

Legislative Council

Thursday, 5 November 1992

THE DEPUTY PRESIDENT (Hon Garry Kelly) took the Chair at 2.30 pm, and read prayers.

PETITION - COURT, MR

Allegations of Impropriety - Confidential Documents Passed to Petitioner's Wife

The following petition bearing the signature of one person was presented by Hon John Halden -

To the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled:

This petition shows that:

1. The petitioner is a former Public Service Commissioner and Managing Director of WA Exim Corporation Ltd;
2. In the course of proceedings in the Family Court of Western Australia -
 - (a) the petitioner's then wife and wife's sister gave false evidence on oath alleging that the petitioner would receive \$200 000 additional to moneys that he was otherwise entitled to on his retirement;
 - (b) documentary evidence of a highly confidential nature was adduced by the petitioner's then wife who testified that it had been obtained by her from Mr Richard Court MLA,

and in relation to paragraph (a):

3. The Family Court's acceptance of the petitioner's then wife's evidence as to the entitlement to \$200 000 in dividing the matrimonial property obliged him to declare himself bankrupt;
4. On a reference from the Official Corruption Commission to the WA Police Force, the Police could find no basis for the allegation that the petitioner would receive or be paid \$200 000 in what could not be other than corrupt circumstances;
5. The petitioner's former wife by *Minute of Agreed Facts* dated September 19 1991 admitted that the petitioner was neither promised nor received \$200 000 or any other amount except that to which he was lawfully entitled;
6. The petitioner's former wife and her sister are both solicitors employed under the *Public Service Act 1978*;
7. Subsequent to its being shown to the Public Service Commissioner that the petitioner's former wife and her sister had given false evidence, the sister was nonetheless appointed to a position of trust in the WA Legal Aid Commission.

In relation to paragraph (b):

8. The documents were at all times held to be, and treated, as strictly confidential;
9. The Exim Board at no time authorized release of those documents to Mr Richard Court MLA or to anyone acting under his authority;
10. It was admitted during the court proceedings that the documents, and others, had no bearing on the issues;
11. The Official Corruption Commission referred the matter of how Mr Court came to be in possession of the documents and whether, in passing them to the

petitioner's then wife, Mr Court had acted contrary to s.7(1)(a) of the *Official Corruption Commission Act 1988*, to the Police for inquiry.

Your petitioner respectfully requests that the Legislative Council will inquire into the circumstances relating to paragraphs 2(a) and (b) and, on being satisfied that what the petitioner alleges is true, recommend or require (as the case may be) such declarations or other relief as it thinks fit.

And your petitioner, as in duty bound, will ever pray.

[See paper No 552.]

PETITION - PORT KENNEDY AREA PROTECTION

Regional Park Creation Support - Golf Courses, Marinas and Tourist Facilities

Opposition

Hon P.G. Pandal presented a petition bearing the signatures of 366 citizens of Western Australia urging the Parliament to protect the outstanding scientific, recreational and conservation values of the Port Kennedy area by creating a regional park and to refuse to allow the development of a tourist facility, golf course and marina.

[See paper No 553.]

PETITION - PORT KENNEDY AREA PROTECTION

Regional Park Creation Support - Golf Courses or Marinas Opposition

Hon P.G. Pandal presented a petition bearing the signatures of 299 citizens of Western Australia requesting that the Legislative Council support the creation of a regional park at Port Kennedy and oppose any attempts to dispose of any part of the reserve or to develop golf courses or marinas there.

[See paper No 554.]

PETITION - MINERAL CLAIM, PADDINGTON MINE SITE 1986 DISALLOWANCE

Mining (Validation and Amendment) Act Repeal

The following petition bearing the signature of one person was presented by Hon N.F. Moore -

To the President and members of the Legislative Council of the Parliament of Western Australia in Parliament assembled.

This petition shows -

In January, 1986 I pegged a mineral claim over part of the Paddington mine site (gold mining lease 2329W), operated by Pancontinental Mining, which I contend was a legal act. The Parliament of Western Australian enacted legislation (Mining [Validation and Amendment] Act No 1 of 1986) which validated the Minister's decision to retrospectively renew the Paddington lease, and disallow my claim. I contend that evidence will show that there were persons involved in convincing the Government to overturn my legitimate claim who acted in an improper and illegal manner, and your petitioner therefore requests that the Legislative Council recommend that:

- (1) The validating Act be repealed to the extent that it disallowed my claim; and
- (2) legislation be enacted acknowledging and validating beyond any doubt, my claim as originally pegged in 1986.

And your petitioner as in duty bound will ever pray.

William Bierberg, 4 Addis Street, Kalgoorlie.

[See paper No 555.]

ACTS AMENDMENT (JURISDICTION AND CRIMINAL PROCEDURE) BILL*Deputy Chairman's Ruling - Committee Stage Amendments*

HON DOUG WENN (South West) [2.38 pm]: Last night during the Committee stage of this Bill, I ruled that proposed amendments did not require an instruction, and I undertook to table the reasons for my ruling at today's sitting.

Chapter 22 deals with instructions to committees, whether of the whole House or a Select Committee. For present purposes, the question arises in the context of a Committee of the Whole dealing with a Bill. Instructions are of two kinds; namely, procedural and permissive. Standing Order No 405 reads -

An instruction empowers a committee to consider matters not otherwise referred to it.

In the context of legislation, the Bill agreed to on second reading is the "matter" referred to a Committee of the Whole on that Bill. A standing instruction contained in Standing Order No 409 empowers the Committee to amend the Bill provided that the amendments are relevant to the subject matter of the Bill. It follows that any instruction must empower a Committee to do something to a Bill not otherwise contemplated by Standing Order No 409. The primary restriction on a Committee imposed by Standing Order No 409 is that any amendment that it makes must be relevant to the "subject matter of the Bill". That expression is defined in Standing Order No 3 as meaning -

... the provisions of the Bill as printed, read a second time, and referred to the committee.

In the second reading speech, the aims of the legislation are given as being: To simplify and increase the efficiency of committal proceedings; deal with aspects of videotaping police interviews and the effects of a High Court opinion; recognise administrative changes within the District Court registry; enable the prosecution to proceed against property to pay fines or convert fines to work and development orders; increase the time limits for laying complaints under the Justices Act from six to 12 months; allow court officers to extend time within which a fine is to be paid; and extend the jurisdiction of the District and Local Courts. It seems to me that all the amendments proposed by the Attorney General set out in Supplementary Notice Paper 17-3 are within the subject matter of the Bill as defined, notwithstanding that a further Act, not included in the Bill on second reading, is proposed to be amended. Standing Order No 409 clearly contemplates this type of amendment by providing that if a Committee's amendments fall outside the long title, it is to be amended.

What is pivotal in deciding whether an instruction is required is a determination of what, in a particular case, constitutes the subject matter of the Bill. Given that the Standing Orders provide a definition, it seems to me that the Chair has no choice but to consider each proposed amendment against the provisions of the Bill as read a second time. Accordingly, the discussion in *Australian Senate Practice* sixth edition, 470, although interesting, has no bearing on what the usages of this House will be. The position taken by the author - "... the subject matter of a Bill is stated in, and governed by, the title ..." - is not a position I am free to adopt.

An instruction will be required if a proffered amendment is irrelevant to what the clauses of the Bill are about. It is not in order, absent an instruction, to seek to amend other aspects of a principal Act that have no bearing on the amendments agreed to on second reading. I seek leave to table the paper.

[See paper No 556.]

**STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS AND STATUTES
REVISION - PETITION CONSIDERATION**

Contingent Notice of Motion

Hon John Halden gave notice that contingent on the refusal of the Standing Committee on Constitutional Affairs and Statutes Revision to proceed to its consideration of the petition of Mr Brian Easton tabled at this day's sitting before Friday, 13 November 1992, he would move that the committee be, and be thereby ordered, to inquire into and report on that petition not later than Tuesday, 1 December 1992.

**JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION
DEPARTMENT OF LAND ADMINISTRATION REGULATIONS
1992 REPORT**

Tabling

HON TOM HELM (Mining and Pastoral) [2.45 pm]: Mr Deputy President -

Hon P.H. Lockyer: Sleazebag Halden!

Several members interjected.

Withdrawal of Remark

Hon DOUG WENN: I wish that statement to be withdrawn.

Hon N.F. Moore: It is used all the time in Canberra.

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! Would the member tell me the remark he wishes to be withdrawn and who made it?

Hon DOUG WENN: Hon Phil Lockyer called the member a "sleazebag", which is totally unparliamentary.

Hon P.H. LOCKYER: I am sorry; I am not withdrawing.

Several members interjected.

The DEPUTY PRESIDENT: Hon Phil Lockyer has admitted the offence. I report that Standing Order No 116 reads -

If any Member: . . .

(c) uses objectionable words, and refuses to withdraw such words; . . .

The President may report to the Council that such Member has committed an offence.

Under Standing Order No 118 I ask Hon Phil Lockyer whether he would care to stand in his place and offer any explanation or apology he may think fit.

Hon P.H. LOCKYER: I have no explanation, except that the expression is one which the Prime Minister regularly uses; I do not regard it to be unparliamentary. Therefore, I have no reason to withdraw or apologise.

The DEPUTY PRESIDENT: Order! I will not enter into a debate on whether the expression is unparliamentary. It is the custom in this place that if a member of this House requests that a comment be withdrawn, and the Chair conveys that request to the person who made that comment, that the member withdraws the remark. I am not, therefore, asking Hon Phil Lockyer to say that because Paul Keating uses it in the House of Representatives it is not unparliamentary. I am simply saying that when the President requests a remark to be withdrawn, that it be withdrawn. I ask the member to reconsider.

Hon P.H. LOCKYER: That places the matter in a different light. In that case, with respect to you, Mr Deputy President, I withdraw the comment.

The DEPUTY PRESIDENT: I thank the honourable member. Hon Tom Helm has the call.

Hon GEORGE CASH: Are we onto notices without motion, Mr Deputy President? You have jumped a couple of items on the way.

The DEPUTY PRESIDENT: If the Leader of the Opposition checks the Notice Paper he will see that item 5 is notices of motion. Item 6 is questions without notice to be taken at 4.00 pm. I called for motions without notice and gave Hon Tom Helm the call before the interjection to which Hon Doug Wenn took exception.

Hon GEORGE CASH: Mr Deputy President, you have not called urgency motions yet.

The DEPUTY PRESIDENT: I am on my feet, Mr Cash. Hon Tom Helm has the call.

Debate Resumed

Hon TOM HELM: I have the honour to present the report of the Joint Standing Committee on Delegated Legislation on the Department of Land Administration regulations 1992. I move -

That the report do lie upon the Table and be printed.

Question put and passed.

[See paper No 557.]

MOTION - BERINSON, HON J.M., RESIGNATION CALL

Address to the Lieutenant Governor and Administrator

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [2.51 pm]: In accordance with Standing Order No 433, which deals with addresses to the Queen or His Excellency the Governor, I move -

That an address be presented to the Lieutenant Governor and Administrator in the following terms -

The Legislative Council begs to inform Your Excellency that on 3 November 1992 it passed a motion in the terms attached. We regret to inform Your Excellency that Hon J.M. Berinson has not resigned his office, nor does it appear that the Premier has advised Your Excellency to withdraw his commission. The House advises Your Excellency that it finds it unacceptable that Hon J.M. Berinson continue to hold office as Minister of the Crown and, further, respectfully requests that Your Excellency will be pleased, on receipt of this address, to withdraw the commission of Hon J.M. Berinson and that a copy of this address will be sent to the Legislative Assembly.

Several members interjected.

Hon J.M. Berinson: Ooh! Aah! Very clever, Mr Cash. You must have taken lessons from your leader's performance yesterday.

Hon GEORGE CASH: The urgency of this motion must be acknowledged by the House. Members will be well aware that it passed -

Deputy President's Ruling

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! Honourable members, Standing Order No 433 reads as follows -

Whenever it be deemed proper to present an Address to Her Majesty or either House of the Imperial or Commonwealth Parliament, or His Excellency, the Governor, the same shall be proposed, except in cases of urgency on motion after notice in accordance with Standing Orders.

I interpret that to mean that if one is to present an address to the Governor, which this motion contemplates, it can be done only after notice has been given in accordance with Standing Orders. There is a proviso that, in cases of urgency, it can be done without notice. I am not convinced that that has been demonstrated. I propose now to hear argument from members as to why this item is or is not urgent. That is, the confines of the debate will be the reasons that that resolution is urgent, not the substantive matters contained within the motion.

Hon GEORGE CASH: I acknowledge what you have said, Mr Deputy President. You are requiring me to demonstrate to the House that the motion to which I have referred should be considered urgent under Standing Order No 433. In demonstrating the urgency of the motion, the House must take note of the fact that it passed a motion last Tuesday. I will not read out the terms of that motion; members are well aware of it. However, the final paragraph required Hon Joe Berinson to resign as a Minister of the Crown forthwith. It was a vote by the House. It indicated the will of the House and was carried by a vote. One full sitting day has passed since that resolution was carried. Yet, today we see that Hon Joe Berinson still occupies that seat in this Parliament which is traditionally reserved for the Leader of the Government in the Legislative Council. In further support of my claim of urgency, it is necessary that the Governor be formally advised of the motion passed. As yet he has not been formally advised of that motion. That is necessary because members will be aware that the permission of a Minister -

Points of Order

Hon J.M. BERINSON: The argument that the Leader of the Opposition is now advancing is quite irrelevant to the Deputy President's requirement that members restrict themselves to

questions of urgency. The Leader of the Opposition is assuming that the Governor must be advised. He is not entitled to make that assumption. Many motions of all sorts have been passed in this House. Except with regard to the single motion relating to the Address-in-Reply, no-one has ever suggested it was necessary to correspond as such with the Governor. The Leader of the Opposition is trying to circumvent your ruling, Mr Deputy President, and I ask that you require him to restrain himself to the question of urgency alone.

Hon GEORGE CASH: I raised the question of the Governor and the need to send an address to him because Hon Joe Berinson's ministerial commission was conferred on him by the Governor. It was not conferred on him by this House.

Hon J.M. Berinson: Absolutely right.

Hon GEORGE CASH: As the House cannot take away Hon Joe Berinson's ministerial commission, it is clearly necessary to advise His Excellency of the terms of the motion in order that the will of the House be carried out. I am not, as is argued by Hon Joe Berinson, attempting to debate the substance of the proposed motion. I am demonstrating the need for urgency on the motion today.

Hon J.M. BERINSON: The Leader of the Opposition is off the track completely. An argument that it is necessary to advise the Governor of the view that a commission should be withdrawn might hold some water if that same source of advice had led to the Governor's making the appointment in the first place.

Hon P.G. PENDAL: Point of order Mr Deputy President -

The DEPUTY PRESIDENT: Order! We already have a point of order. I appreciate the help that members are trying to give me, especially Hon Fred McKenzie. One Presiding Officer in the House at a time is enough. Hon Joe Berinson may complete his point of order and then I will listen to Hon Phillip Pendal.

Hon J.M. BERINSON: It is established beyond doubt to such an extent that nobody would dream of questioning that the Governor -

Several members interjected.

The DEPUTY PRESIDENT: Order! I want all the interjections to cease. This is a serious matter. Members are discussing a point of order about whether a motion should be presented to the Governor. Honourable members have a duty to concentrate their minds on the issue before the House.

Hon P.G. PENDAL: Mr Deputy President, your clear instruction three minutes ago was that this House would be hearing argument about whether this matter was urgent. The Leader of the House is now canvassing the wider nature of the motion Hon George Cash wishes to move. Therefore, it is out of order that he should be speaking in those terms. He should confine himself to your instruction to discuss whether Mr Cash's motion is urgent.

The DEPUTY PRESIDENT: I repeat my ruling. The debate is confined to why the motion is urgent and should proceed today. I ask all members to adhere to that ruling.

Hon J.M. BERINSON: Mr Pendal's comments on your ruling, Mr Deputy President, which I accept without question, force me to go back one step and make it very clear what my point of order is. I accept that this debate must be limited to the question of urgency. I took the point of order to draw attention to the fact that a particular argument by the Leader of the Opposition did not relate to the urgency in that it was starting to rely on what he purported to be a need by the Governor to receive advice on the withdrawal of a commission. I was pointing out that there was no such need. In fact, given the undeniable constitutional position that the Governor acts on the advice of the Executive when appointing Ministers, that will inevitably need to be the source of his advice on any action to the contrary. In summary, I am putting the proposition that as Mr Cash now wants to argue not only whether it is necessary for the Governor to receive this advice from the House urgently but also whether he should receive it from us at all is departing from your ruling, Mr Deputy President.

The DEPUTY PRESIDENT: Honourable members must consider that we are pursuing the argument about whether a motion to be moved by Hon George Cash is urgent and should be debated today. Members can spend their time on points of order or they can spend the time

canvassing the position. In relation to the point of order taken by the Leader of the House, members may be aware that I was taking advice from the Clerk at the time and I did not hear the comments by Hon George Cash. I rule on this point of order that this debate is confined to the question of whether the motion sought to be moved by Hon George Cash is urgent. That is the parameter of the debate.

Debate Resumed

Hon P.G. Pental: Mr Deputy President, you asked us several minutes ago and you have repeated it now for the argument about the sense of urgency -

The DEPUTY PRESIDENT: Order! Hon George Cash has the call.

Hon J.M. Berinson interjected.

Hon GEORGE CASH: No; it indicates the strong support for this matter regarding the sense of urgency.

Hon J.M. Berinson: That is the tone of voice you use when accusing me of not answering your questions.

Hon P.G. Pental: You're an old fraud, Mr Berinson.

The DEPUTY PRESIDENT: Order!

Withdrawal of Remark

Hon J.M. BERINSON: It was established in this House earlier this week that the word fraud is unparliamentary. It should be withdrawn.

Hon P.G. Pental: The Leader of the House has used that word, year in and year out. You are an old fraud, doubly.

Hon J.M. BERINSON: Whatever the earlier circumstances may or may not have been, a ruling was made in this House when the question was raised that the word fraud is unparliamentary and must be withdrawn. I ask the Deputy President to require Hon Phillip Pental to withdraw that comment. In fact, I can only deplore the fact that he compounded -

Hon George Cash: Sit down!

Hon Kay Hallahan: Shut up.

Several members interjected.

The DEPUTY PRESIDENT: Order! I will deal with one point of order at a time. I have asked members to desist trying to assist me in conducting the affairs of the House this afternoon. I will make the ruling.

Hon GEORGE CASH: I invite you, as Deputy President, to acquaint yourself with the debate that occurred on the motion in this House on Tuesday, 3 November. On innumerable occasions, Mr Berinson called me and other members in this House a fraud. I have not had a chance to count up how many times that occurred.

Hon J.M. Berinson: You did not object then because presumably you accepted it.

Hon GEORGE CASH: Implied in that comment is that Mr Berinson is doing exactly what he wants Mr Pental to withdraw. I ask you, Mr Deputy President, to consider the debate from that day, because the situation should not occur in this House where on one day we adopt one standard and on the next day we adopt another just because Mr Berinson thinks that that standard will assist him.

Hon J.M. Berinson: That is precisely my point.

The DEPUTY PRESIDENT: If the House is going to proceed with this debate we must get past members taking points of order repeatedly. I am not aware of what the ruling on Wednesday was or who made it; it certainly was not I. I will adopt the same request that I gave to Hon Philip Lockyer that when a member requests that a remark be withdrawn and the President conveys that request to the member who made that remark, it is the practice in this House for it to be withdrawn. I ask Hon Phillip Pental to withdraw that remark.

Hon P.G. PENDAL: Notwithstanding that the Leader of the House used the term against me on 50 occasions, which does make him a fraud, I withdraw it. He is a hypocrite.

Debate Resumed

Hon GEORGE CASH: I will not restate my case.

Hon J.M. Berinson: We have not heard it the first time; there is no question of restating it.

Hon Kay Hallahan: There is no case; that is why.

Hon GEORGE CASH: The point I had arrived at was the need for this House to consider sending the address to His Excellency, the Governor. I raise His Excellency in this debate because he was the one who conferred the ministerial commission on Mr Berinson, and who can take that commission away. It is not within the status of this House to take that commission off Mr Berinson. The other reason is that the Notice Paper currently contains 24 motions on notice still to be moved.

Hon J.M. Berinson: That does not make it urgent.

Hon GEORGE CASH: Is the Leader of the House going to let me speak?

Hon J.M. Berinson: Yes.

Hon GEORGE CASH: Thank you. Given that the Government has said that it wants to conclude the session on 3 December, and has published a timetable to that effect, it is not unreasonable to believe that if this motion were placed on notice it would never be discussed in this House. More than that, the mere fact that this House has passed a motion in the terms which it has, and given the seriousness of this motion and the high public importance attached to and the public interest in that motion -

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon GEORGE CASH: - there is a need for this matter to be debated in this House without further delay.

Hon T.G. Butler interjected.

The DEPUTY PRESIDENT: Order! Hon Tom Butler will come to order.

Hon GEORGE CASH: I put it to the House that its having resolved in the terms of that motion the other day, Hon Joe Berinson's failure to observe the terms of that motion is in itself an act of defiance against this House and the fact that he continues to occupy his seat in this place is an affront to this House.

Hon J.M. Berinson: What does that have to do with the Governor?

Hon P.G. Pandal: He can withdraw your commission like the Governor General did.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon GEORGE CASH: I always know when Hon Joe Berinson is on the run because he makes stupid interjections.

Given the significant nature of the motion I believe it would be quite improper for this House to delay debate on it any later than today. The Liberal and National Parties - I will not speak for Hon Reg Davies, but as he did not move anything yesterday I presume he shares our view - gave Hon Joe Berinson a full sitting day to decide whether he would comply with that motion.

Hon J.M. Berinson: "Generous George". I never thought about you in those terms before.

Hon GEORGE CASH: He did not comply, and this is the first opportunity I have had to bring the motion forward. I claim the urgency it deserves under Standing Order No 433 and I ask the House to support that urgency.

HON B.L. JONES (South West) [3.12 pm]: In addressing the need for haste in dealing with this motion I suggest that the urgency attached to it relates far more closely to the declining stocks of the Leader of the Opposition in the other place and has little to do with any credibility.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon B.L. JONES: I further suggest there is no urgency in this motion other than the Opposition's obvious fear of losing the next general election. I deplore the antic of members of the Opposition in respect of this shabby trick. They should be ashamed of themselves.

HON P.G. PENDAL (South Metropolitan) [3.13 pm]: We all pretend to respect the plain meaning of English in this House. The word "urgency" is defined on page 1011 of the *Macquarie Concise Dictionary* as a matter of pressing importance.

Hon J.M. Berinson: How about reading the full definition?

Hon P.G. PENDAL: Mr Deputy President, perhaps you should remove the Leader of the House as a matter of courtesy.

Can anyone suggest that a motion which requires the termination of a man's commission for the second time in his life, is not a matter of pressing urgency? I believe that the Government has no option other than to regard the plain meaning of the word and to regard this motion as one of pressing importance and allow debate on it to proceed forthwith.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [3.14 pm]: There are a lot of things we, on this side of the House, respect but one of the things we do not respect is political expediency.

Several members interjected.

Hon GRAHAM EDWARDS: That is all this motion is: It is political expediency dressed in the form of a stunt. I am not surprised that the Leader of the Opposition has a smile all over his face. He knows this motion is one of political expediency; he knows it is a joke.

Hon George Cash: I take it very seriously.

Hon J.M. Berinson: That is why you are smiling so broadly!

Hon George Cash: If I am smiling it is because I think you are a joke.

The DEPUTY PRESIDENT: Order! There have been a number of interjections and members really are not listening to each other. I ask members to pay attention to the Minister for Police.

Hon GRAHAM EDWARDS: I appreciate your advice, Mr Deputy President, because there is no doubt that today some members opposite have painted themselves as a rabble and they are now painting themselves into a corner. To introduce this motion under motions without notice is another one of Hon George Cash's tactics.

The DEPUTY PRESIDENT: Order! I advise the Minister for Police that he is straying from my ruling. He should be arguing why this motion is not urgent.

Hon P.G. Pendal: Didn't Brian Burke teach you that?

The DEPUTY PRESIDENT: Order!

Hon P.G. Pendal: Your little mate.

The DEPUTY PRESIDENT: Order! Hon Phillip Pendal will come to order.

Hon GRAHAM EDWARDS: Of course I accept your ruling, Mr Deputy President, and in showing respect for it I think some members who sit opposite should respect the real meaning of this place. I urge members to treat this motion for what it is. It is a matter of political expediency and the Opposition does not show any respect for our political system. It is a dead set joke.

HON PETER FOSS (East Metropolitan) [3.16 pm]: When one considers that members opposite are part of the team that brought us WA Inc -

Several members interjected.

Hon Derrick Tomlinson: And refuses to take it away.

Hon PETER FOSS: - and the Royal Commission report -

Hon Derrick Tomlinson: Which they refuse to endorse.

Hon PETER FOSS: - it is interesting to hear the Minister for Police talk about political

expediency. However, the fact remains that this House passed an order requiring Hon Joe Berinson to resign forthwith. He has not resigned and that is an affront to the House. For every single day that he does not resign, the affront continues. It is important that this House does not allow that affront to continue and that it deals with this motion as soon as possible.

Unfortunately, we are not able to enforce the resignation of Hon Joe Berinson. This House has only one way to see its will, as expressed in the resolution on Tuesday, carried out; that is, by using one of the measures this House has always had the power to do - to tender its advice -

Point of Order

Hon TOM HELM: Mr Deputy President, can you tell me where the member's comments are relevant to Standing Order No 433?

The DEPUTY PRESIDENT: Order! I think the comments of the member thus far are within the confines of my ruling.

Debate Resumed

Hon PETER FOSS: This House has only one avenue in which it can urgently address that affront and that is by using its power to petition and to advise the person who does have the power to withdraw Hon Joe Berinson's commission. Therefore, if we are to address that affront and if we are to prevent that affront from continuing, it is urgent that we deal with this matter and ensure some action is taken against this recalcitrant Minister.

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.19 pm]: In the debate last Tuesday I referred to the manoeuvres by Hon George Cash as clever but deteriorating to tricky. At least his motion of censure that day was regarded by him as serious enough to give me almost a day's notice. Today, on what he pretends is not only a serious but urgent motion he reverts to his common device of ambush. He gave me no notice at all and that can mean only one of two things.

Several members interjected.

Hon J.M. BERINSON: Either this motion is not regarded as serious by Hon George Cash, in which case he certainly cannot claim it as urgent; or, alternatively, if he does mistakenly regard this motion as serious then his reversion to ambush indicates a move from tactics which are clever or tricky down to a tactic which can only be described as low. The substantive motion is obviously not urgent, if only because it is substantially the same as motions which have been passed at quite regular intervals in exactly the same way by the use of the numbers on the other side.

Hon George Cash: We have not asked you to step down as a Minister of the Crown. You are misleading the House.

The DEPUTY PRESIDENT: Order!

Hon J.M. BERINSON: Mr Cash has become almost addicted to his motions of censure and on more than one occasion they have been directly linked either in the motion or in the argument to a call for me to resign. I have lost count of the number of times this has happened. In recent days I have had to suggest that between four and five or five and six is the number; all I know is that they have been regular, have always been carried, and have always looked to censure and have me retire. Now, after two or three years of that process, Mr Cash is trying to mount an argument that it is not only serious, but also so urgent that the House must deal with it today.

Hon P.G. Pandal: Quite right.

Hon J.M. BERINSON: He is saying that the House cannot wait another moment.

Hon P.G. Pandal: Quite right.

Hon J.M. BERINSON: Absolute nonsense! Mr Cash admitted that out of his own mouth - and I will come to this in a moment -

Several members interjected.

The DEPUTY PRESIDENT: Order!

Several members interjected.

The DEPUTY PRESIDENT: Order! Hon Tom Helm will come to order.

Hon J.M. BERINSON: There is only one difference between this motion and other motions to which I have had occasion to refer. I noticed on Tuesday with some interest that suddenly, instead of calling on me to resign the motion is put in terms of requiring me to resign.

Point of Order

Hon GEORGE CASH: You made it clear in your earlier ruling, Mr Deputy President, that you required debate on this matter to contain itself to the reasons why this motion should be considered one of urgency. The matters now being raised by Mr Berinson go far wider than those narrow guidelines that you set earlier and I ask you to draw your earlier ruling to his attention.

The DEPUTY PRESIDENT: My understanding of the remarks of the Leader of the House is that he is trying to show that previous resolutions passed in a similar vein calling on him to resign or insisting he resign are not dissimilar from the motion that was passed last Tuesday and therefore that the motion sought to be moved now is not urgent. I believe that the Leader of the House is within the confines of my ruling.

Debate Resumed

Hon J.M. BERINSON: That indeed was precisely the point that I was making; that if it was not urgent two and a half years, two years, 18 months or nine months ago, why is it suddenly urgent now? The clear answer to that question is that it is not urgent and that this is just an artificial device and another one of the games that the Leader of the Opposition is playing while at the same time purporting to be raising a serious issue.

There is another reason why the matter is not urgent which came from what Mr Cash had to say about the role of the Governor.

Hon P.G. Pental: Why don't you admit you are dragging this out?

The DEPUTY PRESIDENT: Order!

Hon J.M. BERINSON: I do not need to drag this matter out until 3.30 pm.

Hon P.G. Pental: Then sit down.

Hon J.M. BERINSON: When I need advice from Hon Phillip Pental, I will ask for it!

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon Graham Edwards: You are -

The DEPUTY PRESIDENT: Order! The Minister for Police will come to order.

Hon E.J. Charlton: Get the -

The DEPUTY PRESIDENT: Order! Hon Eric Charlton will come to order. When the Deputy President is on his feet no-one speaks. I would like that convention to be observed for at least a few microseconds while I hear argument why this motion should be regarded as urgent. Let us get that out of the way first.

Hon J.M. BERINSON: I wish to respond to Hon Phillip Pental's charge of dragging out this debate. Whether I keep speaking or not, the debate will certainly go to 3.30 pm and will stop at that point as he knows. I do not have to drag out this matter as it will inevitably go that far. I take up the point that the House should note the contrast between what is happening today and what happened on Tuesday last when I was given a half way decent - and certainly no more than half way decent - approach to the procedures of this House by the Leader of the Opposition when he gave me prior knowledge of what was intended. On that occasion I not only supported the suspension of Standing Orders but took the initiative in extending the sitting time beyond the 11 o'clock rule. In both cases I was prepared to face up to what was being said, in the same way as I am prepared to stand up to it now. Do not let any member from the other side lecture me about what are proper procedures or manoeuvres, because what we are facing here is a tactician of the lowest possible order. Given that situation I will not cop -

Hon P.G. Pental: You will be sacked twice.

The DEPUTY PRESIDENT: Order!

Hon Graham Edwards: At least he is not running way, which is what you are doing!

The DEPUTY PRESIDENT: Order!

Hon J.M. BERINSON: The second reason I have against the urgency of this situation relates to the purported role of the Governor. I was starting on that point when interrupted seven or eight times and I need to revert to it. That point appears to be an important part of Mr Cash's argument that it is urgent that the Governor be made aware of the decision of last Tuesday because it is the Governor who appoints Ministers and who can withdraw commissions.

Hon P.G. Pendal: Like he did with you once before.

The DEPUTY PRESIDENT: Order! That interjection was bordering on tedious repetition.

Hon J.M. BERINSON: The second reason why this motion is not urgent is that this purported need by the Governor to know does not exist. I am not talking about the propriety of advising the Governor but about the need for the Governor to be advised and the urgency of his being advised. I put to the House that there is no such need by the Governor; there is no relevance to the Governor in terms of future action and there is certainly no urgency.

In the unfortunate circumstance that I have only a couple of minutes to answer an additional point made by the Leader of the Opposition when he said he recognised that a motion like the substantive motion should go on notice in the ordinary way -

Hon George Cash: No, I did not. The Leader of the House is misrepresenting the case.

Hon J.M. BERINSON: He then went on to say that we have 24 motions on the Notice Paper and that it could take a long time to reach the twenty-fifth if it was put on notice. The fact that there are 24 motions in front of this one does not make it urgent; all it means is that this motion will not be reached soon.

Hon E.J. Charlton: Go down and tell the Governor that.

Hon J.M. BERINSON: There is no other way of understanding what the Leader of the Opposition said because in that respect he conceded the argument; that is, he is saying that he knows this is not a matter to be discussed as urgent because it is intrinsically urgent. He is not saying the Governor has to be advised today, next Tuesday, or Wednesday week; he is saying he is not quite sure when we will get around to advising the Governor if we put this matter on notice as we should.

Point of Order

Hon GEORGE CASH: The Leader of the House is again straying from the very narrow guidelines you set earlier, Mr Deputy President. He is now debating the substance of the proposed motion and I ask you to draw that to his attention.

[Debate adjourned, pursuant to Standing Order No 195.]

MEMBERS OF PARLIAMENT (FINANCIAL INTERESTS) BILL

Report

Report of Committee adopted.

ACTS AMENDMENT (JURISDICTION AND CRIMINAL PROCEDURE) BILL

Committee

Resumed from 4 November 1992. The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair; Hon J.M. Berinson (Attorney General) in charge of the Bill.

Clause 20: Section 169 inserted -

Progress was reported after the clause had been partly considered.

Hon PETER FOSS: I was about to suggest to the Attorney General that one argument he could use against me - that is, I would like to put it up and then knock it down - would be that the use of work orders is probably, in the context of an alternative to prison, a reasonably economical alternative. I do not know if that is correct.

Hon J.M. Berinson: It is.

Hon PETER FOSS: I thought it would be more comparable or even cheaper than prison. When talking in terms of an alternative to prison, a person doing a work order would be an economic and sensible move, quite apart from the social benefits to be achieved. That is, rather than sending the person to gaol for not paying a fine, that person could be subject to a work order. However, I imagine economically as an alternative to handing over cold hard cash, cold hard cash would be preferable. Therefore one could argue from a strictly economic view that the reason to have a means test is that we do not want people using a more expensive method when in fact the real alternative is to receive payment of a fine as opposed to sending them to gaol. That is an economic argument to be made.

Hon J.M. Berinson: But the member is aware that that it is not an argument I make.

Hon PETER FOSS: I realise that. I just suggest that as an argument. Another matter of concern is that we have always traditionally graded punishments into two types - those suitable for a fine and those more serious to have imprisonment. That is why when the court says a fine is suitable, it is really saying that gaol is unsuitable. It is not so much that the fine is the desired way out and prison is not the desired way out; it is that the offence is not sufficiently serious to justify a prison sentence.

Due to another amendment made recently - and the Attorney is obviously better able to track down these things - when sentencing a fine the court is now able to provide as an alternative to payment, execution rather than imprisonment which, except in the case of corporations, was not always the case. We have a situation now that rich or poor, the alternative to paying a fine is not necessarily imprisonment. It can be execution.

Hon J.M. Berinson: But not if one does not have the money.

Hon PETER FOSS: I know, but until we made those amendments the alternative to payment for everyone was gaol.

Hon J.M. Berinson: Yes.

Hon PETER FOSS: It always has been that if a person is not worthy of gaol then he is entitled to be fined. By putting in this means test, everyone is entitled to have it decided whether a person will go to gaol. Poor people have the alternative of doing a work order; rich people do not. The Government is making a distinction as to punishment whereas previously people who did not want to pay the fine because they believed they had been wrongly fined could say, "You must compel me."

Hon J.M. Berinson: The member is talking about a situation where people refuse to pay a fine on principle. Is the member supporting that capacity on their part?

Hon PETER FOSS: St Augustine was the first person to say that one has the right to say one morally objects to the law, but one has a moral obligation to take the consequences.

Hon J.M. Berinson: Mr Foss, could you be more precise on your view about the approach by some people who clearly have the capacity to pay the fine but decline to do so on principle?

Hon PETER FOSS: Paying a fine is voluntary and some people wish to demonstrate to the world that they would rather go to gaol than pay the fine.

Hon J.M. Berinson: Do you think we should accommodate that preference?

Hon PETER FOSS: Not so much accommodate it, but the alternative should not be decided by how much money they have. I do not mind if the alternative is execution because to some extent it satisfies the problem of not having to pay up voluntarily. That is an advantage because people can then say, "I'm not going to pay, you can get it off me." However, it seems that the treatment a citizen gets is dependent upon the amount of money he has. It seems strange that if a person does not have money he is entitled to choose a work order as opposed to being forced to pay the money. That choice exists, and a person does not have to undergo a process of execution and be found wanting. It follows that it is not a matter of choice; the person is there because he cannot pay or because he cannot satisfy a means test. It will be an inevitable progression depending on whether a person could follow execution. It seems strange that we should give an option to poor people.

Hon J.M. Berinson: We do that in all manner of areas in society, with summary benefits and legal aid. We recognise the factual social position.

Hon PETER FOSS: Yes, but we are dealing here with punishment. It seems that the punishment is different depending on a person's ability to pay.

Hon J.M. Berinson: It is a question of possibility versus impossibility. If it is possible to pay, one should pay, and if one is not well off one should pay to the best extent one can. We try to accommodate that with very flexible periodic payment arrangements.

Hon PETER FOSS: The Attorney General is saying that the times this will happen as opposed to a flexible periodic payment will be fairly rare.

Hon J.M. Berinson: Not necessarily, because many people simply have no capacity to pay. The typical example is a person with no assets who is entirely dependent on social welfare.

Hon PETER FOSS: The Attorney General is now saying that the means test will be set by regulation with regard to section 169 of the Criminal Code and will be based on that circumstance; it is not just a matter of whether it is a reasonable alternative for people of low means, but the alternative will be to show that there is no alternative other than gaol if it were not for this.

Hon J.M. Berinson: I will qualify that by saying, "No reasonable alternative", and that goes back to the nature of the means test. It is possible to envisage a means test that is so tight that it defeats the aims of the exercise in its impact.

Hon PETER FOSS: I can accept that, provided the means test is not such that people of low means have a choice and people of high means do not have a choice.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon PETER FOSS: I think I now have a better understanding of what the Attorney General was saying. It is not really the case that people who are poor will have an alternative which people who are rich will not have. People who can demonstrate that they have no reasonable alternative will be able to have a work order, and I can understand the logic of that. It could almost be described as one's being driven into a corner, although where that corner is defined may depend upon how the regulations are framed. However, so long as the regulations are based on that theory and do not draw a line through society on an arbitrary basis but rather are applied to real cases of need, I will accept it.

Clause put and negatived.

New clause 20 -

Hon J.M. BERINSON: I move -

That the following stand as new clause 20 -

Sections 169 and 169A inserted

20. The principal Act is amended by inserting after section 168 the following sections -

Chief executive officer may make time to pay order

"169. (1) In this section "chief executive officer" means the chief executive officer for the department principally assisting the Minister with the administration of this Act.

(2) If -

(a) a person is liable as a result of a conviction or order, not being an enforcement order under section 171BF, to pay a sum or costs; and

(b) the sum or costs are required to be paid to the Consolidated Revenue Fund, the person may, unless the justices have made an order under subsection (7), apply to the chief executive officer for a time to pay order.

(3) An application may be made -

(a) before or after the time for payment of the sum or costs or of any instalment allowed by the justices (if any) has passed;

- (b) after the issue under section 155, 157 or 158 of a warrant of execution or commitment but before it is executed.
- (4) On an application the chief executive officer may, if he or she thinks fit, require the applicant to undergo a means test.
- (5) On an application the chief executive officer may, if he or she thinks fit, make a time to pay order which may -
- (a) allow or extend the time for payment of the sum or costs;
 - (b) direct that the sum or costs be paid by instalments;
 - (c) vary any order by justices directing the payment of the sum or costs by instalments.
- (6) The chief executive officer may vary or cancel a time to pay order.
- (7) When by a conviction or order justices adjudge a sum or costs to be paid, the justices may order that a time to pay order shall not be made under subsection (5) in respect of the sum or costs.
- (8) Notwithstanding sections 155, 157 and 158, upon the making of a time to pay order and while the order is in force and being complied with -
- (a) no warrant of execution or commitment may be issued under any of those sections in respect of the sum or costs the subject of the order; and
 - (b) a warrant of execution or commitment that was issued in respect of the sum or costs the subject of the order but not executed before the making of the time to pay order shall be suspended.
- (9) The chief executive officer may, in writing, delegate the powers under this section except this power of delegation.

Means tests

169A. (1) For the purposes of sections 169 and 171AA the Governor may make regulations for means testing applicants.

(2) Without limiting the generality of subsection (1), the regulations may require information supplied by an applicant to be verified by a statutory declaration. "

New clause put and passed.

Clause 21: Section 171AA amended -

Hon J.M. BERINSON: Briefly, the proposal in this clause is contained in the proposed section and basically relates to the administrative arrangement for the work and development orders. This will introduce a means test procedure into the decision for converting a fine to a work and development order. That has largely been the subject of previous discussions and it does not need to be elaborated further.

Clause put and negatived.

New clause 21 -

Hon J.M. BERINSON: I move -

That the following stand as new clause 21 -

Sections 171AA and 171AB repealed and sections substituted and consequential amendments

21. (1) Sections 171AA and 171AB of the principal Act are repealed and the following sections are substituted -

Application for approval to issue work and development order

"171AA. (1) In this section "chief executive officer" means the chief executive officer of the department principally assisting the Minister with the administration of this Act.

(2) A person liable to pay a payment to which this Part applies may

apply to the chief executive officer for written approval for the issue of a work and development order.

(3) An application may be made -

- (a) before or after the time for payment of the sum or costs or of any instalment allowed by the justices (if any) has passed;
- (b) after the issue under section 155, 157, 158 or 171BI of a warrant of commitment but before it is executed.

(4) On an application the chief executive officer may, if he or she thinks fit, require the applicant to undergo a means test.

(5) On an application the chief executive officer, if satisfied that -

- (a) the payment the applicant is liable to pay is one to which this Part applies;
- (b) the applicant has insufficient means to pay the sum or costs or, if the applicant were to pay the sum and costs, the applicant or the applicant's family would suffer economic hardship;
- (c) an application for a warrant of execution under section 158 is not appropriate; and
- (d) any warrant of execution issued in respect of the payment the applicant is liable to pay is unexecuted or has been returned under section 157, shall give written approval for the issue of a work and development order.

(6) If the chief executive officer refuses to give written approval under subsection (4) the applicant may appeal to 2 or more justices who shall re-hear the application and may give or refuse to give written approval for the issue of a work and development order.

(7) The chief executive officer may, in writing, delegate the powers in this section except this power of delegation.

Issue of work and development order

171AB. (1) An applicant under section 171AA in respect of whom written approval for the issue of a work and development order has been given shall report to a community corrections officer.

(2) The supervisor of a community corrections centre shall issue to the applicant (in this Part referred to as the offender) a work and development order subject to the terms and conditions applicable to such orders under this Part and the *Offenders Community Corrections Act 1963*.

Issue of work and development order after execution of warrant of commitment

171ABA. (1) In this and the following sections in this Part "chief executive officer" has the same definition as in section 4 of the *Offenders Community Corrections Act 1963*.

(2) If under section 155, 157, 158 or 171BI a warrant of commitment is issued in respect of a payment to which this Part applies and a person is apprehended under the warrant, the person may, by notice in writing given to the chief executive officer, advise that officer of the issue and execution of the warrant.

(3) On receiving the notice under subsection (2), the chief executive officer, if satisfied that -

- (a) the warrant of commitment relates to a payment to which this Part applies; and
- (b) the person is in custody by reason only of the warrant of

commitment, shall issue to the person (in this Part referred to as the offender) a work and development order subject to the terms and conditions applicable to such orders under this Part and the *Offenders Community Corrections Act 1963* and shall cause the offender to be released forthwith from custody."

(2) Section 171AC (1) of the principal Act is amended by deleting "section 171AA or 171AB" and substituting the following -

"section 171AB or 171ABA".

(3) Section 171AG (4) of the principal Act is amended by deleting "sections 171AA and 171AB" and substituting the following -

"sections 171AB and 171ABA".

New clause put and passed.

Clause 22: Section 171AI amended, consequential amendment and transitional provision -

Hon J.M. BERINSON: I move -

Page 27, line 6 - To insert after "171AC" the following "(1)".

This involves a simple renumbering as a purely drafting matter.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 23 put and passed.

Clause 24: Sections 101 and 101A repealed and sections 97 to 101A and headings inserted -

Hon PETER FOSS: The Attorney General might care to inform me whether this involves the subject of discussion the other day; that is, the matter of what the defendant will be told when he pleads guilty in the Court of Petty Sessions.

Hon J.M. Berinson: Yes; it is the fast tracking procedure.

Hon PETER FOSS: Does this relate to the passing of regulations? I see references to notices in the prescribed form explaining the procedures. Does that deal with the question of pleading guilty and being permitted to appear in the Supreme or District Courts for indictment to be presented and pleaded to?

Hon J.M. Berinson: That last matter is dealt with in proposed section 100.

Hon PETER FOSS: It is covered in proposed section 98 as well.

Hon J.M. BERINSON: As to the first part of the member's question regarding the need for prescribed form, that is to be found in proposed section 98(3).

Hon PETER FOSS: I understand that that will then deal with explaining to the person that, even if he pleads guilty, when he goes to a higher court he will not be able to change his plea unless he can claim a change in circumstances.

Hon J.M. BERINSON: This proposed section replaces the current schedule which provides relevant advice to the accused and it will include this issue of the effect of the plea.

Hon PETER FOSS: I must refer to clause 29, as this proposed section is affected by it. This clause indicates that after a person has admitted guilt, and a statement of material facts is served, the prosecution may serve an amended statement.

Hon J.M. Berinson: I have lost track a little. Refer to the clause first.

Hon PETER FOSS: The logical order begins with clause 7, relating to which we had a discussion about section 618 of the Criminal Code. We then came across the fact that if a person pleads guilty, he is sent forward to plea on the indictment, and he is unable to change his plea. Under this legislation that will be the case unless the court is satisfied that the facts stated by the Crown under proposed section 617A are materially different from those disclosed by the material served by the prosecution under proposed section 100(1). Generally speaking, a person cannot change his plea unless there is a change in the facts. We

then go forward to clause 24, at which stage a person makes his plea, and then under proposed section 100 he receives his statement of material facts.

Clause 29 amends section 114. This gives the prosecution the power to serve the defendant a statement of material facts relevant to the charge. At any time the defendant will then be given the opportunity to plead under proposed new section 100. Proposed section 114 provides that the prosecution may change a statement of facts under two circumstances: At any time before the defendant is given the opportunity to plead under proposed section 101 - although there is not an "or", by reading it there appears to be an alternative; and if the defendant has pleaded guilty under proposed section 101 and been committed for sentence - at any time before the defendant pleads guilty before the court to which he or she has been committed for sentence. I am not sure of the reason for the second circumstance. I would have thought the first one encompassed both.

Hon J.M. Berinson: On my initial understanding, I cannot see why it could not happen on both occasions in some circumstances.

Hon PETER FOSS: I beg the Attorney General's pardon. It could have been before the defendant has pleaded. I agree; they are certainly not cumulative.

Hon J.M. Berinson: I do not understand what you mean by cumulative. My reading is that statements of fact can be changed under section proposed 101, but if they change again they can be served again.

Hon PETER FOSS: Both tests do not have to be satisfied. The two tests can be either alternative, or they can be both used. The change can be made under either subsection (a) or (b).

Hon J.M. Berinson: I must look at proposed section 101 to make sure I am not misleading myself.

Hon PETER FOSS: I made that remark about their not being cumulative as an aside. We can go on.

Hon J.M. Berinson: I am very happy to do that.

Hon PETER FOSS: Proposed section 114(b) provides that if the defendant has pleaded guilty under proposed section 101 and has been committed for sentence, the statement of facts can still be changed. However, the amendment passed earlier provides that a person may go before the superior court and plead not guilty. The problem is that clause 7 provides that the only time one can change a plea to accept a plea of not guilty is if the facts stated by the Crown under section 617A of the Criminal Code are materially different from those disclosed by the material served by the prosecution under proposed section 100(1) or section 114 of the Justices Act. The problem is that those under proposed section 114 can be different anyway. As long as the facts disclosed under section 617A of the Criminal Code are in accordance with proposed section 114 of the Justices Act, the person may plead guilty on one set of facts and, when he is before the court, another set of facts may bring about a severe sentence for him.

Hon J.M. Berinson: In that case he would not be caught by his earlier plea.

Hon PETER FOSS: He will have pleaded guilty on the basis of a statement of fact.

Hon J.M. Berinson: In the Court of Petty Sessions.

Hon PETER FOSS: In between then and being sentenced, if he were served another set of facts under proposed section 114 of the Justices Act, and they were highly consistent with those disclosed under 617A of the Criminal Code, he would not be able to change his plea because they were not inconsistent with the ones under proposed section 114 of the Justices Act.

Hon J.M. Berinson: I do not see that. He would be stuck with a plea of guilty unless the court were satisfied that the facts stated under section 617A were materially different from those facts under proposed section 100(1), which was at the Court of Petty Sessions.

Hon PETER FOSS: I am quite happy with that.

Hon J.M. Berinson: Or proposed section 114 of the Justices Act -

Hon PETER FOSS: Which is after he had pleaded guilty.

Hon J.M. Berinson: Proposed section 114 is in the superior court.

Hon PETER FOSS: No; it is in between.

Hon J.M. Berinson: We might be getting back to Hon Peter Foss's cumulative question.

Hon PETER FOSS: No; I am saying that we are now amending the Justices Act.

Hon J.M. BERINSON: We may be crossing wires here; or perhaps more accurately we may not be crossing wires enough. My reading of proposed section 114(b) is that it provides that different facts can be served, not only when there is an opportunity to plead in the Court of Petty Sessions but at any time before the defendant pleads guilty in the sentencing court. His plea may be what we called yesterday a "deemed plea". However, at any stage until then, there is an opportunity for different facts to be served. Is Hon Peter Foss envisaging a situation where the different facts have not been served before plea, but are presented after the plea whether directed or deemed in a superior court before sentencing?

Hon PETER FOSS: Section 617A of the Criminal Code reads -

When a person has, under the *Justices Act 1902*, been committed for trial or sentence without a preliminary hearing and has pleaded guilty of the offence charged in the indictment or of any other offence of which he might be convicted on the indictment, before the court passes sentence on him the material facts of the case shall be stated aloud to the court by the Crown.

That is a fairly important section because it is those material facts which determine the severity of the sentence. They are the facts on which he pleads. People frequently plea bargain. They may decide they can wear those facts because they may not get too bad a sentence and, therefore, will plead guilty. A person may have seen facts served on him under proposed section 100, and will plead guilty. However, before he is sentenced, a new, far more adverse list of facts is served on him under proposed section 114 of the Justices Act. He then wants to change his plea from guilty in the light of those terrible facts. However, as long as what is read out in court are material facts and in accordance with what they have been amended to, he cannot change his plea. He is stuck before the court with a nasty set of facts to which he never intended to plead guilty. He cannot change his plea because we have just passed an amendment preventing that.

The Attorney General may recall that wonderful income tax case. Once one has filed an objection to an income tax assessment one cannot change one's grounds of appeal. A beautiful case arose many years ago where someone had filed an objection to an income tax assessment on basis A. The Commissioner for Taxation then proposed to assess the person on basis B. When the person tried to change his objection, he was not allowed to because the commissioner said that was not consistent with the terms of the objection.

This seems to be the same thing. We lock in this person. The Crown has the prerogative to change the facts, but the person does not get an opportunity to change his mind when the facts are changed. As long as the facts are read out under section 617A and that person was served under section 114B, he is stuck. The clause says, "at any time he pleads guilty". He does not have any choice. He does plead guilty because he has been told to. The wrong facts are being changed. Section 617A will be consistent with the facts; however, the problem is whether those facts are inconsistent with the facts under section 100. We should have a genuine plea to the indictment after the person has pleaded guilty in the Court of Petty Sessions. If there is a change in the facts, there should be a genuine entry of plea in the superior courts.

Sitting suspended from 4.51 to 5.09 pm

Hon J.M. BERINSON: I have asked for further advice on one aspect of the question raised by Hon Peter Foss. I am hopeful we might be able to resolve it in time to complete our consideration of this Bill this afternoon.

Further consideration of the clause postponed, on motion by Hon J.M. Berinson (Attorney General).

Hon PETER FOSS: Clauses 25 to 29 inclusive should also be postponed until after the Committee has considered new Part 6.

Hon J.M. BERINSON: Reference has been made to a number of clauses which indicates a

need to take care. I will return to your proposal, Mr Acting Chairman, to report progress. I will seek a way to bring clause 24 back to its ordinary place.

The DEPUTY CHAIRMAN: There is no reason why the Attorney cannot go through the rest of the clauses and return to that clause immediately as it is now on the record.

By leave, motion to postpone consideration of the clause withdrawn.

Hon J.M. BERINSON: I have reached the point where it is unreasonable to attempt to complete the Committee stage of this Bill in the next three quarters of an hour.

Progress

Progress reported and leave given to sit again, on motion by Hon J.M. Berinson (Attorney General).

SALARIES AND ALLOWANCES AMENDMENT BILL

Second Reading

Debate resumed from 26 August.

HON J.M. BERINSON (North Metropolitan - Attorney General) [5.16 pm]: It has taken some time for debate to be resumed on this Bill. I was a bit uncertain whether it was open to me to reply, but as no other member wishes to speak to the Bill, I will do so now. This Bill started off with modest aims. I remind members that the position we are seeking to achieve is one where conditions which the Salaries and Allowances Tribunal might consider in respect of magistrates are put on the same basis as those applying as judges; in other words, the aim of the Bill is to allow the tribunal to consider the possibility of allowances which have not previously been available to magistrates.

I believe that I previously made the point that, in terms of an overall package, that might not immediately produce any significant benefit to the magistrates, or any additional benefits at all for them. That will depend entirely on whether the tribunal has previously taken into account the fact that the total salary package of magistrates had to be reflected in the salary element. I am not in a position to say what has been the approach of the tribunal. In any event, it is the Government's view that it was appropriate that magistrates should be included with other judicial officers listed in section 4(1) of the Act.

After the Bill was introduced Mr Pike circulated some amendments and spoke in support of them. As I recall it, he argued for two additional provisions. One of those would have had the effect of bringing the Clerks and Deputy Clerks of the Legislative Council and the Legislative Assembly within the jurisdiction of the tribunal. Without wanting to anticipate Committee debate it might help proceedings to indicate that I will be supporting that part of the amendment. The other part of the amendment, however, raises quite significantly different considerations. As I understand those amendments, and as I understand the comments which Mr Pike made in the second reading debate, he was looking here -

Hon R.G. Pike: Can you remember them now?

Hon J.M. BERINSON: Having refreshed myself about the member's general contribution, but more realistically having found his greens, yes I recall. In spite of the fact that this legislation should attract some close interest from members of Parliament, and despite the fact that this amendment is directed at members of Parliament in particular, I doubt whether there would be very much knowledge of the effect of section 6(1)(b) of the Act so far as that relates to remuneration to be paid to "members of Select Committees of a House or Joint Select Committees of Houses not being in either case Standing Committees". Mr Pike's argument is that that provision should be extended in two ways. In the first place, he argues that the provision should be extended from Select Committees only to include Standing Committees, with the important proviso that committees of either sort which are only concerned with the internal operation or consideration of the Parliament would not be included.

Hon R.G. Pike: Correct.

Hon J.M. BERINSON: It is fair to say that while there may be some exceptions the real effect of this amendment is, however, to extend the provisions applying to Select Committees and Standing Committees as well.

The second part of the amendment at this point raises much more difficult questions and that is because Hon Bob Pike has signalled the view that there should be additional remuneration at least open to be considered by the tribunal in respect of chairmen or deputy chairmen of committees. I am not sure whether I misunderstand the effect of part of what Mr Pike said in relation to that but I note in the course of his address he said -

My amendments seek to correct an anomaly by adding to that definition "or the Chairman of any Standing Committee of either House or of a Joint Standing Committee of either House". The purpose of that is merely to bring up to date, by way of the offices held in the Parliament, those officers who, at the time of the Act, did not exist.

Again, I preface my comments by saying I might misunderstand what Mr Pike was intending to convey, but it reads to me as though he is saying that the positions of chairmen and deputy chairmen did not exist in 1964 and 1975 when the two major considerations of this legislation were before the Parliament. If I am wrong I am happy to be corrected at the Committee stage. However, there is a more serious consideration which again I will flag now to indicate the objection to include the chairmen and deputy chairmen specifically. This really goes back to the effect of section 6(1)(b) as it has always been understood and applied since the legislation was first enacted. It has always been the case that the provisions for remuneration to members of Select Committees have been limited to provide for expenses which could be involved in their work, and that relates especially to travel and accommodation costs.

From the Government's point of view, it is acceptable that those provisions relating to members of Select Committees should be extended to members of Standing Committees limited in the way that Mr Pike suggests. It is not acceptable to the Government to go the further stage so as to specify chairmen and deputy chairmen separately because that could only be understood as introducing the notion that section 6(1)(b) in future should be applied in a different way from the way it has been applied in the past. The only way there could be such a different application is by actually providing additional payment for services on the committee as such, as distinct from expenses incurred in the course of duties related to those services. It would follow automatically that if that were to be applied to the chairmen and deputy chairmen of committees, it would have to apply to all members of committees, and that would create a very sharp change from the existing position which the Government cannot support.

We cannot support it because the view which the Parliament has always adopted in the past in relation to Committee service is the correct view; namely, that that is an integral part of the duties of a member of the Parliament. It is part of the duties which are known to the Salaries and Allowances Tribunal when it establishes parliamentary salaries. The Government believes that that principle, which has guided the application of section 6 in the past, should certainly not be disturbed by anything we do now. There will of course be scope to discuss that issue as well during the Committee stage, but I thought it was appropriate to respond now given the second reading comments.

Hon George Cash: What about the question of Deputy Chairmen of Committees in this place?

Hon J.M. BERINSON: This amendment does not relate to those deputy chairmen.

Hon George Cash: Subsection 4(2) of the Act sets the persons who are to be regarded as officers of the Parliament. On 26 August 1992 I indicated that it was my intention to move for the inclusion of the words "and Deputy" after "Chairman" so that it would read "Chairman and Deputy Chairman of Committees" in either House.

The DEPUTY PRESIDENT (Hon J.N. Caldwell): Order! That is an ideal situation for discussion during the Committee stage.

Hon J.M. BERINSON: I acknowledge at once in attempting to bring myself up to date that I was guided by the circulated amendments rather than by earlier comments, and I am not really in a position to provide a Government response until such an amendment is circulated and considered. I suspect that for very much the reasons that apply to Chairmen and Deputy Chairmen of Select Committees, however, there will be some considerable difficulty in signalling to the Salaries and Allowances Tribunal what could form the basis of this

additional provision. We know very well that, although our deputy chairmen are an integral part of the functions of the Parliament, they do not have the responsibilities nor do they by any means have the equivalent duties as between themselves that would easily justify in any event some particular additional remuneration. However, having been reminded of his proposal by the Leader of the Opposition I indicate that if I am not in a position to respond more definitely today I will certainly make sure that I will be able to when we resume next week. It creates something of a difficulty for me because I thought we might get through the lot now, but let us see how we go.

The only other comment that I want to make relates to my own circulated amendment. This is really to prevent the need in future for the sort of ad hoc changes to the section dealing with judicial officers that has been the case in the past, and which the position of the magistrates has again thrown up. At the suggestion of the tribunal I am proposing an amendment to allow something in the nature of a salary package to be considered by the tribunal for all the officers it deals with, not only judicial officers and members of Parliament but also the much wider range of public officers whose salaries come for adjudication to the tribunal. That seems to be a very sensible way of proceeding and certainly when it was first suggested it had some attraction to it in opening the way for the tribunal to have some flexibility to offer packages at reasonable cost. I am not sure of the extent to which the recently announced new Commonwealth rules for fringe benefit tax will reduce the effectiveness of the drive for a capacity for remuneration packages, but I am sure that is something that can be left to the tribunal.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Garry Kelly) in the Chair; Hon J.M. Berinson (Attorney General) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Section 4 amended -

Hon J.M. BERINSON: I move -

To omit the clause and substitute the following clause -

Section 4 amended and consequential amendments

4. (1) Section 4 (1) of the principal Act is amended by deleting the definition of "remuneration" and substituting the following definition -

" **"remuneration"** includes salary, allowances, fees, emoluments and benefits (whether in money or not); "

(2) The principal Act is amended as set out in the Table -

TABLE

<u>Provision amended</u>	<u>Amendment</u>
Long title	Delete "salaries and certain allowances payable", substitute "remuneration to be paid or provided".
Section 6 (1)	After "paid" insert "or provided".
Section 6 (1) (b)	After "paid" insert " or provided".
Section 7 (1)	Delete "payable", substitute "to be paid or provided".
Section 10 (4) (b)	After "paid" insert "or provided". "

Hon J.M. BERINSON: As previously indicated, this clause will apply the possibility of a salary package to all positions within the jurisdiction of the tribunal.

Hon R.G. PIKE: The Opposition supports the amendment.

Hon GEORGE CASH: During my second reading comments I indicated that I intended to move an amendment to section 4(2)(c) of the principal Act. On 26 August 1992 I said -

For the sake of convenience, as it is not intended to move into the Committee stage tonight, I advise members, particularly the Leader of the House, that I will move for the inclusion under section 4(2) of the words "the Deputy Chairman of Committees in either House".

I then explained the reasons for that. I will again briefly explain my reasons for seeking to include the words "Deputy Chairman".

HON J.M. BERINSON: We are dealing with both clauses 4 and section 4. Does the Leader of the Opposition propose to move an amendment to clause 4 or a subsequent amendment that will affect section 4?

Hon GEORGE CASH: It is a subsequent amendment which will affect section 4. The Attorney General will note that his amendment to clause 4 refers to sections 4(1) and 4(2). It was important to make known to members earlier the statement I made during debate on 26 August so that we did not pass that point in this debate. The Attorney General may be aware that I discussed this matter with him informally at a time between when this Bill was last debated and today. Admittedly that is two months. I am not asking the Attorney General to recall every word; however, he led me to understand at that time that he would consider the matter. That is my reason for raising it today.

Hon J.M. BERINSON: If we are dealing only with the present clause 4 there is nothing more to be said and we can carry it. We will then have an amendment dealing with the deputy chairman. At this stage, I will be opposing that. However, rather than doing that without having met my earlier obligation to consult the Government we should postpone consideration of that amendment.

Hon GEORGE CASH: I am happy to do that. The point of my raising the matter today was to ensure that we did not overlook it. I realise that Mr Berinson wants to receive further advice on the matter, and I suggest that the Committee accommodate him in that regard. It was not my intention, as I expressed on 26 August, to impose any additional financial burden on the Government by the inclusion of the word "deputy" in section 4(2)(c). I want to include that to give the tribunal an opportunity, if it so desired, to recognise the work of deputy chairmen, who I am sure members acknowledge perform a very important task. That recognition could come by way of entitlements that may flow in their retirement from Parliament. The inclusion of those words in that clause would not prevent the tribunal from considering the question of remuneration. That was not the purpose of my wanting to include the deputy chairman in that clause of the Bill; it was for the opportunity for entitlement once a member had retired.

A classic example of this exists in the other place where a member will retire, having served a little over 19 years as a member of Parliament. That person has been a Deputy Chairman of Committees for approximately 12 years, has served as a member of the Standing Orders committee of that place for an equivalent amount of time, and has served as Chairman of the Public Accounts and Expenditure Review Committee, and in other roles in that place. The tribunal is not able to recognise any of that service when that person retires. If the deputy chairman was included in section 4(2)(c), the tribunal could then decide to make a schedule indicating its belief about the value that may be attached to various positions in Parliament, not necessarily in regard to remuneration, but certainly not limiting that opportunity if the tribunal so desired.

Amendment put and passed.

Hon GEORGE CASH: I move -

That section 4(2)(c) of the principal Act be amended by inserting after "Chairman" the words "and Deputy".

Further consideration of the clause postponed, on motion by Hon J.M. Berinson (Attorney General).

Clause 5 put and passed.

New clause 5 -

Hon R.G. PIKE: I move -

Page 2 - To insert immediately before line 17 the following clause -

Section 6 amended

5. Section 6 (1) of the principal Act is amended by:

(a) repealing paragraph (b) and substituting the following -

"(b) officers and members of the Parliament including additional remuneration to be paid to the chairmen, deputy chairmen or members of committees of a House or joint committees of Houses, not being in either case committees wholly concerned with the internal operation or administration of the Parliament; "

(b) adding as paragraph (c) the following -

"(c) Clerk of the Legislative Council or Clerk of the Legislative Assembly or the Deputy Clerk of either House."

I do not intend to retread the debate raised by the Attorney General regarding the inclusion of the Clerks of both Houses; that has already been covered. However, I seek to change the Attorney's mind because I think he has been wrongly advised on this matter. The existing section 6 proposes that members of Select Committees, which obviously includes the chairmen, be and stand part of those people over whom the Salaries and Allowances Tribunal can have jurisdiction. The section then excludes the Standing Committees. At the time this occurred, historically the Standing Committees were the Library Committee and the House Committee and so forth. That is now not the case. I appeal to the Attorney General to change his mind.

Hon J.M. Berinson: Do you understand that the part of the proposal seeking to put members of Standing Committees, as you define them, in the same position as members of Select Committees is agreed?

Hon R.G. PIKE: Yes.

Hon J.M. Berinson: The only question in contention is any special recognition of chairmen and deputy chairmen.

Hon R.G. PIKE: I hear what the Attorney General says. It is quite wrong for him to be convinced of his view that chairmen of Select Committees should be treated no differently from an ordinary member of the committee. Since the Act came into force in 1975, the Salaries and Allowances Tribunal has never determined an allowance for members of a Select Committee; they have never been paid. The Government's view anticipates a problem which I do not see arising. If the contribution made by Hon Garry Kelly in his position as Chairman of the Standing Committee on Legislation - that position is onerous and he spends an incredible amount of time working in that position - were considered, and then the Attorney General made an arbitrary judgment which I think is wrong that because hitherto there has been no consideration for chairmen of Standing Committees and because that has been accepted en globo as part of the function of "a member of Parliament", the Government does not seek to alter that. That is the substance of the Attorney General's argument. He argues that that is part and parcel of the responsibility of a member. To the contrary, I am in the unique position of being able to say that if I compare the time that I spent as a Minister of the Crown with the time I spend picking and shovelling for myself as the chairman of the Standing Committee, on a factor of 10, I do 12 out of 10 more in my position as a chairman of that committee than I did as a Minister. As a Minister the Attorney General knows that if he says "come" people come and if he says "go" people go. He has public servants and lawyers who will do the work and his bidding. Getting back to the Royal Commission, the power of the Executive is massively enhanced by denying a facility, time and effort to parliamentarians in the work that needs to be done or in recognition of the work they do, because what the Attorney General says by his opposition to my proposal is that the Government thinks the status quo should be preserved and the chairmen of Standing Committees should not be so considered. The Government thinks everything is okay and wants to leave it as it is.

Hon J.M. Berinson: The Government's view is that committee membership, whether as chairman, deputy chairman or general committee member should be accepted as part of the regular duties of members.

Hon R.G. PIKE: That is exactly what I said. I am seeking to dissuade the Attorney General from that view. I think the Government is also being unnecessarily too arbitrary because what the Attorney General is saying is that the Government deems it appropriate that Ministers of the Crown, Parliamentary Secretaries, officers of the Public Service, judges, magistrates and Clerks of the House should come under the determination and jurisdiction of the Salaries and Allowances Tribunal.

Hon J.M. Berinson: So do members.

Hon R.G. PIKE: Let me finish the point. The Attorney General also agrees that the salaries of members of Parliament likewise come under its determination. However he is now saying - this is the nub of the argument - that the chairmen of Standing Committees should not be so included under its jurisdiction because the Government thinks that that function is part of their normal duties as members of Parliament.

Hon J.M. Berinson: We are saying they are already there, but just by virtue of their being members of the committee.

Hon R.G. PIKE: Yes, but what I am saying to rebut that is that we are not willy-nilly, by this determination - I think the Attorney General agrees with the logic of this - saying that these chairmen of Standing Committees will, as a consequence, if we support this amendment, now be paid. We are saying that the determination as to whether they are entitled to any remuneration or not will now come within the jurisdiction -

Progress

Pursuant to Standing Order No 61(c), progress reported and leave given to sit again.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [5.56 pm]: I move -
That the House do now adjourn.

Adjournment Debate - Aboriginal Legal Service - Executive Committee Election

HON E.J. CHARLTON (Agricultural) [5.56 pm]: Before the House adjourns, I want to raise a concern regarding a number of aspects of a recent election for a new executive committee of the Aboriginal Legal Service. Some time ago, this House passed a motion dealing with some matters relating to the Aboriginal Legal Service. We are still waiting for a decision by the Supreme Court on that determination. I understand that the Supreme Court will hear the complaint laid by the Aboriginal Legal Service on 10 and 11 November. The decision is very important obviously.

My concern this time is about a recent election that took place across Western Australia. The executive committee of the Aboriginal Legal Service is put in place by elections in a number of regions across the State. Those regions are required to elect two members each to form an executive committee. It was indicated to me - I have double checked this - that the election was carried out in a most unacceptable manner, outside the parameters of that which apply to such elections. For instance, the people of this State who vote in Federal, State and local government elections are required to fill in the ballot form by putting numbers in boxes. In this election, Aboriginal people were required to use ticks and crosses which is contrary to that which the Aboriginal section of the Electoral Commission is trying to educate them to use. The Aboriginal Legal Service, in its wisdom, decided to use another formula for the election of members of its executive committee contrary to the arrangements that Aboriginal representatives on the Electoral Commission are trying to put in place to educate Aboriginal people.

I also understand that some polling booths were not attended; that is, the two people required to be there were not there when some people went to vote. No independent returning officers were involved in counting the votes to determine the result of that election. The election was held between 14 and 18 September, yet the results were not made public until around 26 October. In addition, some of the candidates did not know where the votes were being held

during that six week period, where the votes were being counted, or who was responsible for counting the votes, and they were not advised whether they could appoint scrutineers to witness the counting of the votes. The Aboriginal people did not know when the results would be announced. As a consequence, I contacted both the State and Federal Electoral Commissions and asked them whether they had been invited to assist in this election. Members should bear in mind that the Aboriginal Legal Service is an organisation which is under scrutiny by a number of Aboriginal people and that this was a Statewide election. I was advised by both Electoral Commissions that they had not been approached to assist the ALS in the conduct of its election. Representatives from both commissions said that not only would they be happy to assist, but also they would welcome the opportunity to inform Aboriginal people about the voting procedures. Funding is being spent on educating Aboriginal people on how to cast a formal vote in elections. I spoke with Mr Rob Riley of the ALS and pointed out this situation to him. I asked him why he had not enlisted the assistance of either the State or Commonwealth Electoral Commissions. I also indicated to him that it would be to his benefit to seek assistance from them so that at the end of the day people would not be accusing him or his colleagues in the ALS of conducting a bodgy election. That is exactly what happened.

The ALS has no alternative but to call a fresh election and seek the assistance of either the State or Commonwealth Electoral Commissions. It is totally unacceptable for an organisation which is handling significant sums of taxpayers' money through the Aboriginal and Torres Strait Islander Commission to act in this way. We should remember that only about eight per cent of the Aboriginal people take part in elections. The percentage of voters at some polling booths was considerably higher than at others. This indicates that people in some centres were encouraged to vote, but at other centres they were not. I understand that in some country towns facilities were not provided for people to lodge their vote. In State and Commonwealth elections polling booths are provided at all centres where there are sufficient people to vote.

A whole range of circumstances prove that this election was a farce and a disgrace. The Aboriginal people previously on the committee, and certainly some of the candidates who nominated at this election, were not given the opportunity of being elected in a businesslike and credible way. Some Aboriginal people and I share the same concerns and we believe that this sort of thing should not be allowed to continue. It brings nothing but discredit to the whole system.

How can anyone in a responsible position justify what he is doing with Government funding when, given the opportunity to demonstrate his credibility, he takes part in activities like these which occurred during the last ALS election?

Adjournment Debate - Elections, State and Federal - Prime Minister Keating's Insults

HON R.G. PIKE (North Metropolitan) [6.06 pm]: I address my comments to the Democrat and Green voters of Western Australia and I relate my comments in particular to the forthcoming elections, both State and Federal. In doing so I refer to page 6 of today's *The Australian* in which it is reported that the Prime Minister of Australia when speaking in the House of Representatives said Federal Treasurer Dawkins would not appear before the "unrepresentative swill" of the Senate. To compound his insult I am told that today he referred to the members of the Senate as "pansies". We all know that the word "swill" is the general definition of the food which is fed to pigs. We all know that the Prime Minister on 10 September 1992, when he was speaking to students at the De Le Salle College which he attended as a boy, said that the Senate is an impediment to the smooth running of Parliament and should be abolished.

The reason I am raising this matter is that I am reminded that at the last Federal election at a Federal seat of Perth booth I was witness to the obscenity of Hogg, the Federal Secretary of the Labor Party - I think the word "Hogg" is quite appropriate when one looks to the use of the word "swill" - when the Labor Party was handing out in key electorates in this State a pseudo disguise, appropriately yellow and green Democrat how-to-vote cards. These cards were being handed out by Labor supporters purporting to be Democrat supporters and given to Democrat voters and gave the preferences to the Australian Labor Party. All of those need to be grouped together. As everyone knows, the Liberal Party has blue and white cards and the Labor Party has red and white cards, which is an appropriate colour for that party. I am

mindful that at the last Geraldton by-election the Labor Party handed out blue and white how-to-vote cards which were exactly the same colour as the Liberal Party's how-to-vote cards. Thus we had this perpetration of immorality of the Labor Party.

Several members interjected.

Hon R.G. PIKE: It is all very well to have a spirit of levity and to make a joke, but when the Prime Minister of this country refers to senators as "unrepresentative swill" and "pansies" and says that the Senate should be abolished, the voters of this country, in particular the Democrats and the Greens, should know -

Hon Tom Helm: They would agree.

Hon R.G. PIKE: Hon Tom Helm says that the Greens and the Democrats would agree. We all now know that Hon Tom Helm agrees with the Greens and Democrats senators in Canberra being referred to as swill. Let the electors in his province make a determination on what he said when they vote against him at the next election. He will try to deny it and pretend he did not say it but it is in *Hansard*. Members in the north of the State will make it very clear at the next election to the electors in his region that Hon Tom Helm thinks it is okay for the Democrats in the Senate to be referred to as swill and pansies. The people can make their own judgment. Let us hope that when they mark their ballot papers they will not give their preferences to the Australian Labor Party before the other parties in this Parliament.

Can a Prime Minister willy-nilly refer to senators as swill and pansies? Let the record show that Hon Kim Chance supports the Prime Minister's reference to the senators as swill. In order to give Hon Kim Chance the opportunity to let the electors in his Agricultural Region know he does not agree with that, I will remain silent and let him deny that he supports the comments of the Prime Minister of Australia.

Hon Kim Chance: I deny that the Prime Minister's name is willy-nilly - absolutely and unconditionally.

Hon R.G. PIKE: Hon Kim Chance has denied that the Prime Minister's name is willy-nilly. We will do it again: Hon Kim Chance, the member for the Agricultural Region has by his previous interjections supported the remarks of the Labor Prime Minister of Australia, who has referred to senators as swill and pansies, and I now remain silent so that he can say he either supports or does not support Paul Keating's comments.

Hon Kim Chance: He has a democratic right to speak for himself.

Hon R.G. PIKE: That is good. Does Hon Kim Chance support him or not? Is he leaving the Chamber so that he will not be subject to any more duress? Let the record speak for itself. We now know that Hon Kim Chance and Hon Tom Helm both support Paul Keating and his definition of senators as swill and pansies.

Let the Democrats and the Greens making their judgment in the forthcoming State and Federal elections be aware that the Labor members in this House support Prime Minister Keating's statement that senators are to be referred to as swill and pansies. When those members were given the opportunity to deny it, Hon Kim Chance evaded the issue by making a smart alec comment that the Prime Minister's name is not willy-nilly. The fact remains that they stand accused by their own actions and I appeal to the Greens and the Democrats to take this Prime Minister's behaviour into account when they cast their votes at the next State and Federal elections.

*Adjournment Debate - Simpson, Keith, Former Liberal Party President - MPs
Unacceptable Behavior Report*

HON TOM HELM (Mining and Pastoral) [6.14 pm]: For the benefit of the House I draw to its attention a Press cutting from *The West Australian* of Saturday 4 July 1992. I do so, particularly after listening to that drivel from Hon Bob Pike when he talked about manipulation and the smart alec comments. The newspaper article states -

Former Liberal Party president Keith Simpson, who quit the party after Richard Court toppled Barry MacKinnon as parliamentary leader in May, says he is tired of seeing what the so-called power-brokers in the party are doing to it.

Mr Simpson named the power-brokers as influential Senator Noel Crichton-Browne, Senator Ian Campbell and Upper House MP Bob Pike.

That is the same Bob Pike who is telling us about manipulation and changing how-to-vote cards. Even his own party cannot stand him and the president of that party resigned.

Hon E.J. Charlton: The paper does not talk about Hon Tom Helm as being influential.

Hon TOM HELM: Indeed not; I am but a little minnow in this sea. The former President of the Liberal Party said -

the behaviour of these MPs was unacceptable to him and he was sick of seeing them manipulating the party.

In the same way we are sick of listening to the drivell from Hon Bob Pike. The article continued -

He described his three years as party president from 1986-1989 as the worst three years of his life and since stepping down from the presidency he had had nothing to do with the party.

If poor Mr Simpson, who volunteered to be President of the Liberal Party, could not stand Hon Bob Pike, imagine how the people in this House feel having to listen to that drivell all the time.

Adjournment Debate - Petition Lodged by Hon John Halden

HON N.F. MOORE (Mining and Pastoral) [6.16 pm]: I shall make a few comments at this time about a petition lodged in this House this afternoon by Hon John Halden. The allegations contained in that petition are quite incredible because they are undoubtedly an attempt to smear the Leader of the Opposition, Richard Court. The facts of the matter are that in a speech in 1986 Richard Court raised in the Legislative Assembly a number of issues relating to the Western Australian Exim Corporation Ltd. That was in the days when Brian Burke was in his ascendancy, Exim was wasting money hand over fist and WA Government Holdings Ltd was wasting our money everywhere it went. Richard Court raised a question in the the other place with respect to Exim about a company called Goldrock, and he raised a number of issues about the relationship between the company and Mr Easton. He mentioned in his speech that a company named Eastmarc owed Mr Easton \$186 000. That is contained in the public record of *Hansard*.

It is suggested in this petition that somehow or other Mr Court was peddling documents to which he had no right to have access. Mr Court publicly endeavoured to bring to the notice of the Parliament and the Government the dealings going on within Exim, the way in which the ownership of various companies was being taken over by Exim, and the way in which people were involved, and Mr Easton was eventually transferred from Goldrock to the Public Service Commission. Mr Court felt so strongly about this issue, having raised it in the Parliament in 1986, that he wrote to the Royal Commission in June 1991. I will read that letter so that Hon John Halden knows exactly Mr Court's position. It is addressed to Mr Wicks, the principal solicitor assisting the Royal Commission, and it reads as follows -

The Royal Commission has been investigating the Government's purchase of Northern Mining, but I am not aware as to whether or not the Royal Commission will be examining any of the business dealings of this Company when it became WA Government Holdings, apart from the PICL Project.

One of the WA Government Holding's earlier subsidiaries, Exim, was involved in a wide range of business transactions that I believe warrant a very close scrutiny.

One transaction which concerned me greatly was during the early days of its existence and I have enclosed an extract from *Hansard* of a speech where I outlined my concerns about its dealings with a Company called Goldrock. What concerned me greatly about the Government's involvement in this Company is that when Exim had made a decision to sell its interest they provided interest free loans to friends and a relative of the two senior Exim executives responsible for administering this investment.

When I raised this matter in Parliament the Government very quickly bought back their interest and completely ignored the questions on the propriety of friends and

relatives receiving these interest free loans from the taxpayers of this State. One of the participants, Mr Easton, had, I believe, a vested interest in this transaction as he was owed money by one of the parties involved.

Instead of this matter being investigated, my questioning was ignored by the Government and Mr Easton in fact was then shifted sideways to become Second in Charge of the Public Service Board and then responsible for the Functional Review Committee, which looked into the efficiency of the Government's operations.

If further information is required on this transaction, please do not hesitate to contact my office.

That letter was sent by Richard Court, member for Nedlands, to the Royal Commission asking it to investigate this matter. Regrettably, in response Mr Wicks, on behalf of the Royal Commission, wrote -

I am unable to see how the Commission would be able to examine the business dealings of WA Government Holdings Limited generally unless, of course, those business dealings were in some way related to one or other of the Commission's specific terms of reference.

At the present time, I am unable to see how WA Government Holdings' involvement in Goldrock can come under scrutiny by the Commission. Thank you for your letter.

Does that demonstrate the actions of a member of Parliament who has something to hide and who has been involved in some skulduggery or the sort of activity that the innuendo contained in this petition indicates? That was the action of a person who wanted to get to the bottom of what appeared to be a very dubious business deal. He was prepared to write to the Royal Commission and have it investigate the deal in the hope that the truth would come out. Regrettably, because the terms of reference were so narrow, it was not considered. That was not the action of somebody with something to hide.

This matter has been referred, as is indicated in the petition, to the Official Corruption Commission and to the police. Both organisations have said there is nothing to answer. They have closed the books on the whole issue, yet here we have Hon John Halden coming into the House and seeking to denigrate and smear the Leader of the Opposition.

Hon Tom Helm: Like you do with Hon Joe Berinson.

Hon N.F. MOORE: Hon Joe Berinson's name appears in the report of the Royal Commission from one end to the other. We argued this matter all day yesterday and the day before and will argue it as much as the member would like. We have here a situation with a slight irony attached to it where Hon John Halden is seeking to have this matter referred to the Standing Committee of which Hon Bob Pike is chairman because a similar attempt was made to have the Premier appear before that committee.

Hon John Halden is establishing a reputation as the hit man of the Labor Party - the organiser of the left wing of the party and a real hit man! He is the man the party gets to go out and drag up whatever he can find in the gutter. In fact, he always gets up into the gutter to see what he can find. He comes to this House with this trumped up petition from somebody who is clearly not at all happy about what Richard Court has said about him in the Parliament. The person may not be happy about what was said, but the fact is that it was true and a matter of public interest. The fact is that Hon John Halden, the hit man of the Labor Party, will pull all the dirty little tricks. We will see them coming out from now on and this is one of them. The election has started! It is now on.

Hon Graham Edwards: The re-election of this Government has started.

Hon N.F. MOORE: This Government will not be re-elected as long as -

Hon Graham Edwards: Who will your leader be?

Several members interjected.

The DEPUTY PRESIDENT (Hon J.N. Caldwell): Order! With only two and a half minutes to go, members should be able to last that long without getting me cross.

Hon N.F. MOORE: This sort of sham will not change the leadership of the Liberal Party. It will reinforce the fact in the public mind that the people opposite will stoop to anything to hang on to Government. It will waste -

Hon Graham Edwards: Are you supporting Mr Barnett or Mr Shave in the current leadership challenge?

Hon N.F. MOORE: That comment is typical of the sort of nonsense to which the party opposite stoops. It is desperate to divert attention from the fact that it has been found guilty, guilty, guilty! The Royal Commission has found it absolutely guilty. The Government is seeking desperately to remove attention from its guilt. The public will demonstrate on election day that it has had a bellyful of members opposite.

Hon Graham Edwards: Whom are you supporting -

The DEPUTY PRESIDENT: Order! The Minister for Police should come to order. This is the fourth time he has been called to order today.

Hon N.F. MOORE: This gutter type attempt by Mr Halden will merely unify the Liberal Party even further. It will be a tight unit which will have no trouble dispensing with this lot opposite. It will be totally unified behind Richard Court, as it is now. This party does not need to send letters like the ones Mr Dowding sent asking his members to sign it. Did Mr Edwards sign it? Did he sign that letter of support for Mr Dowding?

Hon Graham Edwards: Like you, I support my leader. I am on your side. You are doing a good job of supporting your current leader.

Hon N.F. MOORE: And so are the other members of my party. The Leader of the Opposition does not need to send out a letter asking members of the Opposition whether they support him. The public will see through this gutter tactic from a scumbag, as he was described today, who is seeking to divert attention from the Government's absolute guilt as demonstrated by the report of the Royal Commission released two weeks ago.

Question put and passed.

House adjourned at 6.26 pm

QUESTIONS ON NOTICE

JANDAKOT BOTANICAL PARK - ESTABLISHMENT PROMISE

818. Hon P.G. PENDAL to the Minister for Education representing the Minister for Planning:

- (1) Did the State Government promise in 1990 to establish a Jandakot botanical park to protect important areas of banksia woodland over the Jandakot mound?
- (2) If so, why has this promise not been honoured?
- (3) Does the Minister still intend to honour this commitment?
- (4) If so, when?

Hon KAY HALLAHAN replied:

The Minister for Planning has provided the following reply -

(1) Yes.

(2)-(4)

The promise has been honoured. A planning control area to protect the core areas of the Jandakot Botanic Park was gazetted on 25 September 1992. A draft Jandakot land use and water management strategy, which sets out details of the park proposal, has been printed. Explanatory brochures are also being prepared and a public launch will occur in the near future.

SWAN VALLEY - DEVELOPMENT PROPOSALS

820. Hon P.G. PENDAL to the Minister for Education representing the Minister for Planning:

With reference to developmental proposals for the Swan Valley -

- (1) What is the current status of the proposal?
- (2) When are current plans likely to be put into action?
- (3) For the developmental plans to proceed, what rezoning amendments are required?

Hon KAY HALLAHAN replied:

The Minister for Planning has provided the following reply -

- (1) A planning study is being undertaken with the objective of completing a structure plan for the north east corridor.
- (2) The structure plan, when finalised, will be a guide for future amendments to the metropolitan region scheme and the local authority town planning scheme. The structure plan will not be put into action until it is incorporated into the MRPS and local town planning schemes.
- (3) Amendments to the metropolitan region scheme and the Shire of Swan District planning scheme would be required for development plans to proceed. It is also contemplated that a new concept, to be known as landscape and heritage protection zones, will be introduced which will require amendments to legislation also.

JANDAKOT BOTANICAL PARK - ESTABLISHMENT PROPOSAL *Future Special Rural Subdivisions Prevention*

824. Hon P.G. PENDAL to the Minister for Education representing the Minister for Planning:

With reference to the proposal for Jandakot botanical park to be created, does such a creation preclude the possibility that the owner of, say, a 150 ha property within the area, subdividing into special rural - that is, small farmlets - in the future?

Hon KAY HALLAHAN replied:

The Minister for Planning has provided the following reply -

The prospect of approval to such subdivision will depend upon the final form of the Jandakot land use and water management strategy. Under the draft strategy, approval to subdivide land within the planning control area for special rural purposes is very unlikely. In some cases, however, further detailed investigations may result in the identification of land within the PCA which is not required for the core areas of the Jandakot Botanic Park. While it is proposed that most of these areas will be incorporated in rural landscape and conservation areas, there may be some instances where special rural development could be considered. However, it is most unlikely.

FIRE SPRINKLERS - LARGE ISOLATED BUILDINGS, REQUIREMENTS REVIEW

837. Hon GEORGE CASH to the Minister for Education representing the Minister for Local Government:

Will the Minister undertake to review the requirements for fire sprinklers in large isolated buildings such as factories, warehouses, etc., under the Building Code of Australia?

Hon KAY HALLAHAN replied:

The Minister for Local Government has provided the following reply -

All States and Territories, apart from Tasmania, have adopted the Building Code of Australia. The BCA is a uniform set of technical requirements and standards for the design and construction of buildings throughout Australia. The Australian Uniform Regulations Co-ordinating Council is responsible for producing, developing and maintaining the BCA. AUBRCC is currently reviewing the requirements for large isolated buildings and the installation of sprinklers, which are contained in parts C2, E1 and E2 of the BCA. Western Australia, being a member of AUBRCC, will be heavily involved in the review being undertaken.

ORD RIVER AREA - SURVEY WORK *Aboriginal Land Claims*

847. Hon MURIEL PATTERSON to the Minister for Education representing the Minister for Lands:

- (1) What survey work has been done in the Ord River area and surrounding land area?
- (2) For what purpose has this survey work been undertaken?
- (3) Who is the surveyor?
- (4) Have there been any Aboriginal land claims?
- (5) If so, what are they?

Hon KAY HALLAHAN replied:

The Minister for Lands has provided the following reply -

- (1) Recent survey work in the Ord Valley has comprised extension to boundaries of small horticultural farms, subdivision of larger freehold farms, and control surveys for proposed horticultural subdivisions.
- (2) Expansion of horticultural activities in accordance with the Shire of Wyndham-East Kimberley rural planning strategy town planning scheme No 4 amendment No 14.
- (3) Warren F. Johnson & Co on behalf of DOLA and other survey firms working for private land owners/developers.

- (4) Yes. Considerable negotiation occurred with local Aboriginal groups, and archaeological sites identified by survey are currently the subject of a section 18(2) application for clearance under the Aboriginal Heritage Act 1972.
- (5) Broad claims by the Miriwunga Gajerronga Ningguwung Yawurrung Incorporated for Crown land in the east Kimberley, particularly Lake Argyle and surrounding areas, but also parts of the Ord Valley.

PRESTON INDUSTRIAL PARK - DRAFT STRUCTURE PLAN
Public Release

863. Hon BARRY HOUSE to the Minister for Education representing the Minister for Planning:

- (1) When was the Draft Preston Industrial Park Structure Plan formally released to the public?
- (2) Was this draft made available to any individuals, businesses or organisations prior to its public release?
- (3) If so, why?

Hon KAY HALLAHAN replied:

The Minister for Planning has provided the following reply -

- (1) Press release launching the report distributed on Monday, 5 October 1992 in Bunbury.
- (2) The City of Bunbury Council and the Shire of Dardanup Council were regularly briefed on the structure plan and a copy of the report was forwarded for officer assessment before the formal launch. The consultants preparing the plan, Taylor and Burrell, discussed planning options for the Preston area with key businesses such as Wesfi Pty Ltd, other consultants working in the area and relevant organisations.
- (3) It was essential for the consultants to have accurate information on the future of key industries in the study area, their expected service infrastructure needs and the location of areas of environmental significance to allow detailed planning to proceed. This necessarily involved an exchange of information including working drafts of the structure plan.

PRISONS - CASUARINA
Telephone Local Call Cost

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

- (1) What is the cost to the Department of Corrective Services for a local call made from Casuarina Prison?
- (2) Are there the equivalent of "red phones" installed in Casuarina Prison?
- (3) Is a prisoner required to contribute more than 30¢ to make a local call from Casuarina Prison?
- (4) If yes, why?

Hon J.M. BERINSON replied:

- (1) 17.5¢ for the first two minutes plus 7.5¢ for each subsequent two minute block within a 25 km radius.
- (2) Yes.
- (3) No.
- (4) Not applicable.

QUESTIONS WITHOUT NOTICE

DIRECTOR OF PUBLIC PROSECUTIONS - SUFFICIENT FUNDING *Specialist Investigators Employment for Royal Commission Findings*

581. Hon GEORGE CASH to the Attorney General:

- (1) Is the Attorney General aware that certain specialist investigators with professional accounting and legal qualifications formerly working with the Royal Commission are not able to be transferred to the staff of the Director of Public Prosecutions because it is believed that the DPP does not have sufficient funding?
- (2) Is the Director of Public Prosecutions sufficiently funded to allow specialist investigators with specialist knowledge acquired as a result of their employment with the Royal Commission and the Rothwells task force to be employed on a contract basis to ensure that their specialist knowledge previously acquired from their investigations is made available to the Director of Public Prosecutions in his role of initiating prosecutions as a consequence of Royal Commission findings?
- (3) Will the Government undertake to provide the DPP with adequate funding to ensure that such persons described above are used to enhance the prospect of achieving successful prosecutions?

Hon J.M. BERINSON replied:

(1)-(3)

I have not heard from the Director of Public Prosecutions recently on this matter. Although it is probably not a direct answer to the question, I think I can say pretty safely that I would have heard from him if there were any serious difficulties in his way. Going back some time and speaking in general, I advise the House that the Director of Public Prosecutions has been given to understand that additional funds will be made available for the purposes referred to in Mr Cash's question. I would rather see the question in full to make sure that all the areas covered in the question are covered by the arrangements of the Director of Public Prosecutions; but subject to correction it certainly sounded like that to me as I heard these various officers -

Hon George Cash: If you ask me to put it on notice I will do so.

Hon J.M. BERINSON: It would be helpful if Mr Cash put it on notice. That would give me the opportunity to get updated advice from the Director of Public Prosecutions. I simply repeat that I have not had any recent indication from the Director of Public Prosecutions that there are difficulties of concern to him.

SCHOOLS - WAGGRAKINE PRIMARY *Administration Upgrade Program Funding*

582. Hon MARGARET McALEER to the Minister for Education:

I refer to the Ministers answers to my earlier questions 404 and 408 concerning the upgrading of the Waggrakine Primary School. Has any funding been made available from the current Budget through the administration upgrade program for the Waggrakine Primary School?

Hon KAY HALLAHAN replied:

I do not have that information with me today. I ask the member to put the question on notice and I will find out for her.

GORDON, REG - SALARY LEVEL *Warden's Cottage Tenancy Qualification*

583. Hon P.G. PENDAL to the Attorney General representing the Minister for Housing:
Notice of this question has been provided.

- (1) On what salary level is the Minister for Housing's ministerial adviser, Mr Reg Gordon, and what rent does he pay for the Homeswest home?
- (2) On what grounds does he qualify for a prime unit such as the historic warder's cottage at Fremantle?
- (3) As Mr Gordon was on the waiting list for only 22 months before receiving his allocation, why must other applicants wait up to four years to receive theirs?
- (4) Were any representations made by the Minister directly or indirectly to Homeswest to enable Mr Gordon to jump the waiting queue or otherwise to receive preferential treatment?
- (5) What is the salary limit for people to qualify for Homeswest accommodation?

Hon J.M. BERINSON replied:

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

- (1) The salary level of Mr Reg Gordon is currently level 6(2) and he pays an independently struck market rent of \$145 per week.
- (2) Mr Gordon was a tenant in the cottages before they were acquired by Homeswest in November 1991. A commitment was given by Homeswest to all tenants that they would not be evicted to make way for Homeswest tenants provided they paid the market rate for their cottages unless they were eligible for a rebated Homeswest rent.
- (3) I am unaware of waiting procedures and times for non-Homeswest properties.
- (4) Mr Gordon was not a Homeswest tenant prior to November 1991.
- (5) Income limits are determined at the beginning of a tenancy and are variable depending on a range of factors including geographic location and family circumstances.

SCHOOLS - SWIMMING CLASSES REDUCTION *Reconsideration*

584. Hon N.F. MOORE to the Minister for Education:

I refer the Minister to her answer to a question asked by Hon Philip Lockyer in relation to the reduction of interm school swimming lessons for school students. Is the Minister prepared to reconsider her decision in view of the real concern and disappointment that this decision has caused among young pupils in our primary schools? If she is not prepared to reconsider her decision, why not?

Hon KAY HALLAHAN replied:

The information that would have been provided would have advised the member that the decision had been made to reduce from 12 levels to nine the swimming instruction that is provided in term, and that level nine provides for students to be quite proficient in swimming and water safety. That, in my view as Minister, was a reasonable decision to make. Apart from the member's question today which indicates there is some level of disappointment and concern, nothing has been outlined to me that would cause me to ask the ministry to change its position. Level nine provides for students to be quite proficient.

Hon N.F. Moore: But the reason it was there was that they would be more than "quite proficient" and you are cutting it out to save money.

Hon KAY HALLAHAN: The ministry has assessed its swimming program and is still providing a superb swimming program compared with those in other

States. The vacation classes continue. The member has made an assertion which seems to be irrelevant to the case he wants to put, perhaps on the basis of safety. No appeal has been made on that basis, and for that reason I have not been prepared to ask the ministry to reconsider its decision.

Hon N.F. Moore: I am asking you to reconsider.

HOMESWEST - ABORIGINAL HOUSING BUDGET

Houses Built; Location; Cost; Contractors Employed

585. Hon MURIEL PATTERSON to the Minister for Education representing the Minister for Aboriginal Affairs:

- (1) How many houses were built during 1991-92 under the Homeswest Aboriginal housing budget?
- (2) Where were the houses built?
- (3) What was the cost of the construction of those houses?
- (4) Which contractors were employed to build those houses for Homeswest?

Hon KAY HALLAHAN replied:

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

- (1) Urban program - 82 plus 17 spot purchases - 99 dwelling units
Remote areas (village) program - 97 units
- (2) Urban program by Homeswest regions -
 - Region 1 - Mirrabooka
 - Ashfield - 1 x 4 bedroom single detached house
 - Balcatta - 1 x 4 bedroom single detached house
 - Clarkson - 1 x 4 bedroom single detached house
 - Eden Hill - 1 x 4 bedroom single detached house
 - Glendalough - 6 x 1 bedroom town houses
 - Innaloo - 1 x 4 bedroom single detached house
 - Midvale - 4 x 1 bedroom town houses; 2 x 2 bedroom town houses
 - Region 2 - Fremantle
 - Brentwood - 2 x 3 bedroom duplex units; 1 x 5 bedroom single detached house
 - Leda - 1 x 4 bedroom single detached house
 - Medina - 1 x 3 bedroom single detached house
 - Orelia - 1 x 3 bedroom single detached house
 - Pinjarra - 1 x 4 bedroom single detached house; 2 x 2 bedroom duplex units
 - Willagee - 1 x 6 bedroom single detached house
 - Yangebup - 1 x 3 bedroom single detached house
 - Region 3 - Cannington
 - Armadale - 1 x 3 bedroom single detached house
 - Bentley - 3 x 3 bedroom single detached house
 - Cloverdale - 1 x 3 bedroom single detached house
 - Rivervale - 1 x 3 bedroom single detached house; 4 x 2 bedroom duplex units
 - Victoria Park East - 2 x 2 bedroom town houses; 2 x 3 bedroom single detached house
 - Region 4 - Albany
 - Brookton - 1 x 3 bedroom single detached house
 - Mt Barker - 1 x 4 bedroom single detached house

Region 5 - Bunbury

Bunbury - 2 x 4 bedroom single detached house
 Busselton - 1 x 4 bedroom single detached house
 Collie - 1 x 3 bedroom single detached house

Region 6 - Kalgoorlie

Boulder - 3 x 3 bedroom single detached house; 1 x 4 bedroom single detached house
 Esperance - 1 x 3 bedroom single detached house
 Moora - 1 x 3 bedroom single detached house
 Northam - 1 x 3 bedroom single detached house; 1 x 4 bedroom single detached house

Region 7 - Geraldton

Carnarvon - 2 x 3 bedroom single detached house; 2 x 4 bedroom single detached house
 Geraldton - 2 x 3 bedroom single detached house; 1 x 3 bedroom duplex units; 2 x 4 bedroom single detached house
 Meekatharra - 1 x 3 bedroom single detached house; 1 x 4 bedroom single detached house
 Mt Magnet - 1 x 3 bedroom single detached house

Region 8 - South Hedland

Derby - 2 x 2 bedroom duplex units; 2 x 3 bedroom duplex units
 Halls Creek - 2 x 2 bedroom duplex units
 Roebourne - 2 x 2 bedroom duplex units
 South Hedland - 2 x 2 bedroom duplex units; 2 x 3 bedroom duplex units
 Onslow - 2 x 2 bedroom duplex units

There is a further note under the Geraldton entry for which I need to seek clarification.

- (3) The cost was \$5 528 257.
- (4) The contractors employed for the building of these homes by Homeswest were -

L.R. Simms and Co; Rainbow Homes; Tradesman Homes; Jaxon Constructions; W.M. and M.F. Briggs Builder; S.D. Hughes Pty Ltd; Midland Painting and Renovating; P.S. Chester and Son; P.J. and S.K. Ashplant; John R. Koomen and Co; Haroe Building Co; Rushton Building Co; Yawony Building Co; Endius Pty Ltd; Summit Constructions; Tara Homes; Antree Homes; Homestyle Homes; James Construction; Plunkett Homes; Chevron Homes; Swinbourne Building Co Pty Ltd; Stateside Homes; Dalray Homes; Amelia Homes; Goldawn Construction; and Dale Allcock.

POLICE - CRIMINAL INVESTIGATION BRANCH PURGE

586. Hon GEORGE CASH to the Minister for Police:

Is it a fact that senior officers in the Criminal Investigation Branch are conducting a purge of the CIB, and that morale in the CIB is at rock bottom?

Hon GRAHAM EDWARDS replied:

It is unfortunate that questions such as this are asked without further substantiation. I am not aware of any purge being conducted within the Western Australia Police Force, be it in the CIB or in any other area. Indeed, it is unfortunate that questions such as this are asked because they detract from the job the police are doing in our community. I do not say that unkindly to the Leader of the Opposition, who is the Opposition spokesperson on police matters, but should there be a morale problem within the Police Force it would be exacerbated by such questions. If any members want

further information on any matter, they should take it up with the people supplying the information and ask them to substantiate their claims. Alternatively, they should take the matter up with the Commissioner of Police who is only too happy to make himself available to anyone in the community. Morale within the Police Force is quite reasonable. It is a very difficult job and they are doing a good job in very difficult circumstances, as I constantly say. Any talk of a purge should be treated as a rumour.

POLICE - MERIT BASED PROMOTION
Discontentment with Selection Panels

587. Hon GEORGE CASH to the Minister for Police:

Is the Minister aware of considerable discontent with regard to the formulation of selection panels for appointments to positions subject to merit based promotion criteria?

Hon GRAHAM EDWARDS replied:

The move to merit based promotion has only recently been formally concluded, with the support of everyone within the Police Force, including the union. It is a major step forward and will in the future have a positive, marked impact on the police service in Western Australia. I am aware that, from time to time, people who apply for jobs, whether it be in the police service or in any other service within the State, but do not, for one reason or another, get those jobs, sometimes blame the system of promotion rather than look at what they need to do to improve their performance in the eyes of the selection panels. If the Leader of the Opposition, as Opposition spokesperson on police matters, can provide anything which would substantiate such claims, I ask him to make that information available to me or to the commissioner.

POLICE - MERIT BASED PROMOTION
Selection Panels Stacked to Ensure Preferred Candidates Appointment

588. Hon GEORGE CASH to the Minister for Police:

Can the Minister advise whether he has been made aware of claims that selection panels within the Police Force are being stacked to ensure that preferred candidates are appointed to certain positions?

Hon GRAHAM EDWARDS replied:

I have spoken with many police officers in this State and in other States about procedures for promotion, and I can only refer the Leader of the Opposition back to the previous answer. No-one has suggested to me, as far as I can recall, that selection panels are being stacked to ensure that preferred candidates get up. There is a good system of appeal - and I think that in recent times a number of appeals have been upheld; I would have to check that, but that is my recollection - and of promotion, and safeguards are in place to ensure that, as much as can possibly be the case, that sort of thing does not go on. I remind the Leader of the Opposition that, of course, I do not have any say in the make up of those selection panels.

Hon George Cash: Nor do I.

ROTTNEST ISLAND - DALLHOLD RESORT COMPLEX
Leases

589. Hon MURIEL PATTERSON to the Minister for Police representing the Minister for Tourism:

Some notice of this question has been given.

- (1) How many leases are involved in the Dallhold resort complex at Rottneest Island?
- (2) What are the expiry dates of those leases?
- (3) What area of Rottneest do the leases cover?

- (4) What buildings on Rottnest do the leases include?
- (5) What is the total monthly rent payable to the Rottnest Island Authority on the lease or leases?
- (6) Did the Minister for Tourism at any time become actively involved in the granting of these leases or this lease in respect of term and/or monthly rental payment?

Hon GRAHAM EDWARDS replied:

The Minister for Tourism has provided the following response -

- (1) One lease.
- (2) Lease expiry date is 31 May 2018.
- (3) The lease covers 1.33 hectares.
- (4) I seek leave to table a map which shows the buildings included in the lease in question.
Leave granted. [See paper No 558.]
- (5) The monthly rental is \$7 233.91 - business - and \$703.49 - staff housing.
- (6) No.

SCHOOLS - GRANTS 1993, PERCENTAGE INCREASE

590. Hon MURRAY MONTGOMERY to the Minister for Education:

Can the Minister advise what is the percentage increase in school grants for the 1993 school year?

Hon KAY HALLAHAN replied:

That is a difficult figure to give because each year there is further devolution of funding to schools, so I would not want to give a figure now. I will see whether a comparison can be made, and if the member will put the question on notice I will get the information for him.

ACTS AMENDMENT (VEHICLES ON PRIVATE ROADS) BILL - INTRODUCTION

591. Hon GEORGE CASH to the Minister for Police:

I have given some notice of this question. Will the Minister advise when the Acts Amendment (Vehicles on Private Roads) Bill will be introduced into the Parliament?

Hon GRAHAM EDWARDS replied:

I do not have notice of that question; I will take it on notice. However, a lot of work has been done in this area. I understand that there has recently been agreement between the various organisations which had a different point of view, including, for example, the Law Society. I was advised last week that all of these matters have been resolved and that there is now no impediment to our progressing the matter. When I say "impediment", of course I mean consultation. When the legislation is introduced, we will be able to see that there has been full consultation. I intend to endeavour to have the legislation introduced without delay, but I do not want to give a time and then not be able to meet it.
