 per cent of the seats in the Federal Parliament. That tells a story: It does not matter what happens in regard to the centralisation of control in Canberra, the final decisions will always be to the advantage of those States that are centralised on that eastern seaboard.

The biggest problem which has not been spoken about in any of the newspapers, other than those newspapers failing to admit the dominance of the Labor States at the Special Premiers' Conference, is the question of the Commonwealth bureaucracy. It is well known, not only in the Commonwealth of Australia but also worldwide, that one of the most entrenched bureaucracies in the Westminster system of Parliament exists in Canberra. Various Governments, Liberal and Labor, have been significantly unsuccessful in making any dent in that bureaucracy. The Leader of the House recently sought to do so in regard to the transfer of corporate affairs powers, unfortunately with a significant lack of success. It is that bureaucracy, with its octopus-like grip on the Canberra scene, that will be one of the toughest problems, because in the end the States will get nothing and Canberra will have enhanced authority and control.

Witness Whitlam's introduction of the deletion of the word "Commonwealth". Do members

remember when the banknotes had on them the "Commonwealth of Australia"; do members remember when the taxation department was called the Commonwealth Taxation Department; do members remember when departments were referred to as Commonwealth departments; and do members recall that at the beginning of our Constitution it is written that we shall be called the Commonwealth of Australia? Members should note that Labor Governments do not refer to the "Commonwealth". Although we are talking about States' rights and the rights of the Commonwealth we are really talking about centralised rights and control.

Hon Garry Kelly: You are quite wrong.

Hon R.G. PIKE: That is a matter of view.

The application of the Hawke principle of control is that we are free to do what we like, as long as we do what we are told. The Leader of the House should think about it, because it will come to him eventually.

When considering the performance of Labor Governments in Western Australia I only have to say "WA Inc" - I will not retread all that has been said about this Government's obscene performance in this State. We need look only at the performance of the Labor Government in Victoria and the performance of the Commonwealth Labor Government, under Hawke - its dismal record is now beginning to be perceived by the community - to know that the people of Western Australia need to be told that when one gets into bed with the Labor Party one gets more than a good night's sleep.

The real issue is that we, as representatives of the community of Western Australia, should acknowledge the basis of Hawke's Boyer lectures and his quite forthright determination to get rid of the States. His manifest hypocrisy in regard to what he is holding out now is merely a retread of what I call a "handful of wheat" syndrome and the people of Western Australia had better take notice of it. There is no doubt that Hawke is still tethered to his commitment to abolish the States. Can we believe him? Who can trust him?

[The member's time expired.]

Adjournment Debate - Duck Shooting Ban - Pearce, Mr - Untruths

HON P.G. PENDAL (South Metropolitan) [6.04 pm]: Members would be aware that earlier this year when the present Premier came to office one of the high blown demands she made of members of this Parliament was that we should all work together to produce a situation in which Parliament was held in high esteem by dint of members dealing with matters truthfully. She went on the record saying that she personally abhorred the practice of people in public life indulging in matters less than the truth. I want to put on the record today a request that she put that matter to the test. On three separate occasions in the past five weeks the Minister for the Environment in this State and/or officers acting on his behalf and/or the Government's propaganda machine have told blatant untruths about my position on a matter that we may be dealing with later; that is, the question of the banning of the shooting of ducks. The prediction was made that he had good information that as an Opposition member I would be leading some sort of a charge to cross the floor to put that legislation through the Parliament.

I will say what I have needlessly said outside this House: There has never been the slightest doubt about my position on the matter of the duck shooting ban. As my colleagues know, I prepared a draft document which was put to the Liberal Party in response to this matter. That draft document was accepted by the Parliamentary Liberal Party as its policy. I ask members to consider the stupidity of any suggestion that a member would be voting against a policy which he helped to write. I will spell it out in bub's grade language for the Minister in another place: First, the Parliamentary Liberal Party, including me, opposes an outright ban. Second, it proposes banning the hunting of ducks on reserves that are considered to be of high conservation value. Third, it envisages the creation of a new category of game reserves on which shooting would be permitted in declared seasons.

I would have thought that was a pretty unambiguous, straightforward and deliberately stated view on an important matter, but five weeks ago Mr Pearce said, without any reason whatsoever - he was merely making mischief and peddling untruths which he knew to be untruths - that I would cross the floor. He repeated his untruth on Tuesday of this week, and on Wednesday I rejected that untruth. Today the ABC carried a news story repeating the

untruth. I am not allowed to accuse people in this House of telling lies because the Standing Orders prevent me from saying that Mr Pearce is lying. Therefore, the best I am able to do is to say to this House that Mr Pearce is telling untruths and has done so on three occasions in five weeks.

I ask that the Premier might put to the test her avowed intention of bringing about a higher level of public debate and truthfulness in this Parliament by castigating Mr Pearce for telling untruths and for indulging in fantasies and mischief making. She should put her own views to the test in that way. It is not good enough when a person's view is misrepresented on three separate occasions, despite denials. I leave the matter of the behaviour of one of her senior Ministers for her to determine.

Adjournment Debate - Prime Minister Hawke - Boyer Lectures - State Government Elimination

HON GARRY KELLY (South Metropolitan) [6.09 pm]: I cannot let the opportunity pass without referring to Hon Bob Pike's comments about the Prime Minister's Boyer lectures. During the member's contribution to this House I was being unruly and interjected several times, asking how the Prime Minister could sneak the abolition of the State though without anyone noticing but my interjections were ignored; that is the honourable member's right.

For the sake of argument let us assume that the Prime Minister adheres to the statements he made about the abolition of the States in his Boyer lectures some years ago, and that the Special Premiers' Conference held at Brisbane was a charade and there was a hidden agenda to abolish the States. I would like to know how the Prime Minister will go about abolishing the States by subterfuge without the Australian people knowing about it. It is an incredible notion. Irrespective of what the Prime Minister may have said in the Boyer lecture many years ago, he has probably changed his mind by now; most of us do as we get older. Even if Mr Hawke has not changed his mind and the Brisbane show about establishing a new system of Commonwealth-State relations was a charade for the plan he hatched all that time ago, how is the Prime Minister supposed to institute this plan to abolish the States and centralise all power in Canberra without the Australian people knowing about it? I am perplexed by that question. I await the next instalment in the adjournment debate in a couple of weeks' time, when the member can explain that conundrum.

Adjournment Debate - Robert, Mr Smith - Diary - "BB Riddle" Report

HON PETER FOSS (East Metropolitan) [6.11 pm]: I draw the attention of the House to an article which appeared on page 5 of *The West Australian* today under the heading "'BB' riddle was in seized diary". The heading refers to the diary of Robert Smith who was convicted of telephone tapping. A number of entries are recorded in the article and Mr Smith admitted that the person referred to as Vince was Vince Shervington, the former Premier's driver and services officer. I shall read a number of excerpts from the diary -

> April 29: Vince rang - bombshell on bloke - to call that office. Work on Lightfoot. 11.00 pm, . . .
>
> May 4: Spoke with Vince. Pressure on. Wants something on Lightfoot.
>
> May 20: Saw Vince.
>
> May 21: Saw Vince.

Before I read the next item I make the following point: Do members think that Mr Vince Shervington was asking for this in a personal capacity? Do members think that Mr Shervington was paying for the services of Mr Smith? It takes only a small amount of time for people to come to the opinion that that could not have been the case. One need go only one step further and read the following excerpt -

> May 23: Vince rang before departure to Canberra. Boss wants Laurence. Go slow on Lightfoot.

Mr Smith tried to explain by saying that "Boss" meant "bass". That patently is not to be believed and obviously the jury did not believe it. He referred to "BB" and he suggested to the court that it was a code for "Robert Martin". However, all the references to BB also tie in to the references to Lightfoot. I quote further from the article -

April 14, 1987: Work on Lightfoot for BB.

April 15: Work on Lightfoot for BB. Instigate inquiries in eastern states.

April 21: Work for BB on Lightfoot, 1pm to 6pm.

April 22: Work on Lightfoot, . . .

April 28: Work on Lightfoot, . . . Note to BB re Illich.

May 7: BB, Lightfoot, 4 hours.

May 9: Documents re Lightfoot to BB.

May 11: Further checks re Lightfoot for BB.

May 15: 4 hours, BB, Laurence, Lightfoot.

Mr Laurance was another politician. It continues -

May 19: BB back -

I wonder whether Brian Burke returned that day.

- Note to BB re Lightfoot, 3.5 hours.

I do not think it takes a fevered imagination to draw the conclusion that BB, Boss, and Vince can all be traced back to the same person. That person is Mr Burke. It was suggested that "BB" referred to Bugs Bunny; perhaps it referred to Bugs Burke but certainly not Bugs Bunny.

I have brought this to the attention of the House and have tried to do so in a number of ways. It is a serious matter. I cannot believe we live in a State where a Premier was hiring private detectives to get things on politicians. That is the implication of this matter. I repeat the excerpts "Wants something on Lightfoot", "Boss wants Laurence. Go slow on Lightfoot". That in itself is an impropriety of the greatest degree. Why is this Government pretending it did not happen? How often must we point things out to this Government before it does something? Will this be another error of judgment? Will it be another case of the Government's asking why the Opposition had not told it? This is extremely serious.

If the Premier really believes that this Government has turned over a new leaf, it is not for the Opposition, as suggested by the Leader of the House, to go out and find more evidence. That is his constant cry. Is this Government so corrupt and so afraid of what it might find that it is not prepared to investigate what I believe is clear? I am not the only one who believes it is clear. It was suggested by Mr Ron Davies, QC that the diary referred to Brian Burke. Mr Davies is a very calm, considered gentleman who knows his responsibility as prosecuting counsel not to make suggestions in which he does not believe. I know him to be the most experienced and able prosecuting counsel in Western Australia. He would not under any circumstances have made the suggestion had he not believed it. Likewise, Mr McCusker, although admittedly he is in a slightly different position because he had to act on the instructions of his client. He also suggested that BB referred to Mr Burke. However, I lay my case on the fact that Mr Davies made that suggestion.

When will this Government be a responsible Government? We have just celebrated 100 years of responsible Government, but this Government refuses to be responsible. If the Government wants to do the right thing by the people of Western Australia, it should read this as a loud warning. It is a bright sign that there was something filthy and stinking in the Government of Brian Burke. Who paid for the work? Do members think that Brian Burke paid for it? If they do some digging, they will probably find that it is chalked up to the contract the Government had with Mr Smith for its own offices. If the Government is not prepared to lift the stones and find the bugs crawling under them, this will never be an honest State.

The Government must face the fact that it has a corrupt background which it will never get rid of unless it is prepared to give itself an enormous purge. I advise the Government now that the Opposition will not forget this. Government members will go to their graves regretting their actions if they do not take it as their responsibility, as members of the Labor Party, to insist that the Government comes clean and does something. The Opposition should not have to tell the Government. If Government members value themselves as honest people - as I believe some do - they should insist that the Government does something about this matter.

The DEPUTY PRESIDENT (Hon J.M. Brown): I remind the member that his comments referring to the honesty of other members were inappropriate on this occasion.

Question put and passed.

House adjourned at 6.18 pm

QUESTIONS ON NOTICE

CANNABIS - CONVICTIONS

986. Hon GEORGE CASH to the Minister for Police:

(1) What was the total number of convictions under State laws for persons in each of the age groups of -

(a) under 18;

(b) 18-25; and

(c) over 25

in respect of each of the years 1987, 1988 and 1989 for use of cannabis in Western Australia in the following forms -

(i) leaf;

(ii) hashish; and

(iii) oil?

(2) How many convictions in total, for each of the periods mentioned in (1) were recorded for -

(a) simple possession;

(b) possession with intent to sell or supply; and

(c) trafficking?

(3) What was the total in fines paid to the courts for these offences?

(4) How many of the convictions in (2) resulted in sentences of imprisonment for each category?

Hon GRAHAM EDWARDS replied:

The Police Department statistics relate to the number of charges preferred not to the numbers convicted. Research outside these parameters would entail considerable manual research and a substantial diversion of police resources. I would be pleased to provide any further specific details which the member may request and which are reasonably accessible.

POLICE CADET RECRUITMENT TRAINING SCHOOL - GRADUATION DATE

987. Hon GEORGE CASH to the Minister for Police:

Will the Minister advise when the current Police Cadet Recruitment Training School, which commenced in August 1990, will graduate?

Hon GRAHAM EDWARDS replied:

At the present time there are no cadets undergoing training. However, recruit constables undertaking preservice training who commenced that training on 21 July 1990 are due to graduate on 21 December 1990. This graduation continues the ongoing program by the Government working with the Police Force to meet the commitment of 1 000 additional officers over four years.

BUSES - SCHOOL BUSES
Education Institutions - Drivers' Licences

1007. Hon GEORGE CASH to the Minister for Police:

Is a concerted effort made by the Police Force to ensure that the drivers of school buses owned by education institutions in which students are carried on school related excursions are the holders of the appropriate class of driver's licence.

Hon GRAHAM EDWARDS replied:

Information on the requirement to hold the appropriate class of driver's licence is readily available from the Police Department upon inquiry.

However, it is considered that responsibility for ensuring that a person holds an appropriate class of licence rests with the individual and in some cases with employers. In the case of education institutions the principal of the school is the person with this responsibility.

POLICE STATIONS - DENHAM
Construction Announcement

1018. Hon P.H. LOCKYER to the Minister for Police:

(1) When did the Government originally announce the building of a new police station at Denham?

(2) What was the original completion date?

(3) Why was construction delayed?

(4) When will the building be completed?

Hon GRAHAM EDWARDS replied:

(1) It was announced on 30 August 1988 that construction of a new police station at Denham would be commenced.

(2) November 1990.

(3) Extra funds needed to be identified to provide a residence for the officer in charge on the new police site to prevent potential operational problems caused by the existing residence being located approximately one kilometre away.

(4) The replacement police station and new residence for the officer in charge is scheduled for completion in December 1990.

IRON ORE - DUST STOCKPILES, NELSON POINT AREA
Local Environment Affinity Force Letter

1070. Hon P.G. PENDAL to the Minister for Planning representing the Minister for the Environment:

(1) Has the Minister received a copy of a letter from the Local Environment Affinity Force dated 8 October and addressed to the Chairman of the Dust Abatement Committee, Port Hedland?

(2) What response is the Minister intending to make to the group regarding their expressed concern that iron ore dust stockpiles in the Nelson Point area are not being sprayed effectively enough to control the dust flow which is causing problems for local residents?

(3) What regulations are in place to control such dust stockpiles?

(4) How are these regulations currently being enforced?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) Yes, a copy of the letter was received on 12 October 1990.

(2) A response will be made directly to the Local Environment Affinity Force (LEAF) which addresses the points raised in parts (2), (3) and (4) of the member's question.

SHARK BAY - WORLD HERITAGE LISTING
Public Meeting

1072. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for the Environment:

(1) Does the Government stand by the commitment to the people of Shark Bay that no support for world heritage listing would be undertaken if the people of Shark Bay did not want it?

(2) If not, why the change in stance?

(3) Will the Minister attend a public meeting in Shark Bay to explain to the people of the area the present position with regard to world heritage listing?

(4) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1)-(2)

The member is well aware of the extensive discussions and consultations that led to a range of Shark Bay groups authorising me to negotiate an agreement with the Federal Government, and my successfully negotiating that agreement.

(3)-(4)

I have not been invited to any such meeting.

SALT FARM - ONSLOW AREA
Environmental Protection Authority Inquiry

1073. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for the Environment:

(1) Has the Environmental Protection Authority completed its investigation into a possible salt evaporation operation at Onslow?

(2) If so, has the finding been made public?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) No.

(2) Not applicable.

HAROLD HOLT BASE - EXMOUTH
Federal Takeover Position

1078. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Regional Development:

What is the present position with the Harold Holt base at Exmouth being taken over by the Federal Government?

Hon GRAHAM EDWARDS replied:

The Minister for Regional Development has provided the following reply -

Formal negotiations have begun between the Australian and US Governments. Senator Ray met in Washington in mid-October with his counterpart. A statement was issued following this meeting indicating that the changeover will be effected over the next seven years.

AMMONIUM NITRATE - WYNDHAM PORT
Shipping Tonnage Restriction

1079. Hon P.H. LOCKYER to the Leader of the House representing the Minister for Mines:

(1) What tonnage of ammonium nitrate can be shipped into Wyndham port in any one shipment?

(2) What is the reason for the restriction?

Hon J.M. BERINSON replied:

The Minister for Mines has provided the following reply -

(1) The Association of Australian Port and Marine Authorities' rules limit the capacity of the Port of Wyndham to 150 tonnes of ammonium nitrate in bags or 400 tonnes if in freight containers.

(2) The reason for this limitation is the proximity of three fuel depots some 300 metres from the unloading point. These fuel depots are storing some 13 million litres of fuel and are the source of supply for the entire east Kimberley region.

If the Port Authority for Wyndham were to carry out a comprehensive risk analysis of a specific proposal it is feasible that the capacity of the port could be increased.

SCHOOLS - DERBY SCHOOL RESOURCE CENTRE
Broome Transfer

1087. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for Education:

(1) Is it intended to shift the resource centre from the Derby school to Broome?

(2) If so, why?

(3) What will happen to the demountable rooms presently used by the centre?

(4) If they are not to be left at the Derby school, where will they be sent?

(5) Did the Derby school indicate its requirement for these rooms?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

(1) Yes.

(2) The resources are being moved to consolidate the priority country areas program resource centre in Broome. This decision was taken by the area committee for PCAP in the Kimberley.

(3)-(4)
It is proposed to relocate the demountable classrooms to Oombulgurri and Wangkatjungka Primary Schools to cater for increased enrolments.

(5) No.

SHARK BAY - WORLD HERITAGE LISTING
Public Meeting, 17 November - Office of Regional Development Manager

1090. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for the Environment:

(1) Is it correct that the Minister for the Environment told the President of the Shark Bay Shire Council that the Government would not allow the Manager of the Office of Regional Development to chair a public meeting concerning the world heritage listing in Shark Bay on 17 November?

(2) If so, why?

(3) Will the Minister be attending?

(4) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1)-(2)
It would not be appropriate for a Government officer to chair a protest meeting of this kind.

(3)-(4)
I have not been invited.

AVICULTURISTS - CONSERVATION AND LAND MANAGEMENT DEPARTMENT
Record Book Proposal

1093. Hon P.G. PENDAL to the Minister for Planning representing the Minister for the Conservation and Land Management:

I refer to the proposal that the Department of Conservation and Land

Management should issue, and require to be kept by aviculturists, a record book of birds bred, disposed of, deceased, etc and ask -

(1) Is the Minister aware of such a proposal?

(2) What are the envisaged benefits, if any, of such record keeping?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) Yes. Under the wildlife conservation regulations, the holders of avicultural and advanced avicultural licences will be required to keep a book of record from 1 June 1991.

(2) The licensing and record keeping system is aimed at conserving wild bird populations by providing a mechanism to help prevent illegal trapping and trafficking of birds from the wild. It also allows conditions to be set which are aimed at preventing aviary birds escaping and establishing feral populations outside their natural range, with harmful consequences for birds native to the area. The licensing and record keeping system was amended on 1 June 1990 to simplify the licensing system, and increase the number of species which can be held without any licence. Those amendments included the introduction of a record book requirement with effect from 1 June 1991. The intent of the record book is to provide an improved monitoring system which will help reduce the likelihood of wild-caught birds entering the avicultural trade illegally. The Department of Conservation and Land Management has met with avicultural groups to discuss the record book requirement and I will consider the matter when I receive a report on those discussions.

QUESTIONS WITHOUT NOTICE

SCHOOLS - DARKAN DISTRICT HIGH SCHOOL
Closure Consideration

782. Hon GEORGE CASH on behalf of Hon Margaret McAleer, to the Minister for Planning representing the Minister for Education:

In order to allay the express concern of the people of Darkan, will the Minister advise -

(1) Whether the Ministry of Education is considering the closure of the Darkan District High School in the 1990-91 school year?

(2) If the answer to (1) is no, is the Minister considering the closure of the Darkan District High School at any time in the foreseeable future?

Hon KAY HALLAHAN replied:

I thank the honourable member for some notice of this question and advise that the Minister for Education has provided the following answer -

(1) No.

(2) The Government has convened a school renewal steering committee chaired by Hon John Halden to develop policy guidelines and implementation procedures for the school renewal program. Until the committee has developed these guidelines and procedures no further decisions will be made on school closures.

PERTH THEATRE TRUST - ANNUAL REPORT

783. Hon MAX EVANS to the Minister for The Arts:

Can the Minister answer my question on the Perth Theatre Trust?

Hon KAY HALLAHAN replied:

I thank Hon Max Evans for his patience in this matter. Members might recall that the question concerned the annual report of the Perth Theatre Trust having been signed by the former Minister, and some considerable time later having been signed by the Auditor General. This is the advice I provide for members. In accordance with section 66 of the Financial Administration and Audit Act, the Perth Theatre Trust submitted its unaudited financial statements and annual report to the Minister on 31 August 1989. This is within the period allowed by the Financial Administration and Audit Act; that is, within two months of the end of the financial year 1988-89. The trust also complied with the provisions of section 68 of the Financial Administration and Audit Act and submitted its financial statements to the Auditor General on that day, again within two months of the end of the financial year.

Hon Max Evans noted that the former Minister had signed that document in August 1989. I am advised that there is no requirement for the Minister to sign the report; the requirement is to table the report in accordance with section 69 of the Financial Administration and Audit Act. My predecessor would clearly not have been in a position to table the Perth Theatre Trust's annual report for 1988-89 prior to the Auditor General's opinion having been received.

In order to comply fully with the provisions of the Financial Administration and Audit Act the Auditor General took a period from 31 August 1989 until the time that the certificate of the Auditor General was received in my office on 15 September 1990. After that time, in accordance with section 69 of the Financial Administration and Audit Act, the annual report and the audited accounts were tabled within 21 days of the receipt of the Auditor General's opinion on the accounts.

Regarding the delay in the presentation of the certificate of the Auditor General as to the audit, I am advised that this relates to the register of the assets of the trust. In previous years the accounts of the Perth Theatre Trust had been qualified by the Auditor General as the trust did not have a proper register of assets. As a result, for some time the financial statements of the trust had been understated and it was evident that sufficient controls were not in place.

The trust was advised by the Auditor General that as a result of preliminary work in completing the audit of the trust in 1989, it was evident that once again the audit would be qualified unless a full and proper register of assets was established. The trust undertook to establish a register of assets to comply with this advice. This took a great deal of time as a result of the large number and variety of assets at a number of venues including the Perth Concert Hall, His Majesty's Theatre, the Playhouse, the Belmont Performing Arts Workshop, the Quarry Amphitheatre, Trust administration and the BOCS system.

To ascertain the correct details of ownership of equipment and proper values was a difficult task. Once ascertained, the large number of assets had to be brought into the accounts and appropriate depreciation adjustments and rates also ascertained.

That gives a full explanation for the delay, and I can understand the honourable member's query.

ART TASK FORCE - PUBLIC ART TASK FORCE
Members

784. Hon J.N. CALDWELL to the Minister for The Arts:

Who are the members of the joint public art task force?

Hon KAY HALLAHAN replied:

I have met with the task force. However, I would be reluctant to attempt to

list the names because inevitably I would miss one or two. I would not want to give anyone the feeling of being left out. I ask the member to place the question on notice so that I can supply the information.

ART TASK FORCE - PUBLIC ART TASK FORCE
Performance Measurement Criteria

785. Hon J.N. CALDWELL to the Minister for The Arts:

What criteria will be used to measure the performance of the joint public art task force?

Hon KAY HALLAHAN replied:

That is a very good question. The public art task force has been working for a few months. It is a relatively new innovation. The task force will consider the incorporation of works of art into Government buildings at the design stage. Some of the members of the task force have links with the private sector. It is hoped that after such work on Government buildings a generalisation of those principles will flow to the private sector. Ultimately, we should be able to look back and witness an increase in the inclusion of the works of Western Australian artists in the design and finish of buildings, together with a more aesthetic appearance and functionality. That is a global, not too technical explanation, of the function of the task force. However, I could obtain a much more technical and perhaps less understandable explanation, if that is the wish of the member.

SUBIACO OVAL - LEASE AGREEMENT

786. Hon GEORGE CASH to the Minister for Lands:

Can the Minister explain further the negotiations between the City of Subiaco, the Subiaco Football Club and other parties on the matters to which she knows I am referring?

Hon KAY HALLAHAN replied:

Members may recall that the question refers to a matter brought up by Hon Barry House. His colleague, the Leader of the Opposition, obviously has an intense interest in the matter.

I am advised that the Subiaco City Council will be considering the final lease agreement between it and the WAFC at its November meeting. Following the meeting, the necessary formalities between the two parties can then be resolved. I am also aware that the WAFC has recently entered into formal negotiations with the Subiaco Football Club and that agreement appears reasonably close.

From that, we can at this stage be assured that matters are progressing in a satisfactory manner.

WATER BORES - GREAT SANDY DESERT
Windmills - Prison Workers

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

I draw the Minister's attention to an article in this morning's *The West Australian* headed "Desert safety waits for cash" in which it was suggested that pumps and windmills at a value of $320 000 bought two years ago to make travelling safer in remote parts of the Great Sandy Desert were still lying beside water bores in the area where eight Aboriginal people died from thirst earlier this year.

Can the Minister advise if there is any impediment to the utilisation of prisoners from either the Roebourne or Broome Prisons to assist in the installation of those bores? I should qualify my question by saying that perhaps that would not be economic due to the distance involved. However, the general concept of utilising prisoners from the Roebourne or Broome Prisons for that type of work may be something on which the Minister could comment.

Hon J.M. BERINSON replied:

I am unable to respond in particular to the question of the windmills. I frankly would not know whose portfolio responsibility they come under, but I am more than confident they do not come under mine. Nonetheless, the general question Hon George Cash raises is a relevant one. The Department of Corrective Services is able to coordinate assistance for work in the community in two ways. One is by the management of the various community corrections programs which are already in place. I refer particularly to community service orders and to the community corrections centre programs.

Mr President, you will be aware that only today I have introduced a Bill to give effect to a proposed home detention program which will also open the way for additional work in the community by prisoners in certain categories. All of those community-based programs roughly come under one heading. A different heading is provided by the capacity of the department to provide for work to be done under so-called section 94 orders. Those relate to the capacity of the department to allocate selected prisoners for work outside the prisons on what is generally referred to as "public benefit" type work; that is, work mainly directed towards assisting institutions - sometimes Governments - but more often non-profit community organisations. They sometimes go to the assistance of individual people such as pensioners and so on who need help in the upkeep of their homes.

When one comes to a question like that raised with the windmills, a number of matters would need to be clarified first. In the first place there needs to be a request to the department to assist in certain work. That enables the process to be got under way to clarify whether that sort of work comes within the scope of the departmental programs. The question of distance, which Hon George Cash acknowledged fairly enough, could well be a problem in areas like this. All of these programs are under supervision, and if the distance involved was so great as to require the workers involved to be out of prison or away from their homes, say overnight or for any length of time, that would preclude the community service order program. It would raise considerable difficulties in respect of section 92 programs because of the need to provide living quarters while the work was carried out. Another important factor involved relates to the extent of expertise that might be necessary in the erection of the windmills. I do not know what level of expertise is required, but clearly questions of that nature would have to be addressed. In conclusion, I can only repeat that the program is there and that the department is very amenable to the consideration of requests that it should be applied in particular directions. However, I simply do not have the knowledge about the particular area or project that would enable me to address that.

SMITH, MR ROBERT - DIARY EVIDENCE
Burke, Mr Brian - Breach of Law

788. Hon PETER FOSS to the Attorney General:

I am sure that the Attorney General shares the concern that I felt when I read this morning a report in the newspaper of an extract from Mr Robert Smith's diary. The report seemed to indicate that Mr Brian Burke could have been using a private detective agency - employed by the Government - in an attempt to find adverse information about two then members of Parliament. In view of the serious nature of the suggestion in the paper would the Attorney General refer the report to his department to determine whether any breach of law has occurred?

Hon J.M. BERINSON replied:

I do not think this is an appropriate way to raise this matter. In fact I am not at all sure from my own brief reading of the newspaper report that it provided a basis for further action at all. As I understand it, a number of suggestions

were made in the course of that trial as to the nature of certain activities. A certain construction was put on it by some people concerned in the conduct of that trial and a different construction was put on it by others. So far as I am aware nothing has emerged from that trial which deals with that matter beyond the level of conjecture. If the honourable member would like to specify a particular matter that should be referred and the referral of which is justified, I would be happy to consider it.

Hon Peter Foss: Absolutely disgraceful!

ARTS LAW SERVICE - PROPOSAL DETAILS

789. Hon J.N. CALDWELL to the Minister for The Arts:

Would the Minister inform the House what is the proposed State based arts law service?

Hon KAY HALLAHAN replied:

I would have to say that the honourable member knows as much as I do on this particular service. I saw the report on it in the paper today or yesterday.

Hon P.G. Pendal: I would say that Hon John Caldwell knows a hell of a lot more about it than you do.

Hon KAY HALLAHAN: Hon Phillip Pendal is always very uncharitable.

Hon J.N. Caldwell: It was in the Budget papers.

Hon KAY HALLAHAN: From my reading it was an interesting concept and during the recess break I will have a report prepared and be in a position to give the member more information.

SMITH, MR ROBERT - TELEPHONE TAPPING TRIAL
Transcript Tabling

790. Hon GEORGE CASH to the Attorney General:

Further to the question asked by Hon Peter Foss and the answer given by the Attorney General, will he arrange to have the transcript of the trial between the Crown and Mr Robert Martin and Mr Robert Smith tabled in this House so that members can consider the transcript and determine the course of action suggested by Hon Peter Foss and alluded to by the Attorney General?

Hon J.M. BERINSON replied:

I am prepared to consider that suggestion. I cannot respond beyond that point at this stage. I would regard it as a most remarkable proceeding to take up that proposal and I do not want to leave an impression that it is likely to be adopted.

Hon P.G. Pendal: It is a remarkable case.

Hon J.M. BERINSON: Nonetheless, the suggestion having been made I will consider it.