Legislative Council

Wednesday, 4 July 1990

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

SELECT COMMITTEE ON AQUICULTURE AND MARICULTURE

Report Tabling - Extension of Time

HON P.H. LOCKYER (Lower North) [2.33 pm]: I am directed to report that the Select Committee on Aquiculture and Mariculture requests that the date fixed for the presentation of its report be extended, and I move, without notice -

> That the date fixed for the presentation of the committee's report be extended from 5 July 1990 to 16 May 1991, and that the report do lie upon the Table and be adopted and agreed to.

Question put and passed.

[See paper No 359.]

COMMITTEES FOR THE SESSION - JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Road Traffic Code Amendment Regulations 1990 - Report Tabling

HON TOM HELM (Mining and Pastoral) [2.34 pm]: I am directed to present a report by the Joint Standing Committee on Delegated Legislation on the Road Traffic Code Amendment Regulations 1990. I move, without notice -

> That the report be printed and do lie on the Table.

Question put and passed.

[See paper No 360.]

On motion by Hon Tom Helm, resolved -

> That consideration of the committee's report be made an Order of the Day for the next sitting.

SPECIAL COMMISSION BILL

Introduction and First Reading

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

MINING AMENDMENT BILL

Recommittal

On motion by Hon J.N. Caldwell, resolved -

> That the Bill be recommitted for the further consideration of clause 6.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon J.M. Berinson (Leader of the House) in charge of the Bill.

Clause 6: Section 24 amended -

Hon J.N. CALDWELL: I thank the Chamber for giving the National Party the opportunity to debate this clause further. The clause was amended yesterday by a motion moved by Hon Norman Moore.

It is the National Party's opinion that any mining, exploration or prospecting on A class reserves or national parks should require the consent of the Environmental Protection Authority. This morning I took the liberty to speak to a number of people involved in the mining industry. Mr George Savell, who is well known in the mining industry, assured me he did not have any difficulty with the amendment I propose to move to this clause. He is

held in high regard by the industry and we should respect his opinion. Mr Savell did not feel that a provision in the legislation for the EPA's consent to be obtained prior to carrying out any mining activity on A class reserves and national parks would be of detriment to any mining application.

When a mining company applies to prospect or explore on an A class reserve or a national park it applies for a consent to mark out. The application is sent to the Minister for Mines and because, it involves a national park or an A class reserve, he refers the application to the Minister for the Environment. The Minister for the Environment does not make his decision without consulting the EPA. This procedure is followed in every application. However, I am concerned that in some cases this procedure may not be followed, and because on occasions members in this House receive a great deal of flak from the public because the necessary approvals have not been obtained for this activity, the EPA should be involved in every kind of consent required to carry out mining activity on A class reserves and national parks. I was advised by the EPA that it is already providing the Minister with this type of information so we are really only endorsing something which is already happening.

It is proper that we write into this legislation that the EPA must give its approval for any exploration and mining activity carried out on A class reserves or national parks. I propose to move an amendment to delete clause 6, as amended, with a view to substituting a new clause.

Hon N.F. MOORE: I oppose the proposition which suggests we should delete clause 6, as amended. I support the current wording of clause 6 and I do not support the proposed amendment foreshadowed by Hon John Caldwell.

I explained to the House last night that the purpose of this Bill was essentially about the need for both Houses of Parliament to give approval for any mining company to explore in national parks and A class reserves. The amendment proposed by Hon John Caldwell is about a different matter altogether. He is referring to what happens in respect of mining in national parks. At present before mining can take place in national parks both Houses of Parliament must give approval, after both the Minister for Mines and the Minister for the Environment have agreed that mining should take place. The effect of the Committee's decision last night to delete most of clause 6 was to take away the Government's proposition which would require that both Houses of Parliament give approval to exploration in national parks. Hon John Caldwell is now suggesting that we follow another path altogether. Because that part of the Bill deleted last night referred to exploration, I am now a little concerned about the meaning of the word "mining" in Hon John Caldwell's amendment. The provisions now applying are those in the original Mining Act of 1978, under section 8 of which mining is defined as follows -

> "mining" includes fossicking, prospecting and exploring for minerals, and mining operations.

Because the Government's proposition was defeated, and we are now considering Hon John Caldwell's amendment, we are stuck with that definition of mining. If the Committee agreed to the amendment before the Chair it would mean that before anybody could explore or prospect in a national park he would need the approval of the Environmental Protection Authority. Last night the Opposition said that it should not be necessary to get the approval of Parliament for these activities because the process would take too long. I estimate that the parliamentary process is 400 000 times faster than the EPA's process with regard to getting approval. If it were necessary for an EPA report to be made before any prospecting or exploration could take place in national parks or A class reserves - as proposed in the amendment - very little exploration or prospecting, and certainly no mining, would take place in this State. I argued last night, and will do so again, that the EPA has a vested interest in ensuring that no mining takes place. That is its motivation. The people on that side of the environment versus development argument do not want any exploration in national parks. The Leader of the House argued that the Bill was before the House because the public do not want any such activity in national parks. If it becomes a statutory obligation for the EPA to report on any prospecting, exploration or mining in national parks before any action is taken, the EPA will take advantage of that statutory obligation to delay any activity at all. Members know that the EPA is already overburdened with an enormous amount of work because of the raft of legislation which now requires its input. This

proposal, if passed, would dramatically increase that amount of work. Whenever a mining company or small prospector wanted to enter a national park to find out whether there were any minerals in that park, they would need the EPA report.

Members must realise, as I explained last night, that national parks are not just lovely wooded areas in the south west of this State; there are also huge areas in the north of this State and in the goldfields. These areas of land in many cases have no value and it is absurd to say that a prospector going into the Collier Range National Park, for example, looking for gold must have an EPA report before setting foot in that park. The same applies to the Rudall River National Park which contains many areas of no significance at all. It is ludicrous to put such conditions on the smallest, most insignificant prospector.

If John Caldwell were somehow able to amend his proposition so that the word "mining" were confined to the mining operation, it is possible I might agree to it, although even that would not be satisfactory. Clause 6 should remain as it is, as resolved by the Committee last night. If the Bill is retained in its current form a mining company which wished to look at prospects in a national park would be required firstly to make application to the Minister for Mines and the Minister for the Environment to obtain approval for exploration. Such approval is not given lightly by the Ministers. They would seek advice from the EPA, but on the terms put forward by the Ministers and not under the conditions of some statutory obligation on the EPA to make a report which could take any amount of time. Once that approval is given by the two Ministers, the mining company could explore in a national park. If it wished to mine a deposit it discovered, it would approach the two Ministers and if they agreed to that mining, the matter would be referred to the Parliament. If Parliament agreed, the mining could take place. That course of action has adequate safeguards for the national parks of Western Australia. This additional impost which is part of the proposition by Hon John Caldwell is totally unnecessary and it will have a more detrimental effect on the pace of exploration and mining than did the proposition tossed out last night.

Hon Mark Nevill: It would mean that before a group of students could go into an A class reserve to do some mapping they would need an EPA report.

Hon N.F. MOORE: That is right; perhaps Hon Mark Nevill should argue this matter with me. He understands these things better than many other people and he puts forward a sensible proposition. In saying that I do not reflect on Hon John Caldwell but on other people who are handling the Bill and who should take more notice of backbench members. Last week Hon Mark Nevill, who is a qualified geologist, said he could explore in a national park and no-one would know he had been there. I am sure that Hon Mark Nevill will know as well as I how long it would take the EPA to issue a report if somebody wanted to look for a mineral deposit in the Rudall River National Park. The report would be issued when the EPA decided it would be. I thank Hon Mark Nevill for his support, because he highlighted the ridiculous situation we could get into if we agreed to this amendment. If Hon John Caldwell insists on his amendment, I ask that he consider defining the word "mining", bearing in mind the definition in the current Act.

The Committee should not agree to this amendment but, if it does, I hope some note will be taken of my suggestion to change the definition. I urge the Committee to retain clause 6 in its present form.

Hon J.M. BERINSON: Mr Moore's preferred option is also the Government's preferred option. That happens so rarely that I thought I should start my comments by making that clear.

I believe I made it clear during the course of debate last night that the Government is opposed to the decision made by the Chamber to amend clause 6. That, however, is the position we are now faced with, and what is now to be decided is whether clause 6 as amended is better or worse than the amendment foreshadowed by Mr Caldwell. It is the Government's view, for basically the same reasons as Mr Moore has outlined, that the amendment proposed by Mr Caldwell should not be supported on the basis that it would add an unnecessary and potentially damaging further step to the processes already available.

I think I am right in saying that Mr Caldwell acknowledged that in the normal course of events the Minister responsible for the Environmental Protection Authority will have the benefit of the advice of the EPA in arriving at his conclusions; so what is to be lost by

formalising the need for EPA advice? I suggest that there is a substantial difference between the Minister's requesting and obtaining advice from the EPA and the proposition in this proposed amendment which would require the EPA to report its advice and recommendations on the proposal in accordance with the Act. To subject the EPA to the full processes of its Act would almost certainly involve it in a substantially different and more lengthy and complex exercise than would be involved in the normal case where the EPA was called upon, on the basis of its acknowledged expertise, to advise its Minister.

Were we not to proceed as the Bill originally envisaged, we should not move further on clause 6 than we have already moved. For that reason, I support the present motion, which as I understand it will then preclude Mr Caldwell's amendment from going further.

Hon J.N. CALDWELL: I am disappointed with what has been said by the two previous speakers because I believe that by our passing the previous amendment we have removed the safeguard that exploration and mining in A class reserves and national parks be carried out only with the approval of both Houses of Parliament. The amendment I have proposed will go some way towards ensuring the protection of A class reserves and national parks. The amendment does, after all, really only endorse what the EPA is already doing. I understand that it is open to the Minister responsible to approve applications for mining or exploration in A class reserves and national parks without consulting the EPA. However, the Opposition believes it is not desirable for the Minister to give approval without consulting the EPA, and that will be the effect of our accepting the clause in its present state.

Hon N.F. Moore interjected.

Hon J.N. CALDWELL: The Minister can consult the EPA, but it is not mandatory.

Hon Garry Kelly: You supported the motion to delete the Government's clause.

Hon J.N. CALDWELL: Yes, I did, because I believed that would have put a lot of pressure on mining companies. It would have excluded small mining companies from attempting to mine in national parks, and would have created difficulties for even the larger mining companies.

I appeal to members to support our proposed amendment. Members on this side of the House favour the right of private landowners to veto mining operations. My proposed amendment will go some way towards ensuring that some constraints are imposed on mining and exploration in these areas.

Clause, as previously amended, put and passed.

Bill again reported, with amendments.

ACTS AMENDMENT (CONTRIBUTIONS TO LEGAL AID FUNDING) BILL

Committee

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

The CHAIRMAN: It is necessary to seek leave of the Committee of the Whole if it is to consider the Bill as presented by the Standing Committee on Legislation. Alternatively, the Bill should be dealt with clause by clause.

Hon J.M. BERINSON: Mr Chairman, if we were to proceed with the Bill which is attached to the report of the Legislation Committee, would we still deal with it clause by clause?

The CHAIRMAN: No, we will deal with the Standing Committee on Legislation's amendments to the clauses. If the Committee of the Whole does not agree to take the legislation as the Standing Committee has presented it, it will be considered clause by clause.

Hon J.M. BERINSON: I support most of what the Standing Committee has proposed, if only because it has supported the amendments I put to it. On the other hand I do not support one aspect of its recommendations.

The CHAIRMAN: Rather than seeking leave to accept the Standing Committee on Legislation's amendments, it will be preferable to look at the Bill clause by clause.

Hon P.G. PENDAL: This matter takes the Chamber on a learning curve, not just the

members but also officers and others, because of the Standing Committee system. As one who is not burdened with a lot of knowledge of the Bill, since the Attorney General has indicated that there are suggested amendments, most of which he can live with, but which include an amendment proposed by the Standing Committee on Legislation which he is not prepared to accept, would it not be advisable for the Committee of the Whole to be informed of the problem areas? The Committee of the Whole would then know that the remaining sections of the Standing Committee's report would not afford any difficulty.

Hon PETER FOSS: This is an historic occasion on which we will deal with the first report from the Legislation Committee, which is intended to carry out the new regime of Standing Committees to assist this Chamber with the throughput of its work.

I draw the attention of members to the first paragraph after the bold typed paragraphs in which recommendations are made as to what the Standing Committee would like to do in its future reports. The report has been prepared in its present form because the Standing Committee does not have a permanent officer appointed to it in order to provide the Committee of the Whole with a full idea of what transpired at the Standing Committee meetings, but without taking the time it took in the committee meetings. As it says in the first paragraph -

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

If the Standing Committee does not do that, it will not able to put on paper a distillation of what was discussed and heard by the Standing Committee. Members will either have to trust that the Standing Committee has looked at the legislation and that it is all right or, alternatively, the Standing Committee will have to provide to the Committee of the Whole that same distillation. It would be not as efficient or as quick as providing a written report. Members might read the report and decide they did not need its contents read in the Chamber and they would like to deal with one or two points.

On behalf of the Standing Committee, I apologise to the Chamber because the committee's staffing constraints have meant that this report is not in the ideal form in which committee members would like to see it in order that members here might gain an idea of what is intended. It is hoped that an appointment of a permanent officer will be made in the near future to overcome that problem.

In order to meet the time limit placed on the Standing Committee in which to produce the report, and because it was urgent that the Bill be considered, the final proof reading has not been done in the way it should have been, consequently some information is in the wrong place and some words have been used which the Standing Committee would not normally use. As members learn how to handle the situation, the despatch of the report to be included in the business of the Council will be faster than it has been in the past.

The Attorney General has indicated that he has some amendments. The Standing Committee would prefer those to be in its report, because the committee accepted them. The only matter left to deal with would concern the amendments that were not agreed to.

Hon J.M. Berinson: I thought the committee did have them.

Hon PETER FOSS: It received them too late to include them in the report. If it had had another 24 hours in which to incorporate them into the report they would have been there. The time constraint placed on the committee took that option away.

The main issue we discussed was the question of legal aid, as the Bill pivots around this issue. On one hand it takes some money for legal aid from the legal contribution trust fund, and on the other hand it puts more money into legal aid from the public purpose trust fund.

Hon J.M. Berinson: It also directs funds from the solicitors' guarantee fund.

Hon PETER FOSS: Yes, it was intended to build up the solicitors' guarantee fund, but having met that desirable end it had an effect on legal aid. As can be seen from the report, a number of demands are placed on funds for legal aid. The committee accepted that these demands existed and that it was necessary to do something immediately. It was useful to

have the discussions with the Attorney General because as a result of those discussions, along with the submission from the Law Society, it was clear that some overriding provision should be included in the Bill to prevent the capital of the public purpose account from going backwards as this would reduce the amount of money channelled from the public purpose trust fund. The Attorney General's proposal was not the ideal solution as far as the Law Society was concerned, but it was certainly far preferable to the original proposal. This will have a significant effect on the valuable work done by the public purpose trust fund.

If one is not careful even greater funding could be directed to legal aid. I am sure the Attorney would confirm that an unlimited demand for legal aid exists and this is a burden on funding resources; one could pour the entire Consolidated Revenue Fund into legal aid and somebody would still say that he had not had sufficient legal aid. We will never have satisfactory legal aid funding, but one has to make a reasonable allocation.

Another measure attempts to cut off demand for legal aid, and it is worthy that the public purpose trust account should contribute towards that. This involves such things as reducing demand for legal aid by stopping offenders from getting into trouble in the first place. This can be done by teaching in the schools. Another measure can be described as gearing up. Facilities should be provided so that lawyers can give their time free of charge; that is a tremendous benefit as far as the resources of the State are concerned. This is returning to the situation of some years ago when legal aid was provided by the legal profession at no charge to the State. We would not like to impinge on that, and we would like to see that activity increased.

An immediate demand must be met with legal aid, but the point on which we differ from the Attorney is on the question of whether some other measures could be taken. We accepted the Attorney's statement that nothing could be done for the time being. The Law Society suggested alternatives, but these could not be immediately carried into effect. Looking at the evidence given by Mr Fitzpatrick - this is not fully summarised in the report- it can be seen that a number of changes are occurring in the legal profession. The Law Society proposed a method of providing legal aid which involves contingent fees.

Hon J.M. Berinson: We gave notice of the legislation today.

Hon PETER FOSS: I was not listening at the time. However, if this is successful it will make a big difference to the funding of legal aid. The new law school will produce a greater demand for articled clerks. Also, a number of other factors will change depending upon the judgment made by the Committee of the Whole regarding the proposition. The proposition was included to allow the diversion of money to legal aid on a temporary basis of four years; this involves one year retrospectively, which is included in the Act, plus three more years. We chose that time because of the concatenation of those effects. If members are interested they will find this issue referred to in the evidence given by Mr Fitzpatrick. The committee believes that in three years' time it will be possible to look at all the proposals again. One issue about which we were concerned was whether the real estate and settlement agencies funds should contribute to legal aid funding. The Government will be looking at that issue; however, considerable public debate will no doubt take place on it. The debate should be held, and once that is done all of the funding sources should be examined. This is preferable to considering the funding sources separately. I hope members will find the report beneficial. Also, I hope we will have a permanent officer appointed to the committee which would help produce a far more appropriate report than the one tabled on this occasion.

The CHAIRMAN: Hon P.G. Pendal put a question to the Committee to which I thought Hon Peter Foss was about to respond. Mr Pendal wanted to know how the report of the Standing Committee on Legislation will be handled in the Committee of the Whole. The proposition was put to the Chamber that if leave was granted we could utilise the Bill as it was amended by the Standing Committee on Legislation. That was not agreed to by the Chamber because on this occasion it was thought that it would be wise to use the existing Bill to commence with. That is the situation. It is up to the Chamber to decide whether we should consider the Bill as amended by the committee or consider the original Bill presented to the Chamber.

Hon P.G. Pendal: So, Mr Chairman, you are saying that we have not decided that point.

The CHAIRMAN: No, we are using the original Bill.

Clause 1: Short title -

Hon GARRY KELLY: I acknowledge the comments made by Hon Peter Foss regarding the trouble we had in producing the report; it was difficult to do so without the staff. Had the report been prepared as was anticipated in Standing Orders, the Bill before the Chamber would have included the amendments proposed by the Attorney General as well as the committee's sunset provision. Page 1 of the report states -

> by majority decision, the Attorney General moving amendments in the Committee of the Whole which embrace the principles he outlined to the committee at its meeting on Thursday June 28 1990 which were as follows:

The report then summarises those principles. Those amendments were circulated a few minutes ago and they are now in front of members. The committee recommends those amendments to the Chamber. Irrespective of the problems this Bill has caused, the idea of a Standing Committee on Legislation is to expedite the treatment of Bills, and it should not be necessary to go through the Bill line by line or clause by clause at this stage. It should be a matter of putting the amendments to the Committee of the Whole for its consideration. That is the course we should follow.

Hon P.G. PENDAL: I understand what Hon Garry Kelly said. However, my understanding was that the Attorney General told us a few minutes ago that he would not be supporting certain recommendations of the Standing Committee. I am puzzled how we can be faced with the circulation of amendments in his name if he is not going to support them.

Hon J.M. Berinson: I am supporting those, but the committee is recommending another amendment.

Hon Garry Kelly: An extra one; the sunset provision.

Hon P.G. PENDAL: Apart from those that have been circulated?

Hon J.M. Berinson: Yes.

Hon DERRICK TOMLINSON: I support the recommendations by Hon Peter Foss for adequate resources to be made available for the work of the Standing Committee on Legislation. In his apology for this report, I am sure he did not intend to reflect on the officers of the Parliament who assisted in its preparation. I pay tribute to the way in which we were supported by those officers. They spent many long hours working after the sittings of the committee to ensure that we had a comprehensive report of our deliberations. While the report is far from adequate and is not what I envisaged would be a narrative report to reflect the full considerations of the committee, the work done by officers of this Legislative Council was commendable.

The chairman of the committee, Hon Garry Kelly, said that one of the purposes of the Standing Committee was to expedite the deliberations of the Chamber. While we hope the deliberations of the Standing Committee will expedite the passage of Bills through this Chamber, the other purpose of the Standing Committee is to illuminate the deliberations of the Chamber. We called upon advice and submissions from various bodies. We received a very comprehensive briefing from the Executive Director of the Law Society of Western Australia, a transcript of which is contained in the report. That is important because when members discuss the Bill they will be able to take into account not only the debate they hear in this Chamber but also the opinions of interested persons from outside the Chamber.

Hon Phillip Pendal asked why, after the Standing Committee has deliberated and made recommendations, this Committee is required to consider the proposed amendments from the Attorney General. I refer the House to recommendation No 2 which states "by unanimous decision, the Attorney General moving amendments in the Committee of the Whole. . ." The Attorney General submitted that a minimum sum of $1 million should be reserved in the Public Purposes Trust and that, while a fixed proportion was proposed in the original Bill, it was not the Attorney's intention that that fixed proportion would pose an unnecessary drain upon the reserves of the trust.

Because of the time constraints and because we accepted the position presented by the Attorney to expedite the passage of the Bill through the Chamber, we agreed to accept in principle the Attorney's framing amendments which would reflect his submission to the committee and to which the committee unanimously agreed. For that reason, we agreed in

principle that the committee of the whole should consider the amendments proposed by the Attorney.

Hon J.M. BERINSON: The debate on the title of the Bill has proceeded already for longer than we normally expect. There is a good reason for that in the novelty of the position we are facing. As other members have indicated, this is the first report of the Standing Committee on Legislation. It is another example of the need which has often been expressed to learn from experience as we go.

I am surprised by the nature of the report and in particular by the fact that the committee has gone to the lengths of including in the report a transcript of an interview with Mr Fitzpatrick, the Executive Director of the Law Society of Western Australia, and the publication of various pieces of material which he provided. It would have been better dealt with, in my opinion, by a summary of the committee's views.

Hon Peter Foss: We agree entirely.

Hon J.M. BERINSON: However, I would expect, in that context, that contrary views would be summarised also. Given that committee members have indicated they did not have time to summarise Mr Fitzpatrick's comments and have printed them in this way, it sets one wondering why it did not print in the same way the contrary comments which I made and which others may have made also. The end result is that members of the House do not have as balanced a presentation of the issues as they would normally look for.

I have said many times in the context of dealing with this Bill together with the committee that I do not say that in a sense of negative criticism but in the context of what we are all saying about having to learn on the job. As I understand the position, only two questions have been raised by amendments: The first relates to the quantification of assistance intended to go to the Legal Aid Commission and the second relates to whether we should have a sunset provision. Both questions arise on clause 5, and I will proceed to detailed discussion of those when we reach that point.

Hon PETER FOSS: I agree that the report does not give a balanced view. It does not present good arguments for either side; all of the arguments should have been properly presented. It is important that the Legislation Committee appoint a full time officer to enable this to happen. Can the Attorney give some indication whether in the next session the Parliament will have sufficient funding to enable such persons to be appointed so that the committee can carry out the job that is expected of it?

Hon J.M. BERINSON: I am aware that the question has been listed separately for consideration in the Budget context and consideration will be given when the vote to the Parliament is put forward.

Hon GARRY KELLY: Given that all the amendments are exclusive to clause 5, would it not be more efficient for the Committee to adopt all clauses except clause 5?

The CHAIRMAN: I have already made the ruling. I offered the Chamber the chance to adopt the submission of the Legislation Committee. The Attorney General suggested that the Chamber deal with the original Bill. The question before the Committee is that clause 1, the short title, stand as printed.

Clause put and passed.

Clauses 2 to 4 put and passed.

Clause 5: Section 5 inserted -

Hon J.M. BERINSON: I move -

> Page 2, line 26 to page 3, line 6 - To delete paragraph 5(1)(b) and substitute the paragraph following -
>
> (b) as though the Allocations Committee had recommended, and the Attorney General had approved, that of the whole of the moneys received in any Accounting Period from banks, as representing interest on trust moneys held in trust accounts kept with the banks -
>
> (i) in respect of the Accounting Period ending 30 June 1990, $400 000; and

(ii) subject to subsection (2), thereafter 60%,

be paid and applied to the credit of the Legal Aid Commission established under section 6 of the *Legal Aid Commission Act 1976* at such time or times as the Attorney General may determine,

Page 3, after line 8 - To insert the following lines -

(2) To the intent that $1 000 000 of the aggregate of the amounts accruing to the Trust Fund from all sources in an Accounting Period shall not be subject to any deduction under subsection (1)(b)(ii) -

(a) where in any Accounting Period that aggregate does not exceed $1 000 000, effect shall not be given to subsection (1)(b)(ii);

and

(b) where in an Accounting Period that aggregate exceeds $1 000 000, effect shall be given to subsection (1)(b)(ii) only to the extent that after the deduction the balance of that aggregate remaining shall not be less than $1 000 000.

Page 3, lines 9 and 10 - To delete "(2) In subsection (1), "Accounting Period" and "Allocations Committee" " and substitute the following -

(3) In this section, "Accounting Period", "Allocations Committee" and "Trust Deed"

These amendments include all amendments proposed by the Legislation Committee except for the proposal for a new subsection (3) providing for the sunset clause. Although the amendment is fairly long it seeks to achieve a straightforward principle.

Members may recall that, in reply to the second reading debate, I referred to the effect on the public purposes trust of the proposed allocation of 60 per cent of current income to the Legal Aid Commission of Western Australia. Based upon my understanding of the position, I said that should not reduce the amount available in the year ending 30 June 1990 in a way to affect the reserve fund of the public purposes trust. I asked the Law Society of Western Australia for more detailed information on the figures that we were referring to. From those figures it emerged that in the year 1989-90 the application of 60 per cent of current income to the Legal Aid Commission would reduce the reserves of the public purposes trust in view of the allocations that it had already decided on. That was never the purpose of the Government and the position in that year has been met by replacing the general formula with a fixed sum of $400 000. That leaves the public purposes trust with enough money to meet its full intended allocations and will allow it to add in a modest way to its reserve funds from its 1989-90 income.

Sitting suspended from 3.45 to 4.00 pm

Annual allocations by the trust have gradually built up to a level of about $700 000. It is anticipated that for the year ended 30 June 1990 the amount allocated, at least notionally, will be $1.15 million, but that is affected very substantially by an allocation of $500 000 in order to provide a basis for the legal resources scheme. Apart from that special allocation, the general allocations of the trust amount to $650 000. In discussion with members of the Law Society executive, it was agreed that it would be a reasonable basis on which to proceed if a figure of $1 million were to be set as the minimum annual income which the public purposes trust could anticipate.

To summarise the effects of the amendments I have moved, firstly the allocation from the trust to the Legal Aid Commission for the year ended 30 June 1990 is a fixed sum of $400 000. It is already clear that that can be very comfortably accommodated by the trust income over that period. Secondly, in future years the Legal Aid Commission will, as proposed by the original Bill, receive 60 per cent of the recurrent income of the trust. A reservation has been applied to that, with the effect that that allocation to the Legal Aid Commission will be subject to the prior assurance of a sum of not less than $1 million in any year to the public purposes trust. I am reasonably confident that the position at which we have now arrived will not only be of benefit to the Legal Aid Commission, but it will also be accepted as assuring the continued strength of the public purposes trust. More than that, it

will ensure a continued improvement in its position. That is something we would always want to support because of the important work which the trust is in a position to assist. The trust's ability will certainly not as a result of this Bill be reduced below the standards it has previously set. Over time, it is reasonable to anticipate that the income of both the trust and the Legal Aid Commission will continue to increase.

Hon PETER FOSS: Although the Committee indicated it would support this amendment, I do not think it should be understood that the amendment is supported unequivocally. It is supported as an interim measure. I do not think the Attorney General should say that he will take that support and argue later about whether the legislation should have a sunset clause. The only reason the Opposition is agreeing to this change is because we see it as being an interim measure. We wish to see what the impact will be in three years' time of the build up of the solicitors' guarantee fund to a capital amount. If it builds up very quickly, far more may flow into legal aid. Putting a halt on the amount of money paid to the public purposes trust will become increasingly difficult as time passes, because it will mean that the trust will have a greatly flattened ability to do anything. As things become more expensive, what the trust can do will greatly decrease. The formula the Attorney has put forward is acceptable only for the short term.

Amendments put and passed.

The CHAIRMAN: Now we come to the new subsection and, on behalf of the Committee, I move -

> Page 3, after line 11 - To add the following new subsection -
>
> (3) This section expires on June 30 1993.

That is the amendment. As Chairman of Committees I am expected to move it.

Hon J.M. BERINSON: I have indicated previously that I disagree with this further amendment and I really do not accept it; nor is there anything in the Standing Committee's report where I have been able to pick up the suggestion that the committee's view on the amendments we have already passed should be subject to this sunset clause. The matter might be approached by my tackling a brief comment by the Executive Director of the Law Society of Western Australia which appears in the transcript attached to the committee's report, at 208 page 1. He says -

> Our concern is that we have a charitable trust; it is not Government money and by an Act of Parliament the fund is to be taken away and passed across to the Legal Aid Commission -

It is, of course, true that we are dealing here with a public purposes trust. It is also true that it is not Government money; but neither are these funds, as of right, the property of the Law Society or of the Law Society public purposes trust. The position is that the interest earned on these funds is interest earned on public funds, or clients' funds, whichever way one wishes to put it, and the purpose of the Bill is to ensure that, as well as the public purposes to which that income might be applied by way of the trust, it should also be open to application to a public purpose as important as the public purpose represented by the Legal Aid Commission. Part of the comment which I have quoted indicates, and I quote again -

> . . . by an Act of Parliament the fund is to be taken away and passed across to the Legal Aid Commission -

The truth of the matter, and the history of the matter, is that it was only by an Act of Parliament that the public trust was able to gain access to this fund in the first place. The ability of the trust to have the benefit of those funds is as a result of Statute and it must always remain the position that its continued access to those funds depends on Statute and that relevant legislation is open to amendment from time to time. I would hope very much that no further amendments would be required, especially any amendments which would have the effect of further reducing the recurrent income available to the trust. Nonetheless, I remind the Chamber, as I indicated at an earlier stage of the debate, that part of the reason for the trust's own interest in, and my own support of, its approaching the early distribution of funds on the basis that a substantial reserve should be built up was precisely to meet the position that legislative changes could reduce its access to its standard source of income at some future time.

I do not imagine that in three years' time there will be any less need of these funds by the Legal Aid Commission, whether or not the solicitors' guarantee fund has been built up to adequate levels. Hon Peter Foss has already indicated, and I would have to agree, that demand for legal aid is totally elastic and could absorb all of the funds that could be found for it. On the other hand, it must also be acknowledged that the proportion of applications which now have to be rejected is unacceptably high. We are doing nothing more in this Bill than returning the Legal Aid Commission to the level of funds which it would otherwise have had from the solicitors' guarantee fund at least for the 1989-90 year, and if in future years it can have the benefit of both the legal contribution trust and the public purposes trust members can be sure that increases to its income will be put to good use.

Everything that I have said there is against a background where the public purposes trust is assured of an annual income of not less than $1 million, and as a result it is assured of an ability to provide at least $1 million a year by way of allocations without any need to reduce its established reserves. In all of these circumstances I believe that the sunset clause is misplaced as a proposition in a Bill of this kind, and that the general change in the nature of these distributions ought to be adopted on a long term basis.

Hon PETER FOSS: There are a number of reasons why we want to see this sunset clause in the Bill. Firstly, we see the first amendment as being an interim measure. Secondly, we want to have a look at the effects on the legal aid contribution trust of these amendments after a period of three years. Thirdly, we want to make sure that the Government is considering alternative measures. We regard this as being an interim measure because we think the Government should look at alternative measures, and the Attorney General has assured us that the Government is doing so.

Hon J.M. Berinson: But alternative additional measures.

Hon PETER FOSS: Yes, that is probably something the Parliament will have to look at, and that is exactly why we wanted it in this way. Fourthly, when the Government has considered the alternative additional measures and they come back to the Parliament we want to see what the balance will be. It does not mean that in three years' time this one will disappear in a puff of smoke and nothing will be put back there. It may be that at that stage the Parliament will decide the only thing to do is to continue it indefinitely, or on some limited basis, or even on an increased basis.

The point is that times are changing. We do not wish to have this one buttoned down, put away and forgotten, and this treated as being a steady part of the assured income of the Legal Aid Commission; because, as the Attorney General has said, once the money is put into legal aid it will go there forever. I do not want the Legal Aid Commission to see this money as being a permanent appropriation. We must keep in mind how the public purposes trust came about in the first instance. Members may not be aware how that occurred. Moneys in lawyers' trust accounts are required to be put there by virtue of the Legal Practitioners Act, and all money must go directly into the trust account unless the client gives a written authority to have it put into a specific investment. Therefore, generally most short term moneys go into the trust account, which can have quite a reasonably sized balance; and because of the nature of that account - it is an ordinary cheque account - clients tend not to be paid interest on those moneys.

A lawyers' trust account was useful for banks because the money deposited was not subject to interest. That concerned the legal profession, which believed that the money belonged to the client and should have been used in his interests. However, the real benefit was directed to the banks. A subsidiary benefit was enjoyed by lawyers in that they were popular and exercised some influence with the banks. It was to the credit of the legal profession, notwithstanding the benefits to the profession, that it saw that the interest earned by the trust funds should go to the benefit of the client. The proposition under discussion arose out of this concern, and I am pleased that the Government has adopted this proposal in the form of the Bill. It is arguable that a degree of benefit exists in legal aid funding, but if a large amount of money is directed into legal aid from this fund, this aspect will be treated as just another part of the Consolidated Revenue Fund with a permanent appropriation. The direct benefit will not necessarily flow to the client if the money is directed to legal aid.

The committee recognised the need for this measure to be temporary as in the long term it should be reconsidered by the Parliament on an even plane with all other alternative

fundings. That is why the Opposition supports the amendment, recognising the present difficulties which the Government has. We also recognise that the Government is seeking to take a responsible approach in looking at alternative methods; nevertheless, we want to ensure that the alternative measures are considered together when a decision is made. The Attorney General may not have to worry, because in 1993 he may not be the responsible Minister!

Hon J.M. Berinson: It will certainly be somebody else in 1993.

Amendment put and a division taken with the following result -

Ayes (14)		
Hon J.N. Caldwell	Hon Peter Foss	Hon P.G. Pendal
Hon George Cash	Hon Barry House	Hon Derrick Tomlinson
Hon E.J. Charlton	Hon P.H. Lockyer	Hon D.J. Wordsworth
Hon Reg Davies	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon Muriel Patterson	*(Teller)*
Noes (13)		
Hon J.M. Berinson	Hon Kay Hallahan	Hon Bob Thomas
Hon J.M. Brown	Hon Tom Helm	Hon Doug Wenn
Hon T.G. Butler	Hon B.L. Jones	Hon Fred McKenzie
Hon Graham Edwards	Hon Garry Kelly	*(Teller)*
Hon John Halden	Hon Mark Nevill	

Pairs	
Hon R.G. Pike	Hon Sam Piantadosi
Hon W.N. Stretch	Hon Cheryl Davenport
Hon Murray Montgomery	Hon Tom Stephens

Amendment thus passed.

Clause, as amended, put and passed.

Clauses 6 to 11 put and passed.

Title put and passed.

Bill reported, with amendments.

ROAD TRAFFIC AMENDMENT BILL

Second Reading - Defeated

Debate resumed from 6 June.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [4.28 pm]: Members will be aware that I spoke on this Bill some four weeks ago, on which occasion the debate was adjourned for the day. The Government, for reasons of its own, decided not to bring this debate on until today. Without wishing to delay the House, I will recap on some matters I raised four weeks ago. The Bill amends the Road Traffic Act to insert an owner onus clause into section 120. As I said previously, the Parliament must ensure that road traffic regulations are enforced in a proper manner, and drivers should be taught driving skills that will enable them to drive their motor vehicles safely.

I also mentioned the need for proper road engineering so that any potential hazard which might lead to an accident is removed. I also made the point that the Liberal Party strongly supported the former National Safety Council, which had premises at Mt Lawley and which specialised, in part, in teaching young people to acquire better driving skills, and it regretted the Government's closing it down two years ago for, I understand, cost saving reasons.

The basic principle behind the Bill is to deem an owner to have committed an offence in the absence of evidence to the contrary. I repeat again that the Liberal Party supports the Police Force in its use of the sophisticated Multanova camera and is aware that the force owns a number of these cameras and uses them on the roads as it sees fit. The objection of the

Liberal Party is not to the use of the Multanova camera, but to the decision by the Government to reverse the onus of proof; that is, to deem someone guilty of an offence in the absence of any evidence to the contrary. Members would agree that is a reversal of the principle of onus of proof - it is shifted to the accused rather than the Crown having to state its case and prove it in the court.

The Minister and the Government can make as many comments as they like on the working of this Bill, but the fundamental concept behind it is on page 2. The words there to which the Liberal Party objects are "the owner is, in the absence of evidence to the contrary, deemed to have committed the offence". If we were to agree to that sort of clause being inserted in the Road Traffic Act in respect of the use of the Multanova camera I suggest to members that they could expect the Government to include that reversal of the onus of proof in other legislation.

I am aware with parking offences that when the owner is not the occupier of the vehicle at the time of the offence there is a deeming provision and the owner of the vehicle is deemed to have committed the offence unless he provides evidence to the contrary. It appears to me that the reason for using the Multanova camera is to reduce the instance of excessive speed on the roads. The way to do that is to use the Multanova camera in the way the police currently operate; that is, a police officer calls on the owner to talk about the alleged offence. My preferred option is that there be sufficient police officers on the road to ensure that there is a proper enforcement level of existing speed regulations.

I instance the following case: Assume a motorist is speeding at 80 kilometres an hour in a 60 kilometre zone and a Multanova camera is set up and takes a camera shot of the car and the driver. In due course the driver receives a notice in the mail advising him that he is alleged to have committed an offence. That procedure would apply under the existing legislation, to which the Opposition is not opposed. Under the proposal before the House the motorist would receive a letter indicating that he was deemed to have committed an offence unless he could show evidence to the contrary. An alternative situation would be when a police traffic officer apprehends a motorist who is speeding and advises him that he has committed an offence and asks him to explain why he was speeding. Having been given the explanation the officer is able to decide whether he should issue an infringement notice against the motorist. As far as the system of education and enforcement is concerned, enforcement has a real effect if a motorist is stopped at the time of the alleged offence rather than receiving notice of it some days later.

It appears to me and to others in the community that the use of the Multanova camera and the object of this Bill, which is to deem that people have committed the offence in the absence of evidence to the contrary, represent nothing more than a revenue raising device. The Bill will allow police to set up these cameras and because they can be operated through an attachment to a computer the tapes can be taken out of the camera and inserted into other electronic computer equipment which will automatically send out infringement notices.

Hon Garry Kelly: I understand that after a motorist receives an infringement notice he can write to the police and advise that he was not driving the vehicle at the time of the alleged offence. The police will carry out an investigation to ascertain who was driving the vehicle.

Hon GEORGE CASH: That is the situation which prevails at the moment.

Hon Garry Kelly: That is what is contained in the Bill.

Hon GEORGE CASH: It is not. The Bill states that the owner is, in the absence of evidence to the contrary, deemed to have committed the offence.

Hon Garry Kelly: If he says he was not driving, the police have to investigate the matter.

Hon GEORGE CASH: If the Liberal Party agrees to that part of this Bill, a person who does not receive notice of the alleged offence and is not able to show evidence to the contrary within the prescribed period will learn of the alleged offence at a time when, under the provisions of this Bill, he is deemed to be guilty. The first time he would have any knowledge of the offence would be when a police divisional van pulled up at his doorstep and said, "Get inside, my friend, because you have been found to be guilty of an offence and you have not paid the penalty that attaches to the offence; therefore you are required to serve X number of days in a police lockup to cut out the fine."

Hon Garry Kelly: Surely that is not the primary objection to the Bill.

Hon GEORGE CASH: The primary objection to the Bill is the attempt by the Government to reverse the onus of proof from the Crown to the accused.

Hon Garry Kelly: It does not do that.

Hon GEORGE CASH: It does, and I invite the member to read the legislation. It seems to me that the Minister knows that that is what the Bill does. For reasons which are best known to the Government, and which relate to the Government's need to raise revenue, the Act is to be amended so that people will be deemed guilty of an offence.

Hon Graham Edwards: Do you know the word we are seeking to delete? It is the word "proof".

Hon GEORGE CASH: Is the Minister suggesting the Crown will no longer need proof that someone has committed an offence?

Hon Graham Edwards: I assume you have not read the Bill or that you are deliberately trying to misrepresent it.

Hon GEORGE CASH: It appears the Minister does not understand the legislation and on listening to some of the comments he has made on the radio I am more than convinced he does not understand the meaning of the words, particularly the legal effect of the words, contained in this Bill.

Hon Graham Edwards: Does that mean the Law Society does not approve it either? It accepts the Bill.

Hon GEORGE CASH: I am not sure whether the Law Society accepts the Bill.

Hon Graham Edwards: I have it in writing.

Hon GEORGE CASH: At a later stage the Minister can table the letter from the Law Society and we will have an opportunity to read what it says. There is a very good chance I have a copy of the letter.

Hon Graham Edwards: You would agree with it then.

Hon GEORGE CASH: The Minister is attempting to misrepresent the letter - assuming I have a copy of the letter to which he is referring. He is misrepresenting the Law Society's letter in which general comments were made about a proposition and not about the exact words in this Bill. From time to time the Government has discussions with various groups and receives agreement in principle and a general understanding about matters. Members of the Government then claim in the House that they have acceptance by those groups of the words contained in a Bill when events in the past have proved that that is not the case. Another issue that must be addressed by the Minister is the answer he gave to question 376 on 19 June in which he was asked the approximate number of vehicles licensed as -

(a) Government cars;

(b) statutory authorities' cars;

(c) finance companies' (lease) cars;

(d) company cars;

(e) private owners and all others; and

(f) the total number of vehicles licensed under (a) to (e).

In answer to questions (a) and (b), the Minister said that the figure was 19 140 as at 31/3/90; and in answer to questions (c) and (e) he said -

> Information of this nature can only be derived from the police database from a given number plate. Therefore the aggregates requested are not available.
>
> The answer to (f) is 1 287 717 (as at 31/3/90).

Question (f) was asked because of an earlier answer the Minister gave to the following question -

> If a fine issued as a result of the Multanova is sent to the owner of a vehicle which is registered by the Government, a statutory authority, a finance company (lease car) or

a company (company cars) and a fine is paid without question, would the Minister advise how the police department will impose demerit points against the driver?

The answer given at the time was that infringement notices will not be sent out to Government departments, statutory authorities, finance companies (lease cars) or companies (company cars) until inquiries have been made and the driver is identified. The infringement notice would then be issued to the driver. On payment of the penalty demerit points would be issued. It is clear from the answer to the earlier parliamentary question that the police do not intend to use this system for vehicles registered in other than a natural person's name. That is a contradiction of what the Government intends with this legislation. I will not recite the comments I made about that matter four weeks ago as they are in *Hansard*. The Opposition has no objection to the use of the Multanova machine. In fact, when amendments to the Road Traffic Act were introduced into Parliament some two years ago, the Opposition supported the use of the sophisticated speed camera.

Hon P.H. Lockyer: Some of us reluctantly.

Hon GEORGE CASH: Some reluctantly, as Hon Phil Lockyer said. Nevertheless, the legislation passed through Parliament. The use of the machine is not disputed by the Opposition. However, the fact that the Government now wants to amend legislation so that the machine can be used to deem that an owner of a vehicle has committed an offence in the absence of evidence to the contrary - that is, to reverse the onus of proof from the Crown to the accused - is not acceptable to the Opposition. While it wants the police to be issued with modern equipment, this argument has nothing to do with equipment such as speed cameras being available to the Police Force. It is an argument about justice and about reversing the onus of proof. I invite the Minister to admit to the House that the reason for this amendment is not based on road safety measures; it is based on the fact that the Government is desperate for revenue and this legislation is one more method of raising that revenue.

HON E.J. CHARLTON (Agricultural) [4.46 pm]: The point made by the Leader of the Opposition in relation to whether the driver of the vehicle is guilty is central to the debate. I will not cover that ground again. I will examine another angle which is much wider than the debate on traffic control. In its response to traffic problems, the trauma on the roads and other aspects of road safety, the community has forgotten the fundamentals of education and improving road safety. No-one should be more aware than I of the problems and horrendous consequences associated with traffic accidents. Despite having experienced that side of it, I cannot agree to the Multanova operation by the police. I object to its use not only because of the points raised about the identity of the driver, but also because the community has forgotten the reason that we have police. If we cannot overcome traffic problems without the implementation of this type of technology, how serious are we about the issue? Lately, almost the entire emphasis of law and order has focused on police and traffic while society is experiencing horrendous problems related to crime. As I mentioned during another debate about society's problems in respect of racial hatred and other matters, the community faces problems associated with breaking and entering. I received a report about an incident on the weekend where police had arranged to arrive at a place at a time on the weekend in order to assist an individual to recover some lost property. The police did not show up. They said they could not attend the meeting because they were too busy on other business and other personnel were not available to assist.

It appears that, in response to that situation, the community is seeking to introduce sophisticated technology. To eliminate police involvement in the monitoring of traffic it seems that the Government wants to instigate the use of technology to witness activity on the roads. The implementation of it involves a camera being placed in a certain spot and recording a flow of traffic from five to 20 kilometres an hour in excess of the speed limit. The maximum speed limit of a certain area is set for the worst possible road safety conditions at a given time. The maximum speed limit does not vary according to whether the sun is shining or whether it is raining. The same limit applies all the time, and at certain times it is obviously safer to drive at a lower speed than it is at other times. I believe police officers should have the professional expertise to decide what is a safe speed for the particular circumstances and should be able to act accordingly. However, that is not the case, and the stage has now been reached where, when I am driving past a police officer who has a radar gun and I know that I am driving at or under the speed limit, it seems to me that the police officer is very disappointed that I have cheated him out of some money.

Hon P.H. Lockyer: Do you do that often?

Hon E.J. CHARLTON: There have been times when I have been over the speed limit.

To give another example, I was advised last week that a traffic policeman had gone to a country golf club and had noted the registration numbers of all the vehicles in the car park. He then waited along the road that night as the people drove by, stopped every car that he had taken note of, and asked those people to take a breathalyser test. That is not random breath testing but head hunting. I am not saying that I condone drink driving or speeding but it seems to me that we are putting in place legislation which is being applied in a manner that is different from the way in which it was sold to the public. We have to question how far we want to go in taking away the rights of individuals. The time will come when there will be a backlash against this legislation and when people in the community will say, "Why am I being persecuted in this way when I am doing the right thing and when it is only a minority of people who are not prepared to abide by acceptable safety standards?" This Government is always talking about the so-called rights of people, and about how it is introducing legislation to protect members of the community, but we have now reached the stage where, in the name of looking after members of the community, we are actually taking away their rights.

It has been brought to my attention that the same type of technology is being used to determine whether vehicles are overloaded. I do not know whether that is correct; I have asked the Minister on a previous occasion whether he is aware of this, and he said he was not. However, this equipment does not have the ability to determine the actual weight of a vehicle which is travelling on a road which has an uneven surface and which is bouncing along, as it may do, particularly if it is a multi-axle vehicle. I frequently drive along Great Eastern Highway, and I can just about guarantee that if I go 10 kilometres above the speed limit I will get nabbed. Tammin is the smallest shire in Western Australia, and the statistics have proved that the size of the town does not warrant the establishment of a permanent police officer there. However, there are now more policemen in Tammin than anywhere else because the traffic police from Kellerberrin, Quairading and Wyalkatchem all go through Tammin to get a piece of the action on Great Eastern Highway.

I believe this legislation has been generated with some enthusiasm by the Police Department to try to raise revenue. I do not know whether this legislation is Government driven to raise revenue or whether its purpose is to use technology to free up police personnel.

Hon Graham Edwards: I can assure you it is not Government driven to generate revenue, and that suggestion does not say a lot about the police. I can give you that assurance.

Hon E.J. CHARLTON: The Minister may give me that assurance but I do not agree with him.

There are many people in the community who want to do the right thing, but they are being put offside by the police. The last thing we want to see develop is a division between members of the Police Force and members of the community. We should be endeavouring to draw together those two groups. Twenty or 30 years ago the first thing that would happen when a policeman went to a country town was that the community would welcome him and make him part of the community, and he would ensure that the people assisted him to carry out his duties. Now police officers seem to be reluctant to fraternise with members of the community for fear of being accused of having mates. I took up that matter with the Commissioner of Police when he attended the opening of Parliament. He disagreed with me, but that is the way I see it. I believe this legislation is just another mechanism that will drive a wedge between police officers and the community.

While we would all like to see the situation develop where there are no accidents on our roads, the fact is that the accident rate has been halved from what it was 20 or 30 years ago. That is obviously a good thing and we would all applaud it. The Minister could say that is a consequence of the police being hard and making it more difficult for people to do the wrong thing. I, as well as everyone else, would totally endorse that. However, we are going too far with traffic. We have forgotten the other aspects of police surveillance and activity in so many other areas of our community.

[Questions without notice taken.]

Hon E.J. CHARLTON: I referred to the role of the police in implementing a procedure using

a camera simply to record the activities of motorists and then issuing an infringement notice and so forth. I contrast that with an incident I witnessed in the city, and I am aware that such incidents occur in other places. An attendant at a picture theatre was receiving some rough treatment from a person who was also using abusive language in a public place adjacent to the Hay Street Mall. On that occasion the police were simply monitoring the situation and waiting until other persons arrived to deal with the matter. I am aware of the difficulties involved and the restrictions placed on the police when dealing with those types of incidents. However, that person was blatantly behaving in a manner which was against the interests of other people in the area and no action was taken. On the other hand, one of these machines could take a photograph of a motorist driving along the highway perhaps 10 kilometres over the speed limit, and the owner of that vehicle must prove that he was not the driver of the vehicle - if that is the case - otherwise he will be fined. That is a fairly good example of the way the legislators have allowed society and its relationship with the police and the laws of the land to go off at a tangent. In addition, we have created a situation in which the Police Force is at loggerheads with the public. That is certainly not in the best interests of the community. The Government should reconsider before it proceeds down this path.

Another matter of concern is that the Federal Government is forcing the State and the community to do certain things because it holds the purse strings. That is another aspect which is not involved with this legislation but relates to other Bills. It is time the Government decided that this State will not go down that path and said that other areas are more vital to the maintenance of law and order in this State; I refer to the relationship between the police and the community, as well as the control of road traffic. The National Party opposes the Bill.

HON P.H. LOCKYER (Mining and Pastoral) [5.34 pm]: Not only do I oppose the proposed amendment in the legislation, but also I oppose the Multanova radar device in total. It is ridiculous for this equipment to be used; some sections of the Police Force have persuaded the Government to purchase these machines which will allow policemen wearing dark glasses to sit in deck chairs on the side of the road with a great cash register, and to watch speeding vehicles pass by without raising a finger. The Government probably paid for one of those machines, which cost about $70 000, on the first day it was installed on Stirling Highway near the brewery site. This machine is unbelievable.

Hon Max Evans: What good will it do?

Hon P.H. LOCKYER: I repeat Hon Max Evans' question: What good will it do? It would be far better for police motorcyclists and vehicles to patrol the roads. Nothing gives me the horrors more and scares me more than seeing police vehicles on the roads. In Eastern Europe at the moment Gorbachev and others are getting rid of regulations, and yet in this free world country we are adding regulations as fast as we can in this Parliament. If the Government wants to give the police more powers - and I am not against that - it would be far better to forget this proposal and to give the ordinary sergeants and constables the power to give those children who break the law a belt around the head. This would be more effective than the present system in which those children go to court, are let off on a good behaviour bond or, in the case of younger children, are not charged.

Hon B.L. Jones: Do you believe in violence against children?

Hon P.H. LOCKYER: When I was about 12 years old -

Hon T.G. Butler: You got your first belting.

Hon P.H. LOCKYER: I got plenty before I reached that age. I committed a slight misdemeanour and a policeman, Des Skehan, who is now retired, gave me the hardest belt under the ear that I have had in my life.

Hon B.L. Jones: That accounts for your violence.

Hon P.H. LOCKYER: It was not necessary to go to court to know that if I ever committed another misdemeanour in front of that policeman, I could count on getting a belt. That was typical of the policemen 25 years ago. If the policemen today were allowed to do that sort of thing the rate of juvenile crime would be lower than it is at present.

Several members interjected.

Hon E.J. Charlton: They do not believe in it, they all "care".

The PRESIDENT: Order! I will not keep calling for order. Members must listen to the member on his feet.

Hon P.H. LOCKYER: Members may not like what I am saying, but they should listen and if they have some problem with that, I will continue until they do. Once people lose respect for the law anarchy prevails. Of course, people will lose respect for the law if ridiculous machines such as the Multanova units are used. Any person who lives in a country town will know the dangers of this situation, because juveniles are committing crimes at an ever increasing rate. At Fitzroy Crossing recently an 11 year old boy was charged with his thirty-fifth offence of stealing cars. It is pathetic. He had been to court but that made no difference to him at all. He could not get into a car quickly enough when he left the court.

Hon T.G. Butler: Would a belt across the ear have stopped him?

Hon P.H. LOCKYER: It is like training a horse not to buck; every time the horse bucks the trainer hits him and after a while he associates the two, and learns that if he stops bucking he will no longer be hit.

Several members interjected.

Hon P.H. LOCKYER: I do not know what Hon Tom Butler's father did to him when he was naughty as a child. I assume that he would have been very naughty. If his father or mother had given him a clip around the ear, he would have learned some respect. Of course, I am not suggesting that children should be flogged within an inch of their lives.

All the machines in the world, such as the Multanova units and the like, will do no good. They may increase the revenue of the Government and when deciding on the budget for the Police Force allowance can be made for a tremendous influx of money. If the Government set up half a dozen of these machines on the main arterial roads around Perth, it would make a fortune. However, it could not employ enough policemen to send out all the infringement notices. The post office would also make a lot of money. It is no more efficient to use these machines than to have patrol cars with instantaneous radar, of the type that does not allow people such as me to use the radar detector for which I paid $400. The sight of a police car with blue lights flashing does more good than all the Multanova machines in the world. Educating drivers to the reality that more police cars will be patrolling the roads and that aeroplanes are monitoring the traffic is also very effective. I do not know how many members have been caught by the air traffic patrol.

Hon B.L. Jones: Is it only the fear of getting caught that makes you do the right thing?

Hon P.H. LOCKYER: The Opposition cannot agree to this.

Hon Mark Nevill: It is disrespect for the system.

Hon P.H. LOCKYER: We have a machine which takes a photograph of a motor vehicle and unless the officer sending out the infringement notice can identify the driver he has a problem, and that is why the Government has introduced this legislation. The Government wants to place the onus on the owner of the motor vehicle to advise who was driving the vehicle, and if the owner does not provide that advice, he will cop the infringement notice. The Government has not convinced me or my constituents on this matter. My suggestion to the Minister for Police is to sell the Multanova to another country and with the proceeds buy more patrol cars and motorbikes and put more police out on the road; that would achieve far more than this legislation.

HON PETER FOSS (East Metropolitan) [5.41 pm]: One of the best speeches I have ever heard was made by a South African QC who also practised in the United Kingdom.

Hon John Halden: That would be right!

Hon PETER FOSS: Although he was a commercial lawyer he was prominent for taking the cases of black activists. He was speaking on the role of law in South Africa and how the rights of the individual had been lost in South Africa. The point of his speech was that no dramatic change had occurred; they had not suddenly put people away forever without the right to a trial. He said that it was done by slow accretion; by slowly taking away one little right, then moving by analogy from that to the next step; and if that was all right why not take a little bit more? He gave a detailed account of how South Africa ended up in the situation where the rights of the individual are not guaranteed at all. The point I am trying to

make is that we are doing here, by small elements of logic, what was done in South Africa. I am not saying by any means that we will go that far, but we must be wary of that.

Hon B.L. Jones: What about the rights of ordinary road users?

Hon PETER FOSS: Hon Beryl Jones is assuming that these people are guilty.

Hon T.G. Butler: You have been doing that ever since you got here.

Hon PETER FOSS: This legislation catches not only the guilty, but the innocent.

Hon T.G. Butler: How could it do that?

Hon Sam Piantadosi: If a person is speeding, he is speeding.

Hon PETER FOSS: This legislation will result in a set of events being deemed by the court, whether or not those events are correct, and that is the important point. I support the conviction of a person who has been speeding and who can be proved to have been speeding. The Opposition is concerned that this legislation will result in people having a conviction recorded against them notwithstanding the fact that they were not the drivers of the cars; they were not speeding; and they did not receive infringement notices throughout the entire performance.

Section 102(1) of the Road Traffic Act relates to traffic infringement notices. This is a matter of convenience and I do not object to traffic infringement notices. Previously a person could not be convicted unless a summons had been issued and evidence had been presented to the court. There were inconveniences in that system, because many of the people who had been caught by the police did not want to go through that performance. Some people were quite happy to be told that they were alleged to have infringed a particular law and they would then go through a simple and cheap process by which they paid the fixed fine, without having to go before a magistrate, to give evidence or to have a magistrate fix the fine. It was a simplification which suited everybody involved. Section 102(1) of the Road Traffic Act provides that -

> Where a member of the Police Force or warden has reason to believe that a person has committed any such offence against this Act as is prescribed for the purposes of this section, he may serve on that person a notice, in the prescribed form, (in this section called a "traffic infringement notice") informing the person that, if he does not wish to have a complaint of the alleged offence heard and determined by a court, he may pay to an officer specified in the notice . . .

Having received that advice the offender has the choice of either paying the fine to an officer specified in the notice, within the time specified, or of going to court and having the evidence presented against him and eventually accepting the penalty - the fine. It is quite fair, because under those circumstances a person would be given the infringement notice and he would make that choice. That is acceptable and sensible when that infringement notice is given personally to the offender. A policeman would be able to say, "I saw you do it; here is the notice." The officer would know that the person has the notice and can make a choice on what he will do. The next step may be that the policeman does not immediately give him the infringement notice so subsection 102(2) of the Road Traffic Act states -

> A traffic infringement notice may be served on an alleged offender personally or by posting it to his address as ascertained from him, at the time of, or immediately following, the occurrence giving rise to the allegation of an offence . . .

That is acceptable because the policeman is sending the notice to the offender's address and if the offender gives the officer the wrong address that is his lookout. Subsection 102(2) goes a bit further and states "or as ascertained pursuant to an inquiry made under section 58", which states -

> Any owner of a vehicle and any person to whom for the time being the possession or control of a vehicle may be entrusted shall, if required by a member of the Police Force, give any information which it is in his power to give, which may lead to the identification of any person who was driving

Let us take it a little further and say that the police have tracked down the offender by inquiring of the owner of the vehicle, who did not actually commit the offence. Each of these steps is just a little step to the side. The first step is where the notice is given to the

offender right after the offence; the next step is where he is asked for his address and the notice is sent to his address afterwards; the next step is to ask the owner of the vehicle and find out the address of the offender. The next step is where a fairly substantial departure is made from what is normally acceptable -

> . . . where the allegation is of an offence of which the standing, parking or leaving of a vehicle is an element and the identity of the driver or person in charge of the vehicle is not known and cannot immediately be ascertained, the traffic infringement notice may be addressed to the owner of the vehicle, without naming him or stating his address, and be served by leaving it in or upon, or attaching it to, the vehicle.

This is one more step to the side. The owner of a vehicle is unknown; it is uncertain whether the driver's address will be found; it is assumed that the driver will return to his car and that he will find the notice and when he picks it up he will be served.

Hon T.G. Butler: How is this different from a parking ticket?

Hon PETER FOSS: It is not different. It is the process by which we get to each of these stages. It seems fairly acceptable and logical that the person will return to the car and will see the notice, and therefore the real offender, who has allegedly committed the offence, will be in receipt of that document.

The next step is to serve the infringement notice on this person, or put it on the vehicle. The problem with leaving it on the vehicle is that one does not know at that stage who the person is. When one asks the name at the time of the offence or immediately after it, or when inquiries are made under section 58, one eventually gets to know the name of the driver of the vehicle. If he pays the fine, he writes his name and so the problem of identifying him has been dealt with. If he does not respond, how can we find out who was actually driving the vehicle?

We make one assumption; it is all right if the person agrees not to have a summons; it is all right if we find the name by asking the person, or if the notice is put on the vehicle, because the person concerned will eventually get the document. If we assume that if the driver of the vehicle is not the owner of the vehicle, he will either pay the infringement notice or tell the owner that he has received it. Subsection (3) reads -

> Where, under subsection (2), a traffic infringement notice is addressed to the owner of a vehicle and served by leaving it in or upon, or attaching it to the vehicle, then, unless within the period specified in the notice for the payment of the prescribed penalty -
>
> (a) the prescribed penalty is paid to an officer specified in the notice; or
>
> (b) the owner of the vehicle -
>
> (i) identifies the person who was the driver or person in charge of the vehicle at the relevant time to a prescribed officer; or
>
> (ii) satisfies a prescribed officer that, at the relevant time, the vehicle had been stolen or unlawfully taken or used,
>
> the owner is, in the absence of evidence to the contrary, deemed to have committed the offence.

The problem with this is that the notice has been served by putting it on the vehicle, but there is no guarantee that the owner will ever receive a copy of that notice. We are assuming that the driver is either the owner or a responsible person who will tell the owner about the infringement notice. If he does not tell the owner about the infringement notice within the prescribed period, as the legislation presently stands he is deemed to have committed an offence.

That involves some problems. He is not deemed to be the driver, but he is deemed to have committed the offence. At least with this provision we still have some vague connection with the vehicle. We actually have the vehicle there, we have put the notice on it, and there is a reasonable chance that the person concerned will receive that notice.

What does this Bill do? As the Minister has pointed out, it is a slight improvement on subsection (3), because it has taken out the words "in the absence of proof to the contrary"

and put in "in the absence of evidence to the contrary". I agree with the Minister that that is an improvement, but it is not the end of the matter. Unless we know that this notice has been served, how are we going to give any evidence to the contrary?

When we look at subsection (3b), we can see how difficult the problem has become. Firstly, the belief referred to in paragraph (a) is based on photographic evidence. Secondly, we have the allegation of an offence of which the driving or being in charge of a vehicle is an element. That is a step away. The last example was parking or leaving a vehicle. We are now taking a totally different approach; we are not talking about parking or leaving a vehicle; we are talking about driving a vehicle. There is something to be said for leaving a notice on an unattended vehicle because that is all we have; we do not have a person. However, in this case the element of the offence is driving. The same wording is used as we have in section 102(2), but a very different concept is involved. It is another shuffle to the side where we take the logic which we have used so far and push it a little further.

How does one justify this little shuffle to the left? I can understand the position when one finds an unattended vehicle; what else can one do? The person will come back and find the piece of paper. In this case we are talking about the driver. The driver is the main element of this offence. The problem is not that someone has left the car on the side of the road; it is the fact that someone in it is driving at speed. That is the problem. There is no logical extension between section 102(3) and section 102(3b).

Subsection (3b) goes on -

> (c) the identity of the vehicle can be ascertained from the photographic evidence; and
>
> (d) the name and address of the driver or person in charge of the vehicle are not known and cannot immediately be ascertained, -

That is extending the principle, but it is here that we really get into problems, because the section continues -

> - the traffic infringement notice may be addressed to the owner of the vehicle and may be served by serving it on the owner personally or by post.

I do not have a problem with serving it on the owner personally, but we do have a problem serving it by post. What if the owner has moved? If he has moved, he may never find out that the notice has been served on him. It is not like coming back to a car and finding a notice on it. There is a pretty high probability of finding that notice. It is not like having it posted after having given an address to a policeman. These people will look in the police records, find an address and post it to that address.

I do not know whether other members have had experience of what computers can do. At one stage I had a car which was registered with a country numberplate and another which was registered with a city numberplate. This country car was registered at Gingin, and everything was sent to the post office at Gingin. I could not understand why I was not receiving renewal notices. I do not pick up anything at the post office in Gingin. When I discovered that all these notices were going to the post office at Gingin I had the computer records changed to show my address as Perth, but the result was that not only my Gingin car records but my Perth car records were sent to Gingin. Anything to do with me was sent to the post office at Gingin, and it took some time to find out what was happening.

I am sure many people have changed their addresses from time to time. I know sometimes problems arise in getting those things onto the computer, and perhaps people just forget. This law will introduce a very substantial difference in approach. We are saying here, "If you do not notify a change of address, or even if you do notify a change of address and somehow someone in the Police Department gets it wrong, or if you are away on holiday for four weeks, or if you are in hospital for four weeks, under this provision you will be served at the address on the computer."

The problem I have there is the big jump in the logic from where we started with the infringement notice. I can see every step that has been taken. Each follows logically and reasonably on the other, but we must go back to the beginning and see where we started from. Any person accused of a criminal offence is entitled to have his say in court. It is his choice. An infringement notice is a convenience to everybody. I know it is a convenience to those who have been caught, and it is certainly a convenience to the police.

Hon Garry Kelly: Someone who had not been driving would not say he had been, would he?

Hon PETER FOSS: Somebody else might have been driving. The owner might never get the notice.

Hon Garry Kelly: That is a misrepresentation; it is a different issue.

Hon PETER FOSS: Different from what?

Sitting suspended from 6.00 to 7.30 pm

Hon PETER FOSS: I was indicating how, by a number of slight sidesteps, and continuing the development of the logic, we have gone a long way from the original ideas of why infringement notices were to be used, and why people should be able to insist upon matters being held before a court.

I agree with the proposed amendment to section 102(3) as it is an important improvement. I do not know how that section previously passed through Parliament in its present form. I would have hoped that this House would stop that. Perhaps the next stage to go to is to ask, what happens if a person does not respond to an infringement notice?

If a person receives a notice and pays the penalty, under section 102(7) of the Road Traffic Act the payment of a penalty pursuant to a traffic infringement notice shall, for the purposes of section 103, constitute a conviction of an offence, but shall not be regarded as an admission of liability for the purpose of, nor in any way affect or prejudice, any civil claim, action or proceeding. If a person does not send in the notice he is proceeded against under the Justices Act.

Section 56A of the Justices Act provides that summons requiring a person to appear at a time and place therein specified before justices to answer the complaint for a simple offence against the Road Traffic Act 1974 may be served upon the person to whom it is directed by posting not less than 14 days before the return day by prepaid registered post, a true copy of the summons in an envelope addressed to that person at his last known place of residence or business. Subsection (2) of that section states -

> Without prejudice to the operation of subsection (1) of this section, in the absence of any circumstances making it appear that the person to whom the summons is directed resides or carries on business elsewhere, where the offence specified in the summons -
>
> (a) arises out of the driving or use of a motor vehicle, the address appearing as the address of that person in the driver's licence, if any, produced by him at the time of the alleged offence or upon any investigation thereof; . . .
>
> shall be deemed and taken to be the last known place of residence or business of the person to whom the summons is directed.

Paragraph (b) of the same section reads -

> is an offence an alleged to have been committed by the person to whom the summons is directed as the owner of a motor vehicle, the address appearing as the address of that person as owner in the vehicle licence for the motor vehicle, for the time being in force;

So, section 56A(2)(b) provides that a summons can be sent by post to the address shown on a motor vehicle licence and it shall be deemed and taken to be the last known place of residence or business of the person to whom the summons is directed.

The section also states that the justices hearing the complaint to which the summons relates may accept as proof of service a certificate of the officer or any person referred to in paragraph (a) or (b) of the due posting of the summons in accordance with the section. The only real thing that happens is that a sentence of imprisonment cannot be imposed. There is an out in that where a summons posted pursuant to the section does not come to the notice of the defendant prior to his being convicted of the matter of complaint stated in the summons, he may within 14 days after his becoming aware of the conviction or within such extension of that period as the justices may allow, serve upon the Clerk of Petty Sessions, at the place where he was convicted, a notice requiring a rehearing of the complaint to which the summons relates. The person is then allowed to have the matter reheard.

Under the scenario given, it is possible that a person finds out about such a matter when a policeman turns up at the front door with a warrant saying that all these things happened and are deemed to be the case. The person has to pay the warrant because everything has been posted to him, although he might never have received anything. The problem is that by each little step further away we are making it more possible for this set of events to occur. That person has to know that within 14 days he has to apply to have the matter set aside. I suspect that most people in the community would not know that is what they would have to do. Even then, when a person turns up he is caught to some extent by section 102(3) of the Road Traffic Act in that he has to put up some evidence to the contrary. He cannot just say, "You prove it." That is the normal right; a person can say that every single part of an offence has to be proved. Normally a person can say he will not give evidence, but section 102(3) of the Act provides that a person has to go in to give evidence in order to establish evidence to the contrary. Theoretically, a person could call somebody else. However, one of the effects of that is that a person who actually calls evidence misses out on an opportunity to submit no case, which is a fairly important right, and misses the opportunity to speak last. These are important things. These events occur purely because a piece of paper was posted supposedly to a person's address and that person did not answer in time. I know the Minister is adamant that this provision is all right, but I believe it is not all right.

As a result of a visit to police traffic headquarters to see the machine in action I now understand some of Hon Phil Lockyer's objections to the legislation. I agree with him that a police presence on roads is by far the most important way of reducing the speed at which people drive and the way in which they drive. A police presence anywhere is important for the proper observance of laws in our community. Anything that encourages the police to get off the roads and hide behind bushes is a bad thing.

I spoke previously about this matter during debate on the random breath test legislation. I gave an example from the Australian Capital Territory where police made a special point of carrying out random breath test checks on the opposite side of the road to people returning from a rugby union match. The police had maximum exposure to the crowd. They could have carried out the operation on the same side of the road as the traffic but that would not have been as effective as the fact that the people going past were thinking, "Thank heavens, I missed out." That could be very effective.

I sympathise with Hon Phil Lockyer's point. I believe this is a good machine because it appears to be an accurate form of radar. It also makes the question of proof as to who was driving pretty clear because the police can tell from the pictures taken, even at night, who the driver was. Its use will cut out some of the nonsense created by people saying that they were not driving, because the police can easily prove who was the driver. If they were to go through the summons provision I cannot see why they would need to do all the things mentioned in this Bill. This system creates a situation where people are not stopped. People should be brought in if they have not responded to a notice. A difficult situation is created when one finds out some weeks after the alleged offence that one was supposedly driving a vehicle at a certain speed. One would have difficulty remembering anything about that night let alone at what speed one was travelling. It puts a person at a disadvantage and it is not a satisfactory state of affairs.

The machine could be very effective. Most people, if they were asked to report to the police, would do so. That is what the police want them to do. I do not mind people being required by the police to look at a photograph; perhaps that requirement could be incorporated in the legislation. I object to the inexorable process of a person going to court and being convicted without being served with any legal documents. I have no problem with the police having the ability to send a notice and so provide a person with the opportunity to appear in court. The police are trying to avoid too much administrative work. The issue has nothing to do with anything else but the time it would take them to identify offenders. I am sure they can propose a better way of solving the problem rather than implementing little steps as a solution. They are attacking one of the basic tenets of our system of justice in order to put a name to a face.

Does the Government want to slow the traffic or does it want to collect the money? I suspect that it wants to collect the money. This system will not be effective in slowing traffic. I support the amendment to section 102(3) which should read that way in any event. In fact, it should be deleted because it takes the matter too far. If a person were to attend a hearing,

any presumption that one might have should disappear. The mere fact that a person appears and says he will plead not guilty should mean the presumption should disappear. Also that presumption should be removed from subsection (3) if a person wishes to appear in court. It is one thing when people do not bother to turn up but if they do turn up, they should not be put in that position.

HON MURRAY MONTGOMERY (South West) [7.44 pm]: I endorse Hon Eric Charlton's comments. In the Minister's second reading speech he indicated clearly that the Government would use this system as a revenue raising exercise. He said that over a two and a quarter hour period the camera photographed 520 people speeding by over 10 kilometres an hour. Based on a two and a quarter hour period, if the cameras worked five hours a day for seven days a week that would make about 350 000 contacts a year.

Hon B.L. Jones: That really indicates we need to stop them speeding doesn't it?

Hon MURRAY MONTGOMERY: No; Hon Beryl Jones has taken the wrong end of the stick. I will refer to that shortly. The Minister will be aware that radar detection was introduced into this State in 1967-68. However, it is not possible to find out how many people were pulled up annually because the Police Department indicates that no records were kept until 1986. Therefore, no-one knows what effect radar is having. From 1986 to 1989, over 750 000 people were caught. That is about 250 000 people a year who were either cautioned, given an infringement or summonsed. Until the end of April 1990, 204 000 contacts were made in those three categories. However, the Police Department admits it cannot tell what revenue was raised from those infringements because it does not keep records. The courts are the only places that keep these records. On the basis of those figures, about 7 000 people a week would have been stopped. That shows that motorists are trying to use our road system to keep up the best traffic flow possible. Perhaps the Government should look at lifting the speed limit.

Hon Doug Wenn: If the speed limit were lifted by 10 kilometres motorists would go faster still.

Hon MURRAY MONTGOMERY: That remains to be seen.

Hon Doug Wenn: What happens when people are doing a hundred in the suburbs?

Hon MURRAY MONTGOMERY: The Government wants to raise revenue, so it will keep the speed limit down.

Hon B.L. Jones: That is your assumption.

Hon MURRAY MONTGOMERY: As I said, and the Minister agreed -

Hon Graham Edwards: Where did I agree?

Hon MURRAY MONTGOMERY: The Minister agreed during Hon Eric Charlton's speech when I indicated that the use of the Multanova was a revenue raising exercise. As I was saying that we should lift the speed limit, he said, "Yes, that is right." The community has the attitude that the Government is revenue raising.

Hon Graham Edwards: I said that the community has that attitude, but I do not agree with that.

Hon MURRAY MONTGOMERY: You said, "Yes, I agree with that."

Hon Graham Edwards: I said I agreed with the fact that the community has that perception. That does not mean it makes it right simply because some sections of the community agree with it. Some people believe that parliamentarians are bludgers. Does that make it right?

Hon MURRAY MONTGOMERY: For some, that could be true.

The PRESIDENT: Order!

Hon MURRAY MONTGOMERY: Western Australia's roads have improved over the years, even though more roads could be improved by spending more money on them. However, our road systems are better now than they were in the past. Our motor vehicles are constructed to make them move quicker than they did in the past.

Hon Garry Kelly: Most roads work on an operator speed level and the Multanova is set at about 10 kilometres above the limit anyway. It won't be one or two over when you get booked.

Hon MURRAY MONTGOMERY: I could take Hon Garry Kelly for a drive in a motor vehicle and show him how I would drive. He would feel quite safe at a relatively high speed, yet he could ride with somebody else travelling at around 30 kilometres an hour and want to get out of the car.

Hon Garry Kelly: It depends on the conditions.

Hon MURRAY MONTGOMERY: That is right; it depends on the driver as well. In this situation, the State is being divisive in wanting to introduce this system. The community does not wish to see it in operation.

Generally this alienates the traffic police from the rest of the community. I know that a few years ago a 17 year old girl lost all respect for the police as soon as she came into contact with the traffic police. It is the traffic police who cause the problem; generally young people are reasonably happy with the policeman on the beat. However. the moment young people ride a motorcycle or drive a car and come into contact with the traffic police, they become alienated from the police. We should try to ensure that our young people act responsibly towards the police, rather than feel alienated from them. I do not think the police enjoy being alienated from the general public -

Hon B.L. Jones: Young people comprise the biggest proportion of statistics for death and injury on our roads.

Hon MURRAY MONTGOMERY: Young people could be educated, and they are quite happy to be educated, as I am sure Hon Beryl Jones would agree. Young people do not like the attitude of the police towards them. This Bill reminds one of the situation portrayed in George Orwell's *1984*. We must look at where our laws are heading because the community needs to know that the police are not ogres, as the law seems to intimating them to be.

HON MAX EVANS (North Metropolitan) [7.51 pm]: A few weeks ago some members of the Police Union visited Parliament House and had a discussion with me and with other members of Parliament about why we did not agree with the Multanova. I raised the issue of motorcyclists, which Hon Graham Edwards previously addressed. On motorcycles, for example, the numberplate runs parallel to the road and is very hard to photograph. The official answer to that was that the police could always apprehend motorcyclists, charge them with speeding and get their numbers at the same time. However, the only police I have seen with the Multanova were seated 25 metres or 30 metres away from it. The Multanova was in front of their parked car. In such circumstances the police could not catch an errant motorcyclist. The police officers then said that the present radar system did not allow them to catch every vehicle and they miss the motorcyclists. They asked whether that mattered and I said I thought motorcyclists were one group of road users the police should try to deal with. Hon Beryl Jones said we must have the Multanova as a deterrent to speedsters. I think that percentage-wise more motorcyclists than car drivers speed. I still have not had the full answer to what will happen in regard to motorcyclists and how they will be caught when speeding. I do not think the police constables on duty with the Multanova at the time will be able to chase the motorcyclists. Has the camera been retried, or will numberplates on motorcycles be required to be across the front of the bikes? That is the case with police motorcycles, which have a "Police" numberplate.

As Hon Peter Foss mentioned, a problem exists with identification. I know that some members opposite drive cars owned by the Ministry of Premier and Cabinet. When they are caught by the Multanova, a letter is sent to the Ministry of Premier and Cabinet and is then handed on to the member concerned. That is all right; the ministry owns only 50 or 60 cars. However, very large leasing companies and hire car companies also come into this category, which relates directly to the problem of identification. What is the procedure in this situation? The hire car companies and the leasing companies receive the summons; they have to find the driver of the car photographed speeding. They send that driver along to the police, and he is given demerit points. As was mentioned in the second reading speech, unless the owner can prove otherwise - that the car was leased or hired to someone who was photographed speeding - he receives the demerit points. I believe about 40 per cent of cars are owned by finance companies, the Government, statutory authorities or companies, particularly cars one sees on the roads during the daylight hours. How will this be handled? If it is not handled properly, a large section of irresponsible drivers will be missed.

Someone asked how much the machines were worth and what the Government would do with them. The Tasmanian Minister for Police recently said that he expected the machines to cost $100 000 each and that they could be sold back at a profit. He was talking about using Federal Government finance to buy 20 machines at a cost of $2 million. He was talking more about the revenue aspect of the matter. He did not mention road safety and death and injury on the roads. He merely spoke about the wonderful amount of revenue these machines could raise. That seems to be what this is all about.

Hon Philip Lockyer and other members referred to the real importance of the police presence on the roads. The members of the Police Union said the same sort of thing. Most of us are affected only by the sight of the blue police car lights flashing; when one sees a blue light 200 metres or 300 metres down the road, one immediately slows down. Perhaps we should have flashing blue lights along the different highways; they could come on and off at different times. I am certain they would have a salutary effect on all of us. Quite often I am pulled over for a random breath test, although that has not happened for at least six months. Perhaps the police are having a holiday; they are not doing the work they were doing before - at least, they are leaving people who use Stirling Highway alone.

Hon Graham Edwards: They are certainly meeting the national average under the 10 point plan.

Hon MAX EVANS: Are they?

Hon E.J. Charlton: They are in Tammin.

Hon MAX EVANS: Well, they must have some heavy drinkers in Tammin. As everyone knows, to avoid random breath testing one simply keeps in the right-hand lane and one goes straight through; if one goes in the left-hand lane one is checked. I always go in the left-hand lane in order to have a bit of a chat with the police. I go in and out because I do not drink and so it is quite easy for me. I was pulled over for a random breath test near Loch Street and when I told the policeman that I do not drink, he said, "That is the reason you drive a Rolls Royce and I drive a Holden, I suppose." I guess one can save a bit of money by not drinking. The presence of the police on the road is important. Even random breath testing is important in that regard.

Hon Graham Edwards: I would not argue with that.

Hon MAX EVANS: Is the attempt to deter road users speeding totally dependent on the Multanova? Will the police still patrol in unmarked cars or on motorcycles? Will they still use radar? If the control of speedsters relies totally on the Multanova it will be a sham because it will not have any impact on road users. I know we could not hold the Minister to a percentage, but it would be interesting to know the figures. If the police are to rely totally on the Multanova, how much radar work will be maintained? Many different types of radar have been used; the "guns" seem to be gone now and have been replaced by more efficient radar systems. To me, radar units had a far better effect psychologically, because people saw the gun radar. Half the road users will not see the camera by the road side; we will not even be given a chance to "Smile, you're on candid camera." At least when one goes past a radar one knows that it is there; one can smile.

Hon E.J. Charlton: You won't smile when you get the infringement notice.

Hon Graham Edwards: Hopefully you will not speed as much either.

Hon MAX EVANS: At 12.30 pm on a Friday I drove across the causeway to attend a sports function at the Burswood Casino. The traffic was moving at 70 kilometres an hour; if I had held back at 60 kilometres an hour I would have caused the traffic to bank up back to Parliament House.

Hon Graham Edwards: As I understand it, the western edge of the causeway is the top black road spot in this State. It is not a place where a radar or any other effective means of control could be set up.

Hon MAX EVANS: The Minister is referring to the area of the causeway which contains the roundabout?

Hon Graham Edwards: Yes.

Hon MAX EVANS: That is where Hon Julian Grill and I both had our photographs taken.

That was for a different type of breach. One cannot do 60 kilometres an hour there. One is caught if one jumps the red lights or cuts across. In fact there are no white lines even to indicate where one has to go, for instance, to get to the Western Australian Cricket Association ground. That was unrelated to the speed aspect; it came about because the camera was located at the lights.

Hon Graham Edwards: It certainly does have something to do with speed.

Hon MAX EVANS: Yes, but one would not do anywhere near 60 kilometres an hour to get round the roundabout there.

Hon Graham Edwards: Doing well and truly above that.

Hon MAX EVANS: Around the roundabout?

Hon Graham Edwards: Off the roundabout and into Riverside Drive.

Hon MAX EVANS: A motorist can pick up speed half way across the causeway, and a camera is in place. Many cars go through that at the optimum speed, and any attempt to slow down the vehicles would not help the situation. Drivers tend to drive at the optimum speed for safety. Drivers on American freeways generally travel at 50 miles an hour bumper to bumper because otherwise they would never get to work in the morning. On the road alongside the Karrakatta cemetery, for example, the traffic moves fairly quickly, but I have never seen an accident on that road, which I use frequently. That has been a great place for the police to pick up speeding motorists.

Hon Graham Edwards: It is a dangerous place.

Hon MAX EVANS: There are a lot of dead people there.

Hon Graham Edwards: Pedestrians try to cross the busy section of the road and often they are distracted by the reason for their visit to the area.

Hon MAX EVANS: I know that it is a risky area.

The PRESIDENT: Order! Let us stop the conversation across the Chamber and get on with the debate.

Hon MAX EVANS: The Multanova radar device should not be used in all cases. There must be a police presence on the road otherwise the public will have no confidence in or respect for the police. Although not making the same point as Hon Phil Lockyer did earlier, it is similar to the way people treated dogs and children some years ago. If a dogs or children make a mistake they must be dealt with within seconds of making that mistake. If the punishment is meted out a week later they do not understand why they are being punished. The same applies to motorists. The punishment should be associated as much as possible with the offence; that is the only way for the message to get through. The time involved will be a nuisance for the police, who are in the unfair position of having to administer a law introduced by a Government that wants to raise revenue. After hearing the news tonight, it is apparent that the Government needs to raise additional revenue.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [8.02 pm]: I thank members for their contribution to the debate, although I am quite disappointed at the lack of support for the legislation. In my second reading speech I said that the Multanova speed detection device was an extremely efficient and safe tool in the protracted campaign to increase road safety and reduce road trauma. That, in a nutshell, is what this legislation is about. To put this matter in proper perspective, I note that on about 26 June the number of road deaths in Western Australia for that month was one for each day. That puts this type of legislation into perspective.

Hon George Cash asked whether the Law Society of Western Australia supported this legislation. It is quite evident from a letter I have received that the criminal law committee and the law society council of the Law Society support this legislation. The letter states -

> The Society has considered the proposed changes to Section 102 of the Road Traffic Act and can advise that the proposed legislation appears to be adequate. It does not provoke criticism and appears to tidy up significantly the infringement notice procedure, while at the same time allowing for modern technology.

I am sorry that members opposite did not express similar support for this legislation. It

seems that Mr Cash supports the Multanova but not the legislation. Mr Charlton seems to support stronger action in the Hay Street Mall, but not the Multanova. Mr Lockyer wants stronger action against juvenile crime, but he cannot support the Multanova. Mr Foss recognises that Mr Cash is wrong and admits that the clause which deals with proof and deletes the word "proof" and inserts the word "evidence" is a positive and good step. Unfortunately, Mr Foss spent most of his time attacking the Justices Act and, as much as I hesitate to say so, Mr Foss' conclusions are wrong. I am happy to demonstrate that because I certainly would not make the claim unless I were quite sure of my facts. Mr Montgomery obviously does not support the legislation, and I can only conclude from Mr Evans' remarks that he does not support it either, but at least I was encouraged by his fairly responsible approach to the legislation.

One fundamental misunderstanding should be cleared up: This Bill has been nicknamed the owner onus legislation, but it does not seek to transfer onus of proof to the car owner. Indeed, it does the opposite. The concept of owner onus was established in the late 1960s by a coalition Government. Section 102(3) of the current Act states that when a traffic infringement notice, such as a parking ticket, is left under the windscreen wiper of an unoccupied car, the owner is deemed to have committed the offence unless there is proof to the contrary. In other words, the onus is on the owner to prove he did not park the car. This Bill seeks to reverse that onus of proof which was introduced by a coalition Government. It seeks to replace the need for the owner to provide proof of his innocence with the need to provide evidence. A simple statement that he was not the driver at the time constitutes evidence but not, of course, proof. Under the provisions of this Bill, if the owner provides such evidence the onus of proof lies with the police; hence the effect of the Bill is to put the onus of proof back onto the police in all cases where the owner does not admit he was also the driver.

This Bill is not about enabling the Multanova radar device to be used. The Multanova is already in use, as are cameras at certain intersections. This Bill is about the procedure that the police must follow when dealing with persons detected by the camera. Indeed, the Bill mainly seeks to alter the procedure in those cases where the owner was also the driver and admits he was the driver. The current procedure, which is the procedure that will remain if the Bill is not passed, is labour intensive. The procedure is: The police must approach the owner with the photograph and ascertain if that owner is the driver in the photograph. If the owner was driving the car the police are required to compile a report. That report is sent to another section and a decision is made on whether to charge the owner-driver or what other action, if any, should be taken. This procedure is followed irrespective of whether the owner admits or disputes that he was the driver who committed the offence. It is a very time consuming procedure for the police to follow. To those members who claim that they want a more visible police presence on the roads, I indicate that the best way to achieve that is by supporting this Bill.

As I said in my second reading speech, the police are currently putting in about 80 000 man hours a month to address those procedures. This Bill provides that the police would merely have to send to the registered owner of the vehicle an infringement notice stating the date, the time, and the speed of the vehicle at the time of the alleged offence. If the registered owner of the vehicle was a company or a government department, etc, the police would telephone the owner and find out who was the driver of the vehicle at the time, and would issue an infringement notice, on the basis of the information provided, to the person so named.

Hon Peter Foss: It does not say that in the Bill.

Hon GRAHAM EDWARDS: I am certainly saying it now.

Hon Derrick Tomlinson: We are about to legislate on the basis of the Bill, not on what you say.

Hon GRAHAM EDWARDS: Members opposite should understand that this procedure is the one that the police will follow. Is the member saying that the Opposition will support this legislation if this procedure is written into the Bill?

Hon Peter Foss: No. We are saying that is not what it says in the Bill.

Hon GRAHAM EDWARDS: I will get back to Mr Foss later. As I said earlier, he was quite wrong.

Hon Peter Foss: I am waiting to hear you.

Hon GRAHAM EDWARDS: I will tell the member shortly.

If the registered owner of the vehicle is clearly not the driver - for example, if the photograph of the driver is that of a female, but the owner is listed as a male - the police would telephone the owner to obtain the driver's name, and an infringement notice would be issued to the alleged driver. So the police will deal with these matters on an individual basis according to the photograph at hand. The police are hopeful that perhaps 70 per cent of offences will be readily admitted on receipt of the infringement notice. Despite all the things we have heard tonight from the Opposition, the majority of people who receive infringement notices under the current procedures are only too happy to admit that they have been caught, and are prepared to recognise their responsibility.

Hon Peter Foss: So you do not need owner onus legislation.

Hon GRAHAM EDWARDS: Of course we do, because I have just explained the very time consuming procedure that the police now have to go through to get to that point. Members opposite claim to support the police, but they will not support them by agreeing to reduce the procedures they have to go through.

Hon Peter Foss: So if people are willing to pay their fine, you do not need owner onus legislation.

Hon GRAHAM EDWARDS: The important issue is to reduce the time taken by the police in going through the procedures they have to take in the first instance to send out an infringement notice.

Hon George Cash: You do not understand the legislation.

Hon GRAHAM EDWARDS: I do.

The PRESIDENT: Order! I am trying to get everyone to come to order so that we can hear the Minister. Let the Minister make his speech and members can then vote on the Bill at the conclusion of the debate.

Hon GRAHAM EDWARDS: Mr President, I was just responding to an interjection.

The PRESIDENT: I suggest that you do not.

Hon GRAHAM EDWARDS: When the person who receives the infringement notice accepts responsibility, he or she will simply send back that notice with a cheque for payment of the amount of the penalty, and the matter will be closed. Members opposite do not seem to understand that this procedure should substantially reduce the amount of form-filling that is currently done by police officers. The Multanova is now in operation, but the problem with the Multanova is the very time consuming procedures that the police have to go through. In the remaining cases where the offence is not immediately admitted, the procedure to be followed would remain precisely the same as it is in the existing legislation. That is, the police would show the registered owner the photograph, and if the photograph indicates that the owner was the driver but the owner denies that he or she was the driver, the police could prosecute, using the photograph as evidence.

Hon Peter Foss made a fairly substantial contribution to the debate and seemed to concentrate almost entirely on the Justices Amendment Act.

Hon Peter Foss: Only after the dinner suspension.

Hon GRAHAM EDWARDS: I thought a fairly significant part of the member's speech related to the Justices Amendment Act.

I want to refer briefly to the INREPS system; that is, the infringement registration and enforcement proceedings system. The first step is the issue of an infringement notice. Upon receipt of that infringement notice, a person has 28 days to pay the fine, to deny responsibility, or to decide that he or she wants to deal with the matter in the courts. The second step is that if nothing is heard back, a courtesy letter is sent out. That letter once again identifies the infringement, and details the offence, the time and the date. It contains a statement to the effect that the fine should be paid within 28 days, or that the person who receives the infringement notice, and thereby the second courtesy letter, needs to advise in writing that he or she intends to deal with the matter in the courts.

If neither happens, the next step is the issue of an enforcement certificate, which reiterates the offence, the date, and includes other information which was also contained in the courtesy letter. If nothing is heard from the alleged offender after that, the matter is referred to the INREPS court, where an enforcement order is issued, and a warrant can be issued if payment is not made. The time for that payment is seven days. Mr Foss was quite wrong, because when a warrant is issued under section 171B1 of the Justices Amendment Act, and once the existence of the warrant is brought to the attention of the alleged offender, he or she is given a further seven days, first, to pay the amount stated in the warrant or, second, to apply for time to pay the amount. That section says -

> (4) Before a warrant issued under subsection (1) is executed the alleged offender shall be given a notice in the prescribed form to the effect that, if the making of the enforcement order had not previously come to his notice, he may so inform the person having the warrant and, where the person having the warrant is satisfied that the making of the enforcement order had not previously come to the notice of the alleged offender, the warrant shall not be executed unless -
>
> (a) 7 days have elapsed since notice was given under this subsection and the alleged offender has neither -
>
> (i) paid the amount outstanding under this Part;
>
> (ii) made an application under section 171BH . . .

Hon Peter Foss: The first time he finds out is when a policeman turns up with the warrant and he has to apply to set it aside.

Hon GRAHAM EDWARDS: The Act states that the offender shall be given the notice on the prescribed form to the effect that, if the enforcement order had not previously come to his notice, he may inform the person taking the warrant -

Hon Peter Foss: Yes, but what I am saying -

Hon GRAHAM EDWARDS: What the member is saying is that the first time the person finds out about this is when he is dragged off to gaol.

Hon Peter Foss: When the bloke turns up at the front door with a warrant.

Hon GRAHAM EDWARDS: To take him off to gaol.

Hon Peter Foss: If he does not tell him, that is the first he has heard about it.

Several members interjected.

The PRESIDENT: Order!

Hon GRAHAM EDWARDS: What does the member expect a person to do? Will the person say nothing and meekly be dragged off to gaol? He will say, "This is the first time I have heard of it" or, "I have changed my address recently" or, "I have been away." What will happen is not what Mr Foss claims. Quite obviously Mr Foss is wrong, as the Opposition is wrong in its approach to this legislation. In the main Opposition members - though not all of them - have sought to misrepresent this legislation. I am sure that Mr Cash makes the claim all the time. He stands up in this place and says that he supports the police, but the moment he is given an opportunity to support the police he does the opposite. He does anything but give the police the support they need.

Hon George Cash: You have failed to convince the House.

Hon GRAHAM EDWARDS: It is not the Government which is driving this Multanova, it is the police. They are out there trying to do a very difficult job in very difficult circumstances. They are trying to control the road trauma. This Bill is not about trying to create a police state; it is about giving fair and reasonable support to the police as they go about their day to day activities.

Owner onus was not established by this Government; it is not established by this Bill. The concept of owner onus was clearly established by a coalition Government, and I think Mr Foss recognises that. This Bill reverses that and puts the onus onto the police. I reject those inaccurate statements which have been made by members of the Opposition who have once again sought to misrepresent this legislation. I hope my argument does not fall on deaf ears, and I ask members opposite to give their support to this Bill.

Question put and a division taken with the following result -

Ayes (14)		
Hon J.M. Berinson	Hon Kay Hallahan	Hon Sam Piantadosi
Hon J.M. Brown	Hon Tom Helm	Hon Bob Thomas
Hon T.G. Butler	Hon B.L. Jones	Hon Doug Wenn
Hon Graham Edwards	Hon Garry Kelly	Hon Fred McKenzie
Hon John Halden	Hon Mark Nevill	*(Teller)*
Noes (15)		
Hon J.N. Caldwell	Hon Barry House	Hon Derrick Tomlinson
Hon George Cash	Hon P.H. Lockyer	Hon D.J. Wordsworth
Hon E.J. Charlton	Hon N.F. Moore	Hon Margaret McAleer
Hon Reg Davies	Hon Muriel Patterson	*(Teller)*
Hon Max Evans	Hon P.G. Pendal	
Hon Peter Foss	Hon R.G. Pike	

Pairs

Hon Cheryl Davenport	Hon Murray Montgomery
Hon Tom Stephens	Hon W.N. Stretch

Question thus negatived.

Bill defeated.

STATE PLANNING COMMISSION (AMENDMENT AND VALIDATION) BILL

Recommittal

On motion by Hon D.J. Wordsworth, resolved -

That the Bill be recommitted for the further consideration of clause 4.

Committee

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

Clause 4: Application of sections 6 and 7 -

Hon D.J. WORDSWORTH: I move -

To insert a new subclause on page 2 after line 30 -

(c) Metropolitan Region Scheme Amendment No. 732/33A affecting certain land in Canning Vale rezoned rural land to urban land bounded by Ranford Road, Nicholson Road and the railway line, Canning Vale.

It is correct for the Chamber to reconsider clause 4. I wish to reinforce my remarks made last night in relation to Canning Vale rural land which has been rezoned as urban land and land in the Thomsons Lake area. Considerable debate occurred last night at the Committee stage; however, it was not possible to move an amendment to this clause at that time. Members felt unhappy last night that such areas of land should be considered minor amendments. The smallest of the two areas at Canning Vale represents 214 hectares and it is proposed to place 700 housing allotments on that land. The Thomsons Lake area will probably accommodate double that number.

Submissions made by the Canning Vale Progress Association have been placed on the record, as have the concerns of the Canning Town Council. Indeed, concerns have been expressed by numerous people about various matters including the endangered donkey orchid but more particularly in relation to the Jandakot mound and the part it plays in the water supply of this State. The Minister stated that in the opinion of people making recommendations, the Government could now place housing on the Jandakot mound and still use the area to collect water. That represents a complete turnaround from previous theory and practice because the intake area has almost always been regarded as holy ground; certainly it has commanded the same respect as Kings Park.

We all realise how important water is to Western Australia; the State represents the driest third of the driest continent in the world. Perth's water supply feeds into areas as far away as the goldfields - that is, 500 kilometres from Perth - and feeds into the majority of the wheatbelt on the way. It is a magnificent scheme but it adds to the burden placed on the water supply of the metropolitan area. Most evidence put forward highlights the importance and significance of the bores that exist in certain areas. I refer to the submission made by the Banjup Action Group and the many articles appearing in local Canning Vale newspapers over the last nine months. *The Times* on 3 July stated -

> Scientists remain unhappy about urban development over underground water supplies.
>
> Assurances by the Planning and Urban Development Department and the Water Authority about the safety of buildings on the flanks of Jandakot Mound seem hollow following our continuing inquiries into the matter.

The newspaper outlines an interview with Kevin Morgan, a hydrologist, who proved the viability of the Jandakot mound for an underground water supply in 1963. He drew attention to features which had not been debated.

Conservationists throughout Western Australia, but particularly in the Canning area, have expressed concerns about the changed Government policy in that the Government has decided to place housing above ground water recharge areas, and considers it can do so without damaging the water supplies. Debate also occurred regarding which way water flows underground and which way pollution will run. Studies have been undertaken on the Thomsons Lake area, and a report was made in 1989 titled "Thomsons Lake Urban Structure Study - South Jandakot Development - Water Resources Management Plan". That document included the report and recommendations of the Environmental Protection Authority. In May 1989, the Executive Director of the Department of Conservation and Land Management stated that the department had major concerns about the Jandakot water resources management plan; that the drainage plan put forward could only be considered as a preliminary plan. The Managing Director of the Water Authority of WA supported those comments.

A subsequent report was produced by the EPA in March this year containing recommendations on the Thomsons Lake urban development entitled "Revised South Jandakot Management Plan - Ministerial Conditions No 2". In that document the authority reiterates that it does not support development on land above the Jandakot mound between the two lines of public water supply.

[The member's time expired.]

Hon GEORGE CASH: I support the amendment. The comments I am about to make will reflect the stance I took last night and my concern about any development over the Jandakot water mound and in particular about the three areas mentioned by Hon David Wordsworth. I refer to metropolitan region scheme amendment 732/33A affecting certain land in Canning Vale; metropolitan region scheme amendment 741/33A affecting certain land known as Thomsons Lake, Cockburn; and metropolitan region scheme amendment 767/33A affecting certain land in the area of Canning Vale and a rezoning from rural to urban.

My concern is not in respect of the validation of this land - that has been dealt with already in this Bill - but relates to the potential pollution of the Jandakot water mound and, more than that, to the decision by the Government to develop this land and the likely impact the development will have on pressure in the northern suburbs for the Government to agree to similar housing developments above the Gnangara mound.

Hon David Wordsworth raised matters of a technical nature relating to the potential pollution of the Jandakot water mound. I hope the Minister will respond by giving us the Government's attitude to that. For the purposes of this discussion, I refer to the planned 4 000 home development at Thomsons Lake. I am very aware that the amendment presently before the Chair does not specifically relate to that. However, certainly the other two amendments which Hon David Wordsworth will move cover this area. In June last year, an inquiry was launched into the whereabouts of an Environmental Protection Authority report which related to Thomsons Lake land. After some red faces in a number of Government departments which were accused of either holding or hiding the report, and not knowing

whether the report was lodged with their respective departments, it turned out that the report was always in the office of the Minister for the Environment, Mr Pearce and for reasons best known to Mr Pearce, it had not been released to the public.

Hon P.G. Pendal: That is different from the doctoring of the Mt Lesueur environmental report.

Hon GEORGE CASH: Yes, I am referring to the Environmental Protection Authority report on the Thomsons Lake land. Mr Pendal reminded me of another Environmental Protection Authority report which the Minister for the Environment, Mr Pearce, admitted only a few months ago he had altered. There is no question that the decision by the Government to override the recommendations of the Environmental Protection Authority will cause untold pressure on the Jandakot mound and that, in future, the community of the metropolitan area will pay for the decisions of this Government's residential planning scheme.

In analysing a cost benefit study of the Government's proposal, we should recognise that, while the Government claims in this Chamber that certain benefits will accrue from providing additional housing lots in the southern corridor as a result of proposed residential developments, it is clear that in the not too distant future the community will be required to pay the price for the pollution to the Jandakot water mound which will run into millions of dollars on a recurrent annual basis. It is fine to make these decisions on the run - they have been made on the run by the Government which has not had a proper planning scheme in place for a number of years and which has been jumping around having to make these minor or major amendments to make up for its lack of planning strategy. However, in the end we will pay the price because water will have to be piped in to provide the metropolitan community with a water source from areas more distant than either the Jandakot or Gnangara mounds. That will be at a cost to the community.

I reiterate the comments I made last night. I think the Government has made a disastrous mistake in agreeing to a housing development on the Jandakot mound. I anticipate that pressure will now be placed on the Government to agree to residential development above the Gnangara mound and that any agreement to such development will have a long term detrimental affect on the provision of drinking water for people living in the metropolitan area.

Hon D.J. WORDSWORTH: I said earlier that I had two Environmental Protection Authority reports on the Thomsons Lake area, the first stating that there was not a sufficient drainage plan and the second stating that under certain conditions there could be for certain areas. I do not think there is any doubt about the concern expressed by the public on future water supplies and the current and alternative use of that land. I have a public discussion paper issued by an advisory committee chaired by Arthur Tonkin who was a former Minister for Water Resources. The Press release states -

> GROUNDWATER PROTECTION
>
> Groundwater and wetland protection will be the priority for six major groundwater reserves between Moore River and Dunsborough under a draft policy released today.
>
> The draft was prepared for the Environmental Protection Authority by the Swan Coastal Plain Environmental Protection Policy Advisory Committee after a request from the State Government.
>
> The committee was chaired by a former Minister for Water Resources, Arthur Tonkin.
>
> The committee, which was formed last November, included representatives from Government agencies, conservation groups, planners, local government and farmers.
>
> In releasing the discussion paper and draft today, Mr Tonkin said the committee recognised that urgent action was needed to protect groundwater and wetlands.
>
> "Most water supplies on the Swan Coastal Plain come from underground sources and those sources are under threat from an increasing population," Mr Tonkin said.
>
> "As a consequence, our discussion paper proposes setting aside six existing groundwater reserves - Gnangara, Wanneroo, Mirrabooka, Jandakot, Serpentine and Gingin - as groundwater protection areas where only passive recreation be allowed and native vegetation and wetlands be retained."

Mr Tonkin said the draft policy also proposed a review of existing land uses on these special areas and the phasing out or control of those uses if they polluted groundwater, affected wetlands or caused the clearing of native vegetation.

There is very strong debate over whether we can put housing on ground water supply recharge areas, even if they are sewered. The discussion paper includes a schedule of those areas which includes the Jandakot water supply area as defined in the *Government Gazette* published on 3 October 1975. The discussion paper also includes appendix B which includes a table showing relationships between the beneficial uses and various land uses to which the country can be put from wetland protection through to agricultural to urban development. I am afraid housing development is not acceptable because of the need to preserve our water supplies. The information I have is in the form of a table and I cannot explain it to the Committee.

This is probably a major rather than a minor amendment and this Chamber is not in a position to deal with each amendment. A schedule is not attached to the Bill and reference is made to a *Government Gazette* only. Further consideration must be given to these amendments. The Minister may advise the Chamber that it is too late to do anything about one or all of the three areas I have listed. Unless the Minister can suggest another way to deal with this matter the only thing the Opposition can do is to add those developments to Leda, the old Swan Brewery site and Hepburn Heights developments. I am not sure whether we will have achieved very much by having those three developments listed.

Hon P.G. Pendal: My word we will.

Hon D.J. WORDSWORTH: I hope the member is right. An avenue must be available to this Committee to have these three developments returned for consideration through the town planning system. I am not suggesting they should go through the same procedure whereby it will take years for a decision to be reached. I understand research has been undertaken and it is important that the Department of Planning and Urban Development decide how it will determine what is a major and a minor amendment.

An alternative would be for the Committee to refer this legislation to the Legislation Committee, but the Minister has informed the Chamber that it is important to deal with the legislation now. It is up to the Minister to persuade this Chamber that there is another way around this matter so that our concerns can be put to rest.

Hon DERRICK TOMLINSON: The Opposition was asked to validate retrospectively a procedure for a declaration of proposed rezoning. In asking the Parliament to validate that procedure retrospectively, members were expected to take on trust that there had been a proper consideration within the sections of the Department of Planning and Urban Development of all the factors relating to the status, major or minor, of the proposed amendments. The Opposition was prepared to take those things on trust and it had indicated support for the retrospective validation of that procedure and, consequently, the retrospective validation of each of the decisions. What it did not agree to and what the Government, by its own amendment, changed was the disallowance of a recourse to litigation to challenge the Government's decision.

Matters raised in Hon David Wordsworth's motion have provided evidence that perhaps there were some matters not properly considered by the instrumentalities of Government when they made their decisions and those matters relate to the very issue of preservation and what constitutes a major source of Perth's ground water supplies.

If a mistake is made in the land use above and near the Jandakot mound the consequences will be irrevocable. Mistakes were made in the land use alongside and over the Gnangara mound and the irrevocable consequence has been a decision to close some of the wells because the water is polluted. I notice Hon Sam Piantadosi is giggling; I only wish he would exercise his responsibility as a member of Parliament and speak up about the Gnangara mound, because he knows more about pollution of ground water than most members in this place. He would support the proposition that the mounds must be protected and I am sure he would support the proposition that if we do not implement adequate procedures to protect the Jandakot mound we will find ourselves in exactly the same situation as that which applies now to the Gnangara mound.

Amendment No 741/33A, Thomsons Lake east, in the City of Cockburn is to be rezoned

from rural to urban, urban deferred and public purposes. My observation is that that parcel of land lies directly above the Jandakot mound. I stand to be corrected, but the evidence given to me indicates it is situated directly above the Jandakot mound and is a major recharge area for that aquifer, yet that area is now under a proposal for urban development. If it is subject to urban development there will be substantial change in the recharge pattern of that aquifer, and as a consequence of the fertilisers used on urban gardens in that development there will be a substantial change in the water quality of the Jandakot mound. I understand that amendment is not subject to the provisions of this Bill. Can the Minister confirm that this was not one of those amendments which was referred to the Metropolitan Planning Council, but was a recommendation of the full State Planning Commission to the Minister?

If that is the case, the provisions of this Bill would not apply. I put it to the Minister that just as Hon David Wordsworth has indicated that the whole of the ground water supplies of the Perth metropolitan area are subject to an ongoing investigation by the Tonkin committee - which has produced a discussion paper but which has not yet come to any recommendations - and just as there have been recommendations of the Perth urban water balance study about the implementation of appropriate management studies, in fact the decision to rezone the land and therefore impose a threat to the quality of that major source of ground water for the Perth metropolitan area has preceded thorough investigation set in train by this Government so that it could be properly informed in its policy formulation.

That process frustrates the Government's intention to have properly informed policies. I put to the Minister again, as I did last night - and look forward to her reply because she shook her head vigorously - that if she implements changes to the metropolitan region planning scheme and those changes precede advice the Government has commissioned to help it decide the appropriateness of those changes, then those decisions are not minor ones and as a consequence those amendments are not minor but substantial decisions and therefore substantial amendments. Even though 741/33A might be outside the ambit of this Bill, the very recommendation of the State Planning Commission to treat this as a minor amendment was, in fact, an incorrect decision. Bearing in mind the significance and long term consequences of the decision the Government is making, it would be well advised not to wait for this Legislative Council to tell it to go back and start again but in the interests of the people of Perth to go back to square one and reconsider its decision.

[The member's time expired.]

Hon KAY HALLAHAN: I understand that members do not recommit Bills unless they are concerned, so I take on board the real concerns that members hold. I assure them that they are not alone in their concerns as other people have been concerned about the measures necessary to protect our underground water supply. That is what the debate is focusing on tonight and it has been given the most thorough thought.

Members have expressed strong concern about amendment 732/33A which is the subject of paragraph (c) in Mr Wordsworth's amendment. I advise members that that amendment to the metropolitan region scheme was initiated by the Metropolitan Planning Council. That is clearly outside the Jandakot underground water protection area - JUWPA. That is the area that Hon David Wordsworth referred to last night where roads are being constructed. The reason for that is that this amendment has been under way for a long time. It had gone through the council process. The subdivisional approvals are in place and work has begun. I am trying to indicate to members just how long term some of these projects are. They are not ad hoc things, as members seem to insist they are.

I can tell members that the City of Canning tip is closer to the Jandakot water mound than that subdivisional area. I understand from staff of the City of Canning that only last week underground water drilling was undertaken as they are apparently required to monitor it because of the tip. There is no sign of pollution or seepage causing a problem under the tip. I thought that was a remarkable piece of information and was very reassuring. It is good to know that these bodies are taking their responsibilities seriously and that no detriment showed up in the recent tests. It should be some comfort to members to know that those monitoring processes take place and are a good indicator to us of what is happening. That is a sizeable tip which takes in a whole lot of different rubbish from numerous areas.

Thomsons Lake was first proposed for urbanisation in the early 1970s - that is how early it was identified as being suitable for possible urbanisation. Again, we are not looking at the

ad hoc scenario that members have been worrying about and have been developing in their argument. That is not the case with land development as we are looking at a long term process because of the assessments which are built into that process and which over the years have become more stringent. We are dealing with long term matters.

I think Hon David Wordsworth actually said there were two drainage schemes. He was correct that the first one was deemed to be unsatisfactory and that led to the second comprehensive plan that I have mentioned which seems to have attracted many accolades in terms of its soundness and comprehensive nature. We are now talking about 741/33A, which was initiated by the State Planning Commission. It did not occur under delegated authority to the Metropolitan Planning Commission, the matter under discussion in this Bill.

I had a discussion this afternoon with Hon David Wordsworth in which I said I had learnt a valuable lesson from this because clearly the schedule I provided members of Parliament indicated amendments to the metropolitan region scheme that had been finalised and those that were yet to be finalised. What I should have done was only put on that list those initiated under the Metropolitan Planning Council because there is some confusion about the issue and we are now debating projects initiated under the SPC, which has clouded the position. However, we all live and learn.

Hon D.J. Wordsworth: So it will not matter if we put it there.

Hon KAY HALLAHAN: It will not, except it will provide an area of litigation in terms of whether the documentation was adequate. That is the second part. Thomsons Lake has been so thoroughly worked over and worked up that I have no doubt whatever that documentation will meet any scrutiny and be quite adequate.

The Canning situation would be similar, and a lot of work has been done there too. We seem to have a distrust of authorities, but all these schemes have been evaluated by the Department of Conservation and Land Management, the Water Authority of Western Australia and the Environmental Protection Authority. At the risk of boring members, I refer to page 18 of this draft policy document.

Hon Derrick Tomlinson: The coloured pencils come out.

Hon KAY HALLAHAN: Highlighters are the fashion now. In my day it was greasy crayons.

Hon Derrick Tomlinson interjected.

Hon KAY HALLAHAN: We have something in common.

Hon Derrick Tomlinson: Old age.

Hon KAY HALLAHAN: This is what the area indicates. This is the Jandakot water mound with Canning Vale sitting off the top, and Thomsons Lake runs down very close on the edge of the mound. Members do not understand which way the water runs.

Hon P.G. Pendal: It goes down.

Hon KAY HALLAHAN: It does not go down; it travels outwards. Where we have a source of pollution it is important to know which way the water flows; where we put the bores is very significant, and so is the depth of the bores. It is technical hydrological work, but it has been done, and everything has been documented.

Hon Sam Piantadosi has a lot of knowledge of water and underground water supplies. He spoke to me tonight about recharge areas and what clearly needs to be understood is that the current land uses in that area are much more concerning than urbanisation down one side of the area. Several things come together, but these are two of the key components. The bores go down to 150 metres. We will not be drawing water from the shallow, sedimentary areas. We should also consider the way the water flows and the positioning of the bore lines. There will be two bore lines on either side of the area where the water goes out in this direction.

The wetlands form another critical part of the area. It is absolutely essential that this drainage plan controls the flow-offs of any pollutants, and the level of the lake water in winter. Apparently those balances can be markedly upset by the flow of water, which can contain all sorts of pollutants which might destroy the ecosystems. I assure members that a great deal of technical expertise has gone into this work, and we are lucky to have access to it

in this State. As conditions have become more stringent and as our agencies like the EPA have become more demanding, there has been an increase in the ability to meet those concerns; if the conditions cannot be met, the area cannot be considered.

The committee involved in drawing up this draft policy included representatives of WAWA and the EPA. I am not saying that the draft document was approved as it is, but as each area comes up for discussion and assessment it goes through a rigorous assessment by all the agencies. This decision is not an ad hoc one; there has been very consistent work and monitoring to see what is possible, where development is possible and where it is not possible. An enormous amount of work has gone into adjustments and responses. If the development of Thomsons Lake is given the go ahead, it must still go through the ERMP process. Each scheme which comes up will be subject to incredible scrutiny, as would have been the case, for Hon Derrick Tomlinson's information, with Helena Valley. That would need to have been very closely scrutinised - and we would not want it any other way. Enormous safeguards are built into the system.

I endorse members' concerns. We cannot afford to pollute or endanger our underground water supplies. Everybody associated with these developments and the agencies involved is acutely aware of his responsibilities.

Hon D.J. Wordsworth interjected.

Hon KAY HALLAHAN: An area deemed to be sensitive and with native vegetation will remain and come up for assessment. In the area of Thomsons Lake are some remarkable natural areas, and the wetlands will be retained. However, we must keep in mind that development in much of the land there is very unsavoury, yet until now we have allowed things to drift on. Horticultural activity occurs in that area, and Hon Sam Piantadosi was talking to me about his concerns regarding the industries there. Those things at present are not monitored. We will be conserving the proposed Beeliar regional park and those wetlands. In a few years we will have a much healthier environment adjacent to that area than we have at present. I would like to see this development move on quickly.

The Gnangara mound appears on the map, and that will receive protection and scrutiny. I imagine that all of us have a heightened awareness of the necessity to protect underground water and of how valuable it is to us. I ask members not to support David Wordsworth's amendments.

Hon Derrick Tomlinson spoke about the confusion about whether an amendment was major or minor. He made a very important point about underground water, which is a separate issue from whether an amendment to the metropolitan region scheme is a major or minor one.

We have had a very long and useful debate on these amendments. I would like to think that members might have a regard for the concerns of Hon D.J. Wordsworth in bringing up these amendments, but there are sufficient safeguards in the system. Two of them were initiated by the State Planning Commission, and the third has been through the planning process for such a long time that it is half way there and the dislocation which would be caused by excluding it from the Bill for no good reason means that members should support the Bill as it is amended.

We have made significant amendments to the Bill, and I ask members not to support the well intentioned amendments before the Chamber but to support the Bill as amended by the previous Committee. I am not overjoyed about the Bill as it is amended, although I am happy about the fact that we are safeguarding people's right to litigate on the minor/major issue. I think that is very important and I support it 100 per cent, as does the Government and all of its members.

I do not see the necessity for the exclusion of Leda, Hepburn Heights and the old Swan Brewery and in other circumstances I would have preferred those not to be excluded, but I accept the position of members opposite on that. On these three tonight, although I understand they come from a very genuine concern and have been brought to the attention of members by other people who have genuine concern, nevertheless I think those people do not have the same opportunity as do many of us to have knowledge of the protections and the scrutiny that goes on about where development can take place. I ask members not to support the amendments placed before the Chamber tonight by Hon David Wordsworth.

Hon DERRICK TOMLINSON: I must respond to the Minister's acknowledgment that the matters I raised were significant but did not impinge upon the nature of an amendment being substantial. If I were to talk about "significance" to a statistician, that person would immediately have a particular construction of what significance can mean. Significance would be interpreted in terms of probability of an event occurring. If I were to talk, as the Minister has said, in terms of significance to another person who is not a statistician, that person would perhaps be inclined to talk about significance in evaluative terms. So we then come to a question of semantics.

The Minister acknowledges that this consideration of the protection of the Jandakot mound is a significant consideration, but it does not constitute a substantial consideration because "substantial" has a particular meaning within the Metropolitan Region Town Planning Scheme Act. It has been interpreted in the procedures for rezoning in a particular way; it is a shift from a zoning or a reserve to another classification for particular purposes. That is the way "substantial" has been interpreted. However, I put it to the Minister that if significant considerations impinge upon the decision for land use within the Perth metropolitan region, those significant considerations should form part of the process of deciding whether or not the amendment is a substantial amendment. Therefore, while we might argue about the semantics of "significant" versus "substantial", if there are significant considerations, those significant considerations must form part of the deliberations of the zoning process. Furthermore, there must be evidence that those significant considerations were in fact considered.

I refer to Mr Justice Ipp's decision in the Helena Valley case, when he made the observation that in fact no evidence was available that proper consideration had been made of significant factors in the decision or the rezoning of that land. He made the observation, and I will quote from page 26 of his decision, that -

> In response to the applicants' evidence, the Commission and the Minister merely filed the minutes of a meeting of the Council of 5th April 1989, at which amendment 774/33A was considered.

Mr Justice Ipp then went on to describe the paucity of the evidence contained in those minutes, as to whether there was in fact proper consideration. Later he made this observation -

> In my view, s.34(5) implies that the legislature intended that not only should decisions of the Council be made properly, they should also be seen to have been made fairly - *Steeples v. Derbyshire County Council* [1985] 1 W.L.R. 256.

Then he says - and this is the significant point -

> It could be expected therefore that the record of the Council's proceedings would be reasonably complete and accurate.

The important point there was that, in considering the claim by the Helena Valley plaintiffs, evidence was not presented by the defendants that the proceedings were complete and accurate. I now raise the question with the Minister, in relation to the Thomsons Lake proposal, and bearing in mind that the Minister has been emphatic that proper consideration was given to all those significant factors in deciding that this was in fact only a minor rather than a substantial amendment: Can the Minister produce the evidence which will demonstrate that the procedure adopted was thorough, accurate and fair?

Hon KAY HALLAHAN: I go back to where Hon Derrick Tomlinson started because when I said I did not want to inflame him in any way - and it sounds as though I may have done that - with regard to the question of what was significant as opposed to what was minor or major, I was talking in technical terms. One of the reasons we have this Bill before us is that there is a technical term as opposed to what is, to many of us, significant or not. Indeed, it did not indicate that there were not a number of very significant factors taken into consideration in arriving at whether something was minor or major. I just wanted to clarify that because we had a blurring of the edges in the debate.

No semantics were involved as far as I was concerned; I just did not want to use the same words. There was nothing trivial about what I was trying to clarify; it was just that I thought people reading the debate later would be confused. Whenever any amendments are made to the metropolitan planning scheme by the State Planning Commission, full consideration is

given regardless of whether the delegation is regarded as valid or invalid. Everything that is significant is taken into consideration. After all, that is what the people are there for and that is the basis of their decision-making. Everything should be considered regarding planning and possible land use. Justice Ipp indicated in the Helena Valley case that the problem was not that the consideration had not taken place, but that the consideration had not been documented. That has been accepted by the SPC; it has changed its system and that will never be the case again.

We have a different situation with Thomsons Lake because this area was prepared for urbanisation in 1970. It was the subject of some of the most expensive reporting, and for that reason we now know the way the ground water flows at very deep levels, and the effect of water levels on the wetlands. Enormous reports have been prepared on this area, and if this came up for challenge the courts would have plenty of documentary evidence to use. In fact, some of that research has been quite expensive and it would amply demonstrate to the courts that the documentary evidence exists.

Hon Derrick Tomlinson: There is a very significance difference between the evidence existing and the evidence being used in making a decision.

Hon Peter Foss: It is a matter of actually being taken into account.

Hon KAY HALLAHAN: Of course it is taken into account!

Hon Peter Foss: Can you prove it?

Hon KAY HALLAHAN: How would I prove that on the floor of the Chamber, Mr Foss?

Hon Derrick Tomlinson: Has it been recorded?

Hon KAY HALLAHAN: I am saying that it is all there.

Hon Peter Foss: But has the process been recorded? You could still be in trouble with Thomsons Lake even though the SPC kept proper records.

Hon KAY HALLAHAN: That is where I disagree with the member. There would not be a problem.

Hon Peter Foss: There would if they had not kept a proper record.

Hon KAY HALLAHAN: We would be in trouble if the SPC had not taken the issues into account.

Hon Peter Foss: It would have to be proved that it did take these matters into consideration.

Hon KAY HALLAHAN: That is its job!

Hon Peter Foss: Maybe it is not doing it properly; that is what Justice Ipp pointed out.

Hon KAY HALLAHAN: Unless we want to reflect upon people -

Hon Peter Foss: It is not a matter of reflecting on people. Justice Ipp was not reflecting on the people involved.

Hon KAY HALLAHAN: The member is reflecting on their competency.

Hon Peter Foss: It is not a matter of reflecting, it is a matter of reading what Justice Ipp had to say.

Hon KAY HALLAHAN: The member is asking me to prove in this debate that these people did their job effectively; could the member do that with any person in any job or with any other legislation?

Hon Peter Foss: It is not our question; it is Justice Ipp's question.

Hon KAY HALLAHAN: As a result of his statement, documentary evidence of considerations will be maintained in the future. Regarding the processing question, evidence of the reporting exists in the form of requests by agencies. I cannot believe that the member would think that the EPA would not be requested to do research, although in some cases private consultants are hired and the developer meets the bill; that is part of the process. The member is implying that the department does not refer to the research done.

Hon Peter Foss: Not at all; we are saying that Justice Ipp spoke about the consequences of not maintaining a proper record. That may be all right regarding non-delegations, but the

Government could still have a legal problem regarding Thomsons Lake in proving that the SPC took the information into account. In other words, if this was not taken into account and this is protected in the provision, you could still find yourself in trouble because of a lack of a record.

Hon KAY HALLAHAN: Of all the areas involved in the legislation, that one has the most extraordinary reporting. If we want to follow Justice Ipp's line in which he states that adequate reporting and documenting should be maintained, we start to enter a esoteric area.

Hon Peter Foss: That is the reason that you do not want it excluded.

Hon KAY HALLAHAN: I do not want any of them excluded!

Hon Peter Foss: I am helping the Minister!

Hon KAY HALLAHAN: I am sorry, but I am having a terrible time recognising the member's help.

Hon E.J. Charlton: If you sit down, we can get on with it.

Hon KAY HALLAHAN: I ask the Committee not to support Mr Wordsworth's amendments.

Hon D.J. WORDSWORTH: I will not take my country friend's advice, and I will answer some of the questions put forward.

Hon E.J. Charlton: I was not speaking to you, Mr Wordsworth.

Hon D.J. WORDSWORTH: The Minister assured us that various Government departments have examined this area in making a determination.

Hon Kay Hallahan: The SPC and the MPC are the Government departments which are the determining bodies; I want to make that clear.

Hon D.J. WORDSWORTH: The Water Authority made its considerations and took the research into account.

Hon Kay Hallahan: Along with the EPA and CALM.

Hon D.J. WORDSWORTH: A research group on ground water from the water resources council released a report in 1986 which stated on page 13 -

> None of these systems provides for public involvement in plan development, although some bodies do encourage some limited participation at this stage. Also, many affected groups and individuals remain unaware of the planning process and the formal opportunities to lodge submissions. This often results in public frustration because of the inability to influence plans significantly after they have been made public, or the public has become aware of them. For example, it appears that after many years of planning work there is sufficient momentum behind proposals for extensive urban development east of Thompson's Lake, due at least partly to anticipatory land purchases by developers, that it would be difficult even for the Water Authority, let alone public opinion, to change this significantly . . .

To use a water term, they get swamped. Page 12 of this report states -

> However, even at this level integration does not always occur smoothly or satisfactorily. For example, in the Thomson's Lake Urban Structure Study, there appears to have been a failure of understanding between the planners and the Water Authority with regard to urbanization in the Jandakot PWSA, possibly resulting in considerable effort and delay, substantial costs to public and private land developers if Water Authority submissions are accepted, and an increased possibility that the Water Authority's position will not be accepted.

The warning from the Water Resources Council is that, as much as the Water Authority of Western Australia tries, its recommendations are not accepted because of the pressure that has been brought to bear by land developers. In this case the major land developer is the R & I Bank and we have the situation where one Government organisation is opposing another. The Government should stand aside on these things. LandCorp, Western Australian Development Corporation and the R & I Bank should not be trying to make quick bucks out of land subdivisions. It is interesting that the Labor Party talks about big business and land

developers making hogs of money, but in this case it is a Government department making the big bucks. A need exists for this Chamber to reconsider these three areas. I had hoped that the Minister would propose an alternative amendment which would allow the processing system to reconvene and to place its stamp of approval on them. Members in this Chamber are not in a position to do what is required.

Amendment put and negatived.

Hon D.J. WORDSWORTH: I move -

Page 3, after line 5 - To insert the following new subclauses -

(2c) Section 7 does not apply to Metropolitan Region Scheme Amendment No 741/33A affecting certain land known as Thompsons Lake, Cockburn.

(2d) Section 7 does not apply to Metropolitan Region Scheme Amendment No. 767/33A affecting certain land rezoning from rural to urban in Canning Vale, Canning.

Amendment put and negatived.

Report

Bill again reported, with amendments, and the report adopted.

ACTS AMENDMENT (GOLD BANKING CORPORATION) BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Leader of the House) [9.44 pm]: I move -

That the Bill be now read a second time.

The purposes of this Bill are -

1. To remove Gold Corporation's legislative powers to engage in banking activities, consequent upon the transfer to the Rural and Industries Bank of the corporation's banking activities;
2. To provide for greater control over the corporation's financial activities and to alter its capital provisions; and
3. To ensure full accountability to Parliament for the corporation's activities, in line with the spirit of the recommendations of the Burt Commission on Accountability.

The Gold Banking Corporation Act was passed by this Parliament in 1987 and amended early in 1988. It was proclaimed on 30 June 1988, thereby establishing the organisation known as Gold Corporation. However, Gold Corporation's history goes back considerably further than June 1988. It was formed from an amalgamation and expansion of the activities of the Western Australian Mint and GoldCorp Australia. The Western Australian Mint was the statutory name for the Perth Mint, established as a British Government agency in 1899 and then as a statutory authority of the Western Australian Government in 1970. It was established to refine gold and mint legal tender coins.

GoldCorp Australia was established in 1986 as a division of the Western Australian Development Corporation to -

manage the Western Australian Mint;

modernise gold refining facilities available to the expanding Australian gold industry; and

manufacture and market internationally Australian legal tender precious metal coins, initially the Australian Nugget gold coin.

During the course of the explosive growth in the Australian gold industry during the 1980s,

most of which occurred in Western Australia, it became apparent there was a need for a specialist financial institution to work with the gold industry within Australia and to develop closer links with international gold markets on behalf of the producers, especially small to medium size producers who have played such a major role in the gold rushes of the 1980s.

It was decided that it was logical to develop such an institution together with the other State Government agencies already involved with the gold industry; namely, the Western Australian Mint and GoldCorp Australia. The purposes were to enable fully vertically integrated services to be offered to the industry and to take advantage of the links those two organisations already had with international gold markets. To this end, the Gold Banking Corporation Act was drafted and passed - with the support of all three parties - by this Parliament. The Act established the new financial institution, to be known as the Gold Banking Corporation or Gold Bank, with the structure of a State bank, with the Western Australian Mint and GoldCorp Australia as subsidiaries, carrying out the functions for which they had originally been established. The 1988 amendments to the Act created the interim name of Gold Corporation for the organisation, to be used instead of Gold Banking Corporation or Gold Bank while discussions continued with the Reserve Bank of Australia about the State bank status of the new entity.

From the formal proclamation of the new Act on 30 June 1988, the new vertically integrated organisation proved popular with gold producers. Its corporate banking, bullion banking and treasury services were in strong demand, partly because of the vertically integrated services which were offered and partly because of the strength of the specialist financial team which had been assembled. In its first year, the corporate banking division wrote business of almost $300 million. However, this success created problems. It was plain that if the gold banking activities continued to grow at the rate they were achieving in 1988-89, they would quickly outstrip the capacity of the corporation's balance sheet to support them. In addition, the focus that was necessary on the banking business because of its rapid growth meant that the corporation's top management had insufficient time to devote to the business of the WA Mint and GoldCorp Australia, which were also growing.

Consequently, with the concurrence of the then Premier, the corporation and the Rural and Industries Bank entered into discussions about the future of the corporation's gold banking operations. The outcome was that these operations were transferred to the bank at net asset value, effective from 1 July 1989, although the arrangements were not completed until September. What was the gold banking operation of the corporation is now the division of the R & I Bank known as R & I Gold Bank. The upshot was that the objective of having a financial institution specialising in the gold industry was maintained, but proper attention could also be given to the demands of the WA Mint and GoldCorp Australia. Some of the elements of a vertically integrated operation have been sacrificed, but where necessary and desirable, Gold Corporation and R & I Gold Bank continue to cooperate.

It should be acknowledged that the outcome that has been achieved is largely in line with what was suggested by some members of the Opposition at the time the 1988 amendments to the Act were debated. At that time the Opposition suggested that the new gold banking activities might be carried out more conveniently under the umbrella of the R & I Bank, and it has been proved correct. In large part, these amendments flow from that outcome.

What Gold Corporation Does Now: Gold Corporation's activities are now confined to those associated with the processing of precious metals, the provision of bullion services and the manufacture and marketing of value-added precious metals products, predominantly Australian legal tender coinage. Through the WA Mint, the corporation is Australia's largest gold refiner and also refines gold from several other nations. It operates two new gold refineries, one at Kalgoorlie and the other adjacent to the Perth International Airport. Its metallurgical processing activities include the operation of a carbon stripping plant at Kalgoorlie and involvement in custom crushing and gold tailings treatment operations.

GoldCorp Australia now produces and markets internationally Australian legal tender coins in gold, silver and platinum. In just over three years since the first of these coins - the Australian Nugget gold coin - was marketed, total sales of coins in the three metals exceed $750 million, of which close to 90 per cent has been earned overseas. In the first quarter of 1990, the Australian Nugget had a world market share of 21 per cent and is the No 3 gold bullion coin in the world in terms of sales. The original objective was to achieve a

10 per cent share in three years. The Australian Koala platinum coin is No 1 in the world with a market share of more than 50 per cent, albeit in a market that at present is depressed and small relative to gold. Orders for the new Australian Kookaburra silver coin, released in April, exceeded 1.5 million when only 300 000 were produced. Original projections were that it would take three to five years for the coin program to begin breaking even, but GoldCorp Australia has returned modest profits in two of its three financial years to date. This has been achieved despite the heavy start-up costs of getting new products established internationally and the worst precious metals investment environment for many years. As all the coins produced by GoldCorp Australia are legal tender under Australia's Currency Act, they can, of course, be produced only by a Government mint.

I turn now to the purposes of the Bill.

Banking Amendments: The first category of amendments included in this Bill arise from the decision to transfer gold banking activities to the Rural & Industries Bank. The name Gold Corporation, adopted in 1988 as a transitional title pending the adoption of Gold Banking Corporation or Gold Bank, is to become the permanent name of the organisation as a whole. No change is to be made to the names of the subsidiaries, the Western Australian Mint and GoldCorp Australia. The corporation's banking powers are to be removed, except insofar as limited authority is necessary to continue the Mint's traditional activities and to operate in precious metals and foreign exchange in support of the coin programs. For example, since private ownership of gold was permitted in Australia, the Mint has maintained metals accounts for clients and has traded precious metals for clients who do not wish to do so themselves, including some refining clients. It has also issued what amount to certificates of deposit for precious metals and offered safe custody facilities. As these activities are an integral part of traditional Perth Mint activities, it is necessary to continue legislative authority for them.

In relation to the coin side of the corporation's activities, transactions are conducted in quantities of metal, or in US dollars or a combination of both. Metal transactions may be on a purchase, swap or lease basis. Consequently, the corporation must have the power to conduct such transactions, including dealing in foreign currency.

In broad terms, references to banking activities are to be removed from the Act, with the qualifications I have just made. This means section 12, dealing with banking business, is to be repealed, while section 11, dealing with the powers of Gold Corporation, is proposed to be extensively amended. The main thrust of the amendments is to narrow the focus of the corporation's activities from an organisation with the wide powers needed by a bank to one with only those powers necessary to carry out its functions in support of the precious metals industry.

Part V of the Act, dealing with the financial instrument that was to be known as the Australian Gold Note, is repealed because the issuing of such an instrument would probably be appropriate only for a banking organisation and it is considered that the R & I Bank already has sufficient power under its Statute should it wish to issue such an instrument.

Financial Provisions: It follows from the transfer of the corporation's banking activities that it can operate with a much simpler financial structure, has lesser capital needs and should be under more conventional financial control by Government. The proposed amendments to part IV of the Act give effect to these objectives.

When Gold Corporation was established, the Government subscribed $25 million as capital and, in return, received shares. Without full-scale banking activities, the corporation clearly does not need capital of this magnitude, though it must have some capital to operate. Consequently, the corporation is to repay the $25 million subscribed by the Government in 1987-88. To meet its capital needs, the corporation is to receive $10 million, comprising the release of the WA Mint from a loan of $5 million made in 1986-87 to assist with the financing of the two new gold refineries, and $5 million appropriated in the Appropriation (General Loan and Capital Works Fund) Act 1989. In return, the Treasurer will again receive shares. This Bill authorises those arrangements. The corporation's board recommended that a shareholding structure should be maintained, though shares can be issued only with the approval of the Treasurer and only to the Treasurer or a statutory authority. It should be emphasised that neither the corporation nor the Government has any plans of any nature under contemplation for the issuing of shares other than those provided for in section 15 of this Bill to be issued to the Treasurer.

The Burt Commission on Accountability noted that the existing section 16 of the Act appears to authorise shareholdings in the corporation by statutory authorities whose own Statutes do not authorise them to hold shares. The commission recommended that this be rectified and the proposed changes to section 16 do so.

Section 19 of the Act, dealing with the establishment of Gold Bank reserves, also drew criticism from the Burt commission as being an inappropriate means of achieving the desired end. It is proposed to repeal this section.

Section 21 of the Act currently gives the board of Gold Corporation the sole right to determine what, if any, dividend is to be paid each year. There is no precedent elsewhere in Government for this approach and it is considered more appropriate that the approach adopted for the R & I Bank should also be applied to Gold Corporation; namely, that each year the board makes a recommendation to the Treasurer on what dividend, if any, should be paid and the Treasurer makes the final determination, taking into account the recommendation.

The open-ended guarantee provided to the corporation under the existing section 22 of the Act is clearly now inappropriate for the corporation because of the transfer of banking activities, but some form of guarantee is necessary because of the nature of the corporation's remaining activities. For example, the corporation will despatch coins to a bank or bullion dealer only after the necessary funds have been cleared to its account, but this means the purchaser is exposed to the corporation for up to two or three days while coins are freighted to them. They therefore require a guarantee of the corporation's obligations from its owner as a condition of doing business, bearing in mind that the corporation's major competitors are other Government mints, such as the Royal Canadian Mint, the US Mint and the Royal Mint of the UK. Equally, in relation to the processing activities of the WA Mint, gold producers, having lodged their metal, are exposed to the organisation for the period while their metal is undergoing processing, which can be for several days or more and require comfort about the security of their metal.

In reality, there is little risk for the State because metal lodged for processing is always in the Mint's system and, in the case of the coin business, all the corporation's precious metals transactions are back-to-back; that is, as soon as a coin order is received, an equivalent amount of metal is immediately purchased at the same price. Full insurance cover is maintained on metal in the corporation's charge.

Other provisions in this Bill tighten controls over the borrowings and investments of the corporation and its subsidiaries, requiring them to be approved by the Treasurer, something which the Act at present does not require.

Burt Commission on Accountability Provisions: I have already alluded to two provisions included in this Bill to give effect to recommendations of the Burt commission and the Government's commitment to implement them. There are also several others. The commission recommended that the corporation should be brought within the ambit of the Financial Administration and Audit Act and that the Under Treasurer or his nominee should be included on the corporation's board ex officio. This Bill gives effect to those recommendations. In fact, the Under Treasurer was appointed to the corporation's board under the existing section 5(2)(b) last July.

The Burt commission also pondered the difficulties of providing for ministerial intervention and control in the affairs of the corporation when it was setting out to be a banking organisation and noted the very limited powers of ministerial intervention in the affairs of the R & I Bank. In essence, the commission concluded it would be inappropriate to propose wide-ranging powers of ministerial intervention in the affairs of a State bank. The commission concluded that the corporation should be required to comply with ministerial directions only as to prudential requirements, with such being no less rigid than those of the Reserve Bank, and as to the scope of its operations.

However, with the transfer of the corporation's banking activities and in line with the Government's commitment to greater accountability, the Government has decided that a wider-ranging form of ministerial authority is desirable. Consequently, this Bill proposes the form of ministerial authority laid down in the Acts Amendment (Accountability) Act of 1989. This entitled the Minister to require any document or information required under any

Act or by Parliament and any information he or she needs on the corporation's business. It also empowers the Minister to give directions to the corporation, but requires that such directions be in writing and be reproduced in full in the corporation's annual report to Parliament. This requirement protects the corporation and its directors from having to take responsibility for ministerial directions which they believe to be unwise commercially.

In summary, this legislation provides for the continuation on a sound and accountable basis of a 91 year old Government undertaking in a manner that should ensure its longevity and its continued service to the precious metals industry which is so important to this State. I commend the Bill to the House.

Debate adjourned, on motion by Hon Max Evans.

STATE EMPLOYMENT AND SKILLS DEVELOPMENT AUTHORITY BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Kay Hallahan (Minister for Planning), read a first time.

Second Reading

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [10.02 pm]: I move -

That the Bill be now read a second time.

The introduction of this Bill is of great significance to all Western Australians; it provides, for the first time, statutory recognition of the fundamental importance of skills development to this State's future economic prosperity.

While skills development has assumed a new status and profile in Australia in recent years, successful overseas countries have already created industrial cultures where it is recognised that there is a direct relationship between training, productivity and economic growth. These countries understand that a highly skilled and adaptable work force is a fundamental requirement for developing high value added industries, competitive in the world marketplace.

In debates on this Bill in the other place, the Minister for Productivity and Labour Relations pointed out that West German employers addressed the parallel problems of high youth unemployment and critical skill shortages by providing additional training places for Germany's youth. In Singapore, the entire work force has been subjected to training and retraining over the past seven years. In the retail trade, for example, all retail employees are undergoing 192 hours of training over the next two years to improve their product knowledge and quality of service as a key strategy to overcome the loss of market competitiveness and thereby maintain Singapore's reputation as the shopping centre of South-East Asia.

The European transport industry now recognises a fifth dimension to the rail, road, air and sea transport network. This dimension is information, and it is dependent upon the skill and knowledge of employees about cost effective and timely forward freighting of goods. The information dimension is now acknowledged as being more vital in market competitiveness than any one of the other four capital intensive elements.

The message is clear: If Western Australia is to develop industries that are competitive, it is critical that we understand and develop the important relationship between a highly skilled work force and industry productivity. This relationship is already well understood in a growing number of industries in this State, particularly among export oriented sectors such as mining. In fact, during extensive consultation with the Chamber of Mines on this Bill, the chamber highlighted its view that high levels of investment in training had enabled the mining industry to maintain a competitive edge in world commodity markets. The opportunity for all industries to achieve their full potential is now with us as this State faces the greatest challenge in its industrial history through the award restructuring process. Industry restructuring, combined with national and State wage case decisions focusing on structural efficiency, have placed the spotlight on the State's training system. In Western Australia, more than 700 State and Federal awards will be affected by restructuring. As a result, it is estimated that up to 10 per cent of the State's work force - or 70 000 additional

workers - will require some form of skills upgrading or retraining each year during the next five years. This is a conservative estimate, given that more than 80 per cent of Western Australians in employment today will still be working in the year 2000.

Training reform is essential if we are to secure a work force with skills that are relevant to the industry and economic growth opportunities within this State. We can no longer afford to tolerate the paradox of unemployment coexisting with critical skills shortages, a feature which emerged following the economic recession of 1982-83. Latest figures from the Department of Employment and Training show that 34 per cent of skilled occupations are now experiencing shortages in this State.

This State has achieved record employment growth, and forecasts for the State's economy by independent economists, such as the National Institute of Economic and Industry Research, project the next 10 years as the period when economic growth in Western Australia will outstrip that of the nation as a whole. We must position ourselves for the growth forecast for this State, by ensuring that rigidities in the training system and work force skill deficiencies do not constrain or impede opportunities for economic growth. However, this will not be possible unless we have a forum whereby the more difficult issues of multiskilling, skills upgrading, accreditation and work force flexibility can be debated and resolved by employers, unions and Government.

Policies must be developed to address not only current but also future needs. Firm action must be taken to ensure the development of a productive training culture within industry. Systematic reform of this State's training system is essential to ensure the continuing relevance of skills development to the State's industrial and economic future. The Federal Government and the larger industries of the Eastern States are already putting into place training reforms and arrangements to address their needs, for reasons which are as pressing as our own. History has shown that the vested interests of the larger and more powerful States will always dominate national forums to the disadvantage of smaller States, unless we take a proactive role. The National Training Board has already been formed to establish benchmarks for nationally recognised skills standards, through consultation with States, Territories and relevant national industry groups. The board will play a key role in ensuring consistency in skill standards arising from award restructuring under the structural efficiency principle. The National Training Board has now met three times and will shortly consider national skills standards in the hospitality and metals industries. Unless employers, unions and Government in this State can present a coordinated and coherent view, national skills standards will not take account of this State's specific requirements.

The Bill now before the House will ensure this coordination and therefore strengthen the hand of this State in negotiations at the national level on all training issues. It is noteworthy that Victoria, New South Wales and Queensland are also moving towards strengthening their training authorities at this crucial time. A further concern is the Australian training guarantee, which has already passed through the Commonwealth Parliament and which will take effect from 1 July this year. The Australian training guarantee will result in a levy on those industries with payrolls in excess of $200 000 which are unable to demonstrate eligible training expenditure in excess of one per cent of their payroll. The State Government has strongly supported the idea of an increased investment by industry in training but has serious concerns about the impact of the Australian training guarantee. The State Government's expressed preference has been for an industry by industry approach, where industry itself devises arrangements to increase the level of training investment in a manner which suits the characteristics of the industry concerned. The proposed building and construction industry training fund is a case in point; it is the Government's view that this fund has the potential to achieve much more than the guarantee because it is strongly supported by the industry.

As a consequence of very strong representations made by the Minister for Productivity and Labour Relations, some of the administrative deficiencies, the lack of exemption provisions, the vague eligible training definitions and doubts about pro rata return of moneys collected in this State are now being addressed. For example, the Australian training guarantee now provides for the licensing of industry training agents, which will be bodies established by regulation, to provide exemptions from the levy with guidelines established under the Act.

At a recent meeting of the Commonwealth, State and Territory Ministers' of Labour Conference - MOLAC - the Federal Minister agreed to delegate the licensing function of

training agents to appropriately constituted tripartite State training authorities. The Federal Minister agreed that the State Employment and Skills Development Authority would qualify as an appropriate body and therefore decisions about eligible training and exemptions could be made in this State rather than be left to the National Training Board. In addition, the Federal Minister has agreed that the proportion of money raised in this State will be returned, but only if an appropriate tripartite body is in place to undertake responsibility for allocation of such moneys to training. Without SESDA these decisions will be made by the Federal Government. A further issue which has emerged as a result of the award restructuring process is the prescription of skills qualifications by industrial awards. A number of applications have already been received by the industrial relations commissions.

The effect of the qualifications being locked into industrial awards will limit flexible arrangements for ongoing change and portability of skills and hence the employment opportunities of workers. It will further restrict skills formation and will ultimately lead to a reduction in the productivity of this State's work force. Mechanisms provided under the SESDA Bill will result in a much more flexible approach to skills acquisition. Without doubt, there is now a pressing need to proceed with the coordinated framework provided in the SESDA legislation. At present no such coordination exists and, indeed, the current system is highly fragmented with more than 130 boards, committees and councils having responsibility for varying elements of vocational training in this State. The priority must be to rationalise the existing training advisory system and create structures where policies can be developed to meet the current and future skill requirements of industry and the community.

I now turn to the background and context of SESDA. SESDA is the culmination of more than four years of consultation and negotiation between employers, unions, community organisations and the Government. In 1985, the then Minister for Labour, Productivity and Employment commenced a series of initiatives designed to raise the level of awareness in this State about the importance of skills development to work force productivity and industry competitiveness. A tripartite overseas mission including employers, unions, politicians and Government officials was formed to study productivity and training issues and systems in West European countries. The mission came to the view that the cooperation and commitment between employers, unions and government on training issues was a key factor in their economic success and had enabled these countries to gain a competitive advantage in international trade. This picture is also mirrored in Norway, Austria, Japan, Singapore and South Korea.

In a widely circulated report, the mission recommended the formation of a tripartite interim council on productivity and training to examine the applicability of the mission's findings to Western Australia. An interim council on productivity and training was established and it produced a discussion paper proposing the establishment of the State Employment and Skills Development Authority - now known by its acronym, SESDA. The paper was widely circulated, attracting 53 written submissions from individuals, enterprises, unions and employer groups. These submissions, together with a detailed examination of the mission's findings within the Western Australian context, formed the basis of a report to the Government. In April 1989, the Government endorsed the council's recommendations for the establishment of SESDA and approved a drafting group to prepare legislation for the establishment of the authority and its network.

On 2 November 1989, the Minister for Productivity and Labour Relations introduced into the lower House for the first time the Bill to establish the State Employment and Skills Development Authority. Since that time, further extensive consultations have taken place with a very wide range of industry and community groups within both the metropolitan and regional centres of this State. It was clear at the time of the presentation of the Bill to Parliament in November last year that there was a need for the Government to invest more time and resources in the consultative process, given the complexity of the Bill and its importance to industry and the community.

Direct mail of information about SESDA and invitations to comment have been sent to more than 2 000 individuals and groups. The Minister for Productivity and Labour Relations has also met with major employer groups, unions and industry training councils. The consultative process has been extensive and with some groups, such as the Chamber of Mines of Western Australia Inc, more than 250 working hours of direct consultation have

taken place. Through the industry training councils, the Minister has also had the opportunity to discuss at length aspects of the legislation affecting small, medium and large industries across all industry sectors in this State.

Submissions from all industry groups support the need for -

rationalising the existing advisory network;

empowering industry to set industry policy;

increasing the productivity of this State's industry; and

facilitating improved national and international competitiveness.

The consultative process has been extremely useful and has helped clarify the intent of the SESDA legislation. In November last year, the lack of a comprehensive understanding of the SESDA reform was a matter of some concern, particularly among employers. At this time written and verbal support for the legislation has now been received from an overwhelming majority of industry groups, including the existing industry training council network. This consultative process has led to a number of significant amendments to ensure that the SESDA structure and operating mechanisms are in keeping with industry requirements. They have served to strengthen significantly this crucial piece of State legislation and have overwhelming industry support.

I turn now to the specific structures of the SESDA legislation. The cornerstone of the SESDA framework is the network of industry employment and training councils - IETCs. These will be the driving force for industry's involvement in training reforms. In order to provide for consistency in training standards across industries and portability of skills for people throughout the State, a Skills Standards and Accreditation Board - SSAB - will be established. The coordinating body will be the authority, which will also have responsibility for setting policies and a vision for the future. As I said, industry employment and training councils will be the cornerstone of this legislation. The IETCs will have a pivotal role in developing training policy and will replace the present confusing system of multiple and overlapping councils, boards and committees with a coherent and integrated network. A draft list of 19 IETCs has been circulated throughout industry and this will be amended on the basis of submissions received from industry itself. Government representatives will present the submissions received on this matter to the authority. The Minister for Productivity and Labour Relations has already indicated his support for the establishment of IETCs in a number of additional industry sectors.

The SESDA network is ultimately dependent on IETCs to provide the intelligence necessary to develop policies that meet the needs of industry and the regions. The Bill is not prescriptive on IETC representation. It is impossible to describe the needs of each and every industry sector. Industry groups themselves will define their own needs and will resolve issues of representation, organisation and operation of councils according to their particular characteristics, and the industry's requirements. The councils are not formed by direction under the legislation, but rather through a process whereby industry groups seek registration as IETCs, based on very broad criteria and an agreement to the functions and objectives as set out in the Bill. This is without question a bottom-up approach, with the only role of the authority being to ensure that the basic criteria are met and that there is a coordinated approach to the overall functions of councils. However, checks and balances are prescribed within the Bill to affirm the pivotal role of IETCs in developing industry policy.

IETCs will have responsibility for establishing their industry's training priorities for the year and will have access to the Minister if they believe that their needs have not been adequately addressed by the authority. The IETCs will be tripartite bodies, with a legislative requirement to seek to reach a consensus before using the voting procedures prescribed. So that no-one can block or circumvent IETCs' decision making by not attending meetings, the voting procedures will apply only to those present. The configuration of IETCs, as indicated, will be a matter for the particular industry grouping to determine. The building and construction industry, for example, intends operating a structure which will involve three important subgroups - housing, commercial and civil engineering. The overall building and construction IETC will have the task of coordinating those training areas that overlap the three sectors and for developing the operational plans for the industry as a whole.

Not all IETCs will be formed immediately. In some areas, there will need to be a step-by-step process depending on the characteristics of the particular industry and it may take some

time before an industry grouping would seek registration as an IETC. The Bill provides for this flexibility and, where necessary, the authority can take on this role and establish interim committees to achieve this purpose.

The Bill, by allowing for other criteria for the establishment of IETCs, ensures that quite different arrangements can be described for any variation in organisation or representation required by an industry group. Criticisms of this open-endedness and lack of prescription have been made, but it is inappropriate to prepare legislation which pre-empts the consultation that must take place on the formation of the IETCs. The Bill also provides for the cancellation of the registration of an IETC. This is vital for two reasons: Firstly, IETCs must be relevant to the industry they represent and, secondly, IETCs must comply with their charter under the legislation.

The circumstances requiring cancellation of registration would be quite extraordinary and, indeed, an issue very much in the public domain. However, in the Government's consultations with industry, it became clear that there was a strong desire to ensure that these matters be subject to public and parliamentary scrutiny. These provisions are included in the Bill. Finally, it should be noted that IETCs have no power to intervene in enterprise matters unless requested to do so by the enterprise.

The second of the groupings under SESDA is the Skills Standards and Accreditation Board. This board is the quality control body of the SESDA network and will be responsible for standard setting and accreditation. The board's members will be appointed by the Minister, after consultation with employer organisations throughout the State and the Trades and Labor Council. The legislation requires that members appointed to the board have knowledge and expertise in skills formation. In making appointments to the board, the Minister for Productivity and Labour Relations has committed the Government to ensuring that all appointees meet the requirement of technical competence in accreditation and, further, have some practical experience in this specialist field. The technical nature of the board's membership is also reflected in the decision-making mechanisms described for it. The board will be required to make objective, quality assessments that do not involve policy or resourcing issues as exist for the authority and IETCs. Hence, the voting procedures are by a simple majority, reflecting the technical nature of decision making. A consensus approach would not be appropriate.

During the consultative process, some concerns were expressed on the need to ensure independence of the board while at the same time retaining integration within the SESDA network. This has now been achieved through the amendments made to the original Bill, particularly in relation to the appointment of members to the board. The Minister, and not the authority, is now responsible for these appointments. In addition, a number of submissions identified the need to specifically restrict the board to accreditation matters, but at the same time not to limit the board to matters referred to it by IETCs. The amendments made to the original Bill achieve both these objectives.

Occasions will arise when the board will need to consider programs submitted to it for credit recognition against other courses but without requiring formal accreditation. For example, the legislation provides the board with the capacity to consider a course offered interstate or overseas and to make a judgment about the relationship of this course to similar courses available in Western Australia. Likewise, the board has the capacity to make an assessment of the training and work experience an individual has obtained within an enterprise and credit this experience towards a formal qualification without requiring the enterprise to submit its training to formal accreditation processes. Thus the enterprise retains its autonomy, while the individual is able to ensure portability of skills.

The legislation also provides for the board to have the capacity to set general requirements for formal accreditation without necessarily being specific to a particular training course. For example, it is crucial that the board is able to set out clearly the minimum requirements for apprenticeship programs generally, so that these are known before the accreditation process for a specific apprenticeship course commences. It must be stressed that the board will have no role in accrediting enterprise training unless the enterprise, either directly or through the relevant IETC, submits a program to the board for accreditation. In carrying out its accreditation function, the Bill empowers the board to set up technical committees or panels of industry experts to undertake the evaluation of courses submitted to it.

I now move to the third arm of SESDA. The objects of the Act identify the fundamental necessity to increase productivity and competitiveness through raising the skills level of the State's work force. The objects also require planning for the State's future skill requirements. The coordinating body, the State Employment and Skills Development Authority, will create, for the first time in this State, a single forum for the development of training policy and a strategic view of skills formation. Members of the authority will be appointed by the Minister and will include nominees of employers, unions and State and Commonwealth Governments.

Particular employer groups and the union movement have a long history of involvement in training in this State. This tradition of tripartite involvement was recognised by the Court Government when it established the Industrial Training Act in 1975. This Act provides for nominations to the Industrial Training Advisory Council from the Confederation of Western Australian Industry, the Trades and Labor Council and the Government. It is worth noting that, unlike the SESDA Bill, no other employer group was given a place on the State's peak training council.

Membership of the authority has been perhaps the most contentious issue with employer groups. In particular, general employer concern has been expressed at the proposal for the Confederation of Western Australian Industry to act as the sole nominating body for all employers. The Bill has been amended to ensure wider representation by employer organisations on both the authority and the Skills Standards and Accreditation Board. In accordance with the Government's commitment to the principles of equal opportunity, the Government's appointments to the authority and the Skills Standards and Accreditation Board will be consistent with these principles.

The Minister has indicated to the Trades and Labor Council and industry generally that in making their nominations they also must ensure that these are representative of industry and the wider community's interests. In particular, the Trades and Labor Council will need to give consideration to unions that are not affiliated and also have regard for employees who are not members of a union. The fact remains that the industrial history of this State conclusively demonstrates that no significant initiative in either workplace reorganisation or skills development has been successfully implemented without consensus between employers, unions and Government. This legislation has been designed to secure this consensus.

The authority's members are required to make every effort to reach a consensus. However, it is not sufficient or realistic to expect that all decisions will be made by consensus, when consensus demands unanimous agreement. There will be times when an individual within a particular group disagrees with a decision of the authority. It would be most inappropriate for minority views to hold up the decision-making process. Voting arrangements will be tripartite, requiring each of the three elements of members to be in agreement. This is a fundamental principle of the legislation and provides the maximum opportunity for commitment by all parties to decisions made by the authority. While this complements consensus decision making, it provides an enormous incentive for the industrial partners to work actively towards a shared view of the issues to be addressed. Nevertheless, the legislation contains provisions which allow dissenting individuals to make their views known to Parliament in the authority's annual report.

In summary, the three components of the new training system are the industry employment and training councils, the Skills Standards and Accreditation Board and the authority. Each has a significant degree of autonomy while at the same time the legislation requires that each element works in close consultation. This collaboration is put into effect through the establishment of strategic and operational plans which are, in essence, the driving force of the legislation.

Strategic and Operational Plans: The authority will submit triennial strategic plans to the Minister for approval. Strategic plans will require the authority and, by definition, its constituent groups to think beyond immediate needs and plan for the future. Groups within the community that are identified as having special needs will also be identified within strategic plans. The authority's strategic plans will contain the broad and longer term views of the skills development needs of the State, while operational plans will set the authority's annual working objectives. In addition, the authority will be required to incorporate into the

planning function the target objectives and resource needs of industry as identified by each IETC. Where an IETC holds the view that its operational plans have not received adequate consideration, the legislation does not prevent direct appeal to the Minister.

Industry priorities for the State's training system will be established through strategic and operational plans. The operational plans are the working blueprint for the authority, SSAB and IETCs, and will be the basis for the authority's report to Parliament. It will be through the setting of objectives and operational procedures that the Minister will be directing the authority to report to the Parliament on all aspects of the operation of the SESDA network. The Minister for Productivity and Labour Relations has already given notice that, in addition to the specific annual reporting requirements within the legislation, there will be a requirement that the authority report on all of its operational activities. This will include any of the authority's or board's decisions taken under powers of delegation, registration of skills formation providers, variation of operational or strategic plans and the accreditation of skills formation.

Skills Formation Agencies: The Bill provides for accredited training to be provided by workplace or industry-based skills formation agencies in addition to traditional providers such as TAFE and the independent colleges. These agencies will be registered by the authority to provide a training course or a module of an accredited skills formation program. Once registered, skills formation agencies will be required to furnish information on the skills formation program for which they are registered. This requirement for providing information does not extend to any other activity of skills formation agencies, nor for their administrative or shareholding arrangements. It is important to note that there is no obligation on any organisation to register or accredit its own in-house training. This system of registered skills formation agencies increases the opportunity for the private sector to be involved in the provision of accredited training.

The legislation requires the authority to establish close links with major agencies such as the Departments of Employment and Training and Technical and Further Education, the Secondary Education Authority, higher education authorities and the National Training Board. To reinforce this interrelationship between the education sector and the authority's network, the Minister for Productivity and Labour Relations will be consulting with the Minister for Education to establish common representation across those sectors.

The Bill also requires that the recurrent funding of skills formation and labour market activities of Government organisations be subject to the scrutiny of the authority. This is designed to ensure that the State's programs retain relevance to industry's and the community's needs. The Government considers the evaluation process of these programs to be of fundamental importance in securing their intended purpose; that is, access to relevant training and employment. This evaluation and approval power does not include fee-for-service activities of the Department of Employment and Training, the Department of Technical and Further Education or the independent colleges. In addition, the legislation also provides the Minister with the opportunity to approve pilot programs within two State Budget years prior to submission to the authority for evaluation and approval.

In compliance with the recommendations of the Burt commission, the responsible Minister is empowered to issue instructions to the authority on the performance of any of its functions, other than accreditation of skills formation; registration of skills formation agencies; and the establishment of the industry employment and training council network. These exclusions are designed to ensure the integrity of the accreditation process and industry ownership of the establishment of IETCs. The authority is also required to provide any record of decision, or other information that is held by the authority, to the Minister when requested.

An annual report will be made to Parliament on each operational plan of the authority. This annual report will be made in accordance with the Financial Administration and Audit Act and will include a report on the financial administration of the SESDA network, achievement of objectives identified through performance indicators and all other operational decisions or policies having specific accountability requirements within the Bill. The Minister has indicated that a report will be required every two months during the first two years of the operation of the legislation on the activities of the authority, the Skills Standards and Accreditation Board and the industry employment and training councils. This will be stipulated within the strategic and operational plans and will culminate in a legislative

requirement for a comprehensive review of the operation of the Act, on or before the second anniversary of the establishment of the SESDA network. The operations of the authority will be subject to review every three years subsequent to that first review. This level of public accountability and parliamentary scrutiny is without precedent in this State.

SESDA will be funded directly from moneys appropriated by Parliament for that purpose. SESDA is not, and will not be, funded through any new tax or levy on industry. As members know, under this State's Constitution two separate Bills are required for the imposition of any such tax or levy.

In conclusion, the Bill establishing the State Employment and Skills Development Authority heralds very significant and positive changes for this State's industrial and economic future. The innovative tripartite structure that I have described will create, for the first time, a single State forum to address simultaneously skills development and employment. This mechanism for collaborative decision-making will effect positive changes in labour relations generally. In addition to the industrial partners, members from both sides of this Parliament participated in an overseas mission and its success was largely based on the ability of its members to transcend industrial and political barriers. This has set the tone for the working relationships that underpin the tripartite system of SESDA.

Hon N.F. Moore: Did you not read the minority report?

Hon KAY HALLAHAN: Has the member not improved?

This Parliament has the unique opportunity to make significant reform to vocational education and training in this State, which is absolutely essential if we are to sustain economic growth, maintain our industry's competitiveness and to continue to advance the social wellbeing of all Western Australians.

I commend the Bill to the House.

Debate adjourned, on motion by Hon N.F. Moore.

CASINO (BURSWOOD ISLAND) AGREEMENT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Graham Edwards (Minister for Police), read a first time.

Second Reading

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [10.35 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to ratify an agreement to amend the annual casino gaming licence fee payable by the Burswood Casino licensee to the Gaming Commission of Western Australia. The annual casino gaming licence fee is payable under the agreement scheduled to the Casino (Burswood Island) Agreement Act 1985. Currently, the licence fee is specified in the Casino (Burswood Island) Agreement Act to be $400 000 payable in quarterly instalments from the date the casino gaming licence was granted. The licence fee is CPI indexed. In this, the fifth year of the casino's operation, the trust is presently paying an annual casino gaming licence fee of approximately $546 000. An agreement has been reached with the manager and trustee of the Burswood property trust to increase the annual casino gaming licence fee to $1.4 million, and for such fee to continue to be CPI indexed and paid quarterly.

The agreement entered into between the parties to effect this amendment is set out in the second supplementary agreement which forms part of this Bill. The agreement provides for the new casino gaming licence fee to be payable from the date of commissioning the extension to the Burswood Casino, which was commissioned in February 1990. Currently, the costs of regulating the casino by the Gaming Commission of Western Australia are funded from the existing casino gaming licence fee, as well as contributions from Consolidated Revenue Fund. The new licence fee will fully cover the costs of regulating the casino and thus result in significant savings to the taxpayers of this State.

I commend the Bill to the House.

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

ACTS AMENDMENT (PETROLEUM) BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.38 pm]: I move -

That the Bill be now read a second time.

Closely associated with this Bill are two other Bills; namely, the Petroleum (Submerged Lands) Registration Fees Act Amendment Bill 1989 and the Petroleum Registration Fees Act Amendment Bill 1989. Therefore, it would be appropriate and convenient to address my remarks to all three Bills, following which I will introduce the other two separately. These Bills seek to amend the Petroleum Act 1967 and its associated Petroleum Registration Fees Act 1967, the Petroleum Pipelines Act 1969 and the Petroleum (Submerged Lands) Act 1982, together with its associated Petroleum (Submerged Lands) Registration Fees Act 1982.

The amendments primarily adopt various improvements made in recent years to the petroleum mining code applying to the Commonwealth's adjacent offshore area. Maintaining this commonality as far as practicable between the petroleum legislation applying to the Commonwealth's submerged lands area and that of the States in their territorial seas is an important feature of the 1979 offshore constitutional settlement between the Commonwealth and the States. Western Australia has long appreciated the benefits of maintaining the common mining code, which we have adopted also for our onshore areas. It will be readily appreciated that a common code provides for easier administration as well as providing a consistent set of rules for the petroleum industry to observe. This is not to say that all of the Commonwealth amendments have been accepted, and where it is considered that these changes are not appropriate they have not been adopted or have been modified to suit Western Australian requirements.

The amendments provide for -

provision for explorers to retain tenure over presently non-commercial discoveries by way of retention leases;

streamlining the registration procedure for legal documents concerning interests in titles and consequential amendments to the fees payable on registration;

improving the administrative processes for the making of regulations and the service of directions which control petroleum exploration and development operations;

the extension and scope of access and special prospecting authorities to facilitate increased seismic acquisition;

the earlier release of basic data and interpretive information supplied by titleholders;

removal of various minor inconsistencies in the legislation;

inspection of a precis of a registered instrument, rather than the instrument itself, so as to preserve confidentiality of information between parties;

ability for minor areas in the register to be corrected;

service of documents on two or more titleholders to be made to a common address;

provision for production of petroleum to occur through a surface installation outside of a production licence by way of a deviated well;

deletion of administratively difficult "over the counter" releases of land for exploration purposes;

nomination of blocks as a location - the forerunner of a production licence or retention lease - to conform to the boundaries of a field rather than the present artificial nine block square;

fees and securities being relocated into regulations so as to facilitate ease of adjustment from time to time;

changes to the Petroleum Registration Fees Acts to reflect amendments in the registration provisions of the principal legislation;

improvements to the Petroleum Pipelines Act involving delegation of duties, definition of pipelines, registration provisions and the address for service of notices so as to reflect the amendments made in the other petroleum legislation;

peripheral facilities, particularly of a minor processing nature, being adopted into an onshore pipeline;

pipelines in the internal waters areas of the State, including all of the Barrow Island loading line, being brought under the jurisdiction of the Petroleum (Submerged Lands) Act of WA;

the "Crown land" definition in the Petroleum Act being clarified by including reference to the submerged lands between the high water mark and the baseline. This definition has also been expanded to align with the Crown land definition under the Mining Act; and

the creation of an application fee on special prospecting authorities to cover administrative costs.

The amendments proposed in these Bills have been designed to enhance the administration of petroleum activities. Many of them will also provide further encouragement for the exploration and development of our petroleum resources. I shall elaborate further on the major aspects of the proposed improvements.

The first of these new provisions is that of the retention lease which provides a permittee discovering petroleum, which is currently non-commercial, but which is expected to become commercial within 15 years, with some security of tenure over that discovery. Upon an applicant satisfying the Government that a discovery is not presently commercially viable but is likely to become so within 15 years, a five year lease is granted. Given the uncertainties concerning petroleum prices, marketing opportunities and technological change, a 15 year assessment period should ensure that discoveries with genuine development potential are secured to the explorer.

The grant of a lease may be refused and if this is for the reason that the discovery is presently commercial the permittee may apply for a production licence. Should refusal be on the grounds that discovery is not likely to be commercially viable within 15 years, the blocks concerned will remain part of the exploration permit. During the term of the lease the lessee may be asked to re-evaluate the commercial viability. If following re-evaluation it is considered that the field is commercial, the lease may be cancelled forcing the lessee to take up a production licence or relinquish the area. Renewal of the lease is possible providing the discovery is still not commercial but likely to be so within the next 15 years and providing that the lessee has fulfilled the conditions of the original lease.

The Bill also revises the registration provisions of the petroleum legislation so as to clarify the process of registration of transfers and dealings affecting petroleum titles. The status of transfers and dealings which have not been lodged for registration is clarified and provision is made to keep the register as up to date as possible by requiring that applications for approval of a transfer or dealing are lodged within three months of the execution of the instrument. Applications lodged outside this period will not be approved unless special circumstances exist.

These provisions also encompass an amended scheme of arrangements for registration of specified dealings and clarify the type of dealings which are to be registered to give them effect at law. Dealings which are covered by the amendments are those establishing the initial interests of the titleholders; any subsequent assignment of those interests, including a charge over an interest; dealings giving rise to an assignment of a right; dealings between titleholders in respect of the mode of operations and the rights and obligations of each party; dealings creating or assigning an entitlement to a share of production or revenue from a title, such as an override royalty agreement; and dealings creating or assigning a right or an option to enter into a dealing and a dealing varying or terminating any of the abovementioned arrangements.

Appropriate amendments have been made to the incorporated registration fees Acts which clarify the fees payable upon applications to register transfers or dealings in titles. They ensure that excessive fees cannot be charged in relation to the series of agreements which give effect to what amounts to be a single transaction.

Amendments to improve the administrative processes for the making of regulations and the service of directions are included in this Bill. The new provisions will facilitate the service of documents, enable codes of practice and standards to be adopted as they exist from time to time and enable the directions and regulations to control certain activities by making them subject to the consent or approval of specified persons. A direction may apply to a titleholder and also to other persons specified in the direction. These persons include those having a contractual relationship with the titleholder. The responsibility for ensuring that all relevant persons are aware of the directions falls on the titleholder. Where the titleholder fails to take appropriate action to make relevant persons aware of a direction, a penalty may be imposed. To safeguard the rights of persons to whom a direction applies, it is provided that they may not be convicted of an offence for failing to comply with a direction unless the prosecution can prove that they knew, or could reasonably be expected to have known, of the existence of the direction.

The Bill also extends the scope of access and special prospecting authorities and facilitates their grant to exploration companies. The extended access authority provisions will enable the holder of a petroleum title in another jurisdiction - for example, the Commonwealth adjacent area or another State - to have access into Western Australian areas for the purpose of tying into some known geophysical control. This is a reciprocal arrangement and will be to the betterment of petroleum exploration Australia-wide. The scope of special prospecting authorities has been extended to allow them to be granted over any vacant area, and more than one person may be granted such an authority over the same area. This extension will promote increased seismic acquisition particularly on a speculative basis by commercial companies.

The Amendment Bill also provides for the earlier release of basic data and interpretive information supplied by titleholders to Government, subject to consultation with titleholders on the release of interpretive information, and will help further exploration activity. Information contained in, or accompanying an application for the grant or renewal of a title, may be released after the grant of the title, unless it is confidential or of a financial nature or covers details of the technical capability of the applicants. Further, factual data and information - that is, data and information which are not conclusions or opinions obtained about a permit or lease area - may be released after two years. The current provisions applying to data and information about permits, provide for five years' confidentiality. When a permit, lease or licence is surrendered, cancelled, determined or expires, factual information will be available for release immediately. Interpretive information - that is, a conclusion of an opinion of a confidential nature - may be released after five years subject to a number of conditions. Such information was previously not available for release at any time.

A further important provision of the Bill, and one which is not yet included in the Commonwealth legislation, is the ability to produce petroleum through a wellhead outside a production licence area. In view of technological advances made in drilling deviated wells it is now appropriate for production to be allowed through an installation situated outside a production licence area. It was considered that production under these circumstances should be accommodated in the interests of less costly development and for safety and environmental reasons. Presently the legislation provides that a person shall not carry on operations for the recovery of petroleum in an adjacent area except under and in accordance with a licence. This is further complicated where two legislative regimes are involved, a situation which is likely to be the norm in deviated drilling from an island into an offshore structure.

In this regard any amendments to the legislation would need to be reciprocal between the onshore legislation and our submerged lands legislation. While such a provision would also be advantageous to the Commonwealth legislation, the major circumstances for its application - that is, the drilling of a deviated well from an onshore area into the submerged lands area - would not apply to the Commonwealth because of the breadth of the State's territorial sea. It is considered that the most appropriate way of ensuring the legality of

recovery from outside the area of a production licence would be by expanding the access authority provisions of the legislation. The existing access authority provisions require very little amendment. Presently the holder of an access authority is prevented from drilling a well and this is proposed to be modified so that a deviation well into an adjacent petroleum title, held by the same party, be allowed. This matter has been discussed by the Australian Minerals and Energy Council's subcommittee on offshore petroleum legislation and although, as previously mentioned, its application in the Commonwealth area is not as great, the committee agreed on the benefits of such a system. There is an immediate need for application of this proposal in Western Australia and it is, therefore, appropriate that our legislation be amended despite the fact that similar amendments may not be made to the Commonwealth's Submerged Lands Code.

Another major amendment is that concerning the declaration of a location, which is a means of setting aside areas in which discoveries have occurred for the purpose of taking up a production licence or retention lease. Under the current legislation, a location can be declared over a petroleum discovery in an exploration permit only if the location contains a block in which an exploratory well has been drilled and from which petroleum has been recovered. This has led to the situation where a discovery which straddles a permit boundary, and for which only one exploratory well has been drilled, cannot be fully developed. This arises because a location can only be declared in the permit in which the exploratory well has been drilled and hence, subsequent production licences or retention leases cannot be granted over the whole discovery. While the problem could be overcome by drilling a second exploratory well in the other permit, this practice may not be justified economically or technically.

A further difficulty with the current legislation is that the size of a location is generally set at nine blocks. In many instances this size is much larger than necessary to cover the discovery, though on occasions the nine block location has been too small to cover some very large gas discoveries. To overcome these difficulties the Bill amends the current legislation to allow the declaration of a location over any block from which it is satisfied petroleum can be recovered. It also enables the declaration of a location over as many blocks as is necessary to cover the discovery. The Bill also provides for the expansion or reduction of a location area if further information indicates a change in the extent of the petroleum discovery.

A further feature of the Bill is that it removes fees and securities from the Acts and relocates them into regulations. This will enable the level of fees to be more readily adjusted to align with current monetary values. It is also proposed that the present 90 per cent refund of the fee on an unsuccessful application be abandoned, the rationale being that the cost of processing an unsuccessful application is just as great as processing the successful bid.

Finally, various amendments to the pipeline licensing procedures have been proposed. There is a need to bring some peripheral facilities, particularly of a minor processing nature, under the definition of a pipeline as circumstances require. This could be achieved by having certain facilities connected to a particular pipeline being declared as part of that pipeline for the purposes of the Petroleum Pipelines Act.

It has also been recognised that a need exists for an adjacent area to be defined specifically for submarine pipelines so that licences may continue to be granted in respect of pipelines pursuant to the Western Australian Petroleum (Submerged Lands) Act. At present it is possible for submarine pipelines in the internal waters area of the State to be licensed under either the Western Australian Petroleum (Submerged Lands) Act or the Petroleum Pipelines Act, depending on whether the area concerned is held under a permit subsisting from the Commonwealth Petroleum (Submerged Lands) Act or a continuation of that title. It is also possible that a single pipeline may need to be licensed under both Acts and that existing pipelines under the Western Australian Petroleum (Submerged Lands) Act may, in the future, need to be converted in whole, or in part, to a pipeline under the Petroleum Pipelines Act depending upon the evolving status of the land. This is an haphazard situation which can be rectified by bringing the internal waters areas under the provisions of the Western Australian Petroleum (Submerged Lands) Act insofar as pipelines are concerned. I commend these three Bills to the House.

Debate adjourned, on motion by Hon N.F. Moore.

PETROLEUM (REGISTRATION FEES) AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.53 pm]: I move -

That the Bill be now read a second time.

The details of the amendments contained in this Bill have been explained in the course of the second reading of the Acts Amendment (Petroleum) Bill 1989. I commend this Bill to the House.

Debate adjourned, on motion by Hon N.F. Moore.

PETROLEUM (SUBMERGED LANDS) REGISTRATION FEES AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.54 pm]: I move -

That the Bill be now read a second time.

The details of the amendments contained in this Bill have been explained in the course of the second reading of the Acts Amendment (Petroleum) Bill 1989. I commend this Bill to the House.

Debate adjourned, on motion by Hon N.F. Moore.

MARKETING OF POTATOES AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Graham Edwards (Minister for Police), read a first time.

Second Reading

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [10.55 pm]: I move -

That the Bill be now read a second time.

The Western Australian Potato Marketing Authority is required by section 66 of the Financial Administration and Audit Act to prepare an annual report on a financial year ending on 30 June, unless a separate Statute provides otherwise. Since the Financial Administration and Audit Act was applied to the authority, two annual reports - in 1986-87 and 1987-88 - have been submitted for audit. On both occasions the authority has followed its traditional practice of making its financial year correspond with the activities of its industry. For this purpose the financial year has been terminated on 30 September, contrary to the Act. This is because the potato growing season and consequent pooling arrangements operate from October to September each year. The start of the season is based on the delivery of the new season's potatoes, which are not regularly available until October.

Given the nature of the industry's arrangements, it is sensible and desirable that the authority's financial year not end on 30 June. To allow the authority to report on a financial year different from one ending on 30 June, it is necessary for the Marketing of Potatoes Act to be amended. The Bill serves this purpose and no other. It provides that the financial year of the authority shall end on 30 September by a simple amendment to section 37 of the Marketing of Potatoes Act. I commend the Bill to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.56 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Mickelberg, Mr Raymond - Sentencing

HON PETER FOSS (East Metropolitan) [10.57 pm]: I raised in the House the other day the case of Mr Raymond Mickelberg. One of the unfortunate things about this case is that some of the aspects relating to sentencing are clouded by the more dramatic aspects which involve allegations relating to police, fingerprints, and the way evidence has been treated. It would probably help if we looked particularly at the question of sentencing - what the sentence was and how it fits in with the present sentencing trends. I do not wish in any way to minimise the crime of which the Mickelberg brothers were convicted. I will read from the transcript of the sentencing in March 1983 where His Honour Judge Heenan, as he then was, referred to the offences committed. There were eight counts: One count alleged conspiracy to defraud the director of the Mint, two related to breaking and entering premises of the estate agencies, two related to the arson committed on those premises and the remaining three related to the false pretences which resulted in the exchange of the gold for the cheques. Most members will recall the circumstances which led to those eight counts. In sentencing the Mickelbergs, Mr Justice Heenan said -

> To begin with, the gold was of great value; so great that in this country none but the very wealthy could ever expect to have such an asset. Further, financial loss was sustained not only by the director of the Perth Mint or, more accurately I suppose, by the institutions or persons who might be called upon to indemnify him, but also by those whose property was deliberately destroyed by fire. Again, the way in which the enterprise was carried out must have caused considerable shock and anxiety, not only to the staff of the Mint but also to many other innocent persons who were affected by what you did. Again, the swindle was planned well in advance and involved careful organisation and attention to detail.

Finally, and this is a very important part of the sentencing, the judge said -

> Finally, none of you can claim remorse as a mitigating factor and none of you has co-operated to the extent of returning the gold or of telling the authorities where it is. I must assume that you expect on your release to have access to the gold or to the proceeds of its sale. Clearly, you must be denied that opportunity for a very long time.

He then proceeded to sentence Ray Mickelberg, and the starkness of the sentence brings home what he did to carry that out. He continued -

> In respect of the count of conspiracy you are sentenced to a term of six years imprisonment with hard labour; in respect of each count of breaking and entering you are sentenced to a term of two years imprisonment with hard labour; in respect of each count of arson you are sentenced to a term of eight years imprisonment with hard labour; in respect of each count of false pretences you are sentenced to a term of two years imprisonment with hard labour. I direct that the four terms imposed in respect of the counts of breaking and entering and the counts of arson shall take effect concurrently with each other, otherwise, all of the terms shall take effect cumulatively upon each other. Thus, in your case, I have imposed a total of 20 years imprisonment with hard labour. I fix a minimum term of 12 years during which you are not eligible for release on parole. Stand down.

Twenty years imprisonment with hard labour, with a minimum of 12 years, is a long sentence. One of the reasons for that sentence was the fact that they had not handed back the gold. A rather harsh but very real part of sentencing is that people should be denied the opportunity of virtually earning their money by spending a certain amount of time in gaol and then having the freedom to spend it. Since that time nearly all of the gold has been returned, so to the extent that the sentence could be justified on that basis - and it is an extremely harsh sentence - that justification is long since gone.

This man has three children, the youngest of whom was two at the time he was sent to gaol, and the eldest of whom is now 14. Hon Reg Davies has reminded me that this man had a

very good service record. In many ways, apart from the one aspect of his keeping the gold, this crime was not one of the most heinous crimes that has ever been committed. I am pleased to say that the Royal prerogative of mercy has to some extent been used and that the head sentence has been reduced from 20 years to 16 years. Unfortunately, the non-parole period has only been reduced commensurately to nine and a half years. Under our present automatic system, if he had been sent to gaol for 16 years that would really be equivalent to an eight year minimum sentence and he would now be out of gaol.

The Attorney General has said that one of the reasons for using the Royal prerogative was to bring the sentence into line with current trends in sentencing. I will be asking the House if I may incorporate in *Hansard* a table which has been prepared of some of the current trends in sentencing. The table refers to seven instances of murder, in which the longest sentence was 11 years and the shortest was four years and nine months. A man sentenced for four rapes; 16 years maximum, eight years minimum. Armed robbery and murder; five and a half years. Armed robbery and murder; six and a half years. Grievous bodily harm, where a man cut off another man's leg using a car; one year. Four rapes, and multiple breaking and entering; 16 years maximum, eight years minimum. Five rapes; 16 years maximum, six years minimum. Thirty seven robberies; 15 years maximum, eight years minimum. Sexual assault on a three year old boy and a four year old girl; four years maximum, one year minimum. Grievous bodily harm, breaking and entering at night; two years and three months maximum, 18 months minimum. Armed robbery with actual violence, and unlawful wounding; 10 years maximum, six years and eight months minimum. La Rosa, who swindled $30 million from the R & I Bank, received a maximum sentence of five years, and 12 months minimum. None of the persons listed here were sentenced for 20 years, and very few served the equivalent of the time that Raymond Mickelberg's sentence has been reduced to.

I believe what this man is really seen to be most guilty of is saying nasty things about the police. I believe there is a concern that, were he allowed to go free, the police would be upset because that might be seen as in some way suggesting that what he was saying about the police was true. This man could be let out of prison without the slightest indication that any credit had been given to his story. I believe he has been harshly punished. He should not be in gaol any longer. The penalty that he has been left with now is far out of any form of correspondence to what is now currently being done and, more importantly, is far out of any correspondence with what is now regarded as a maximum term.

Hon Fred McKenzie: Who was the judge in the Mickelberg case, and was he the presiding judge in any of the other cases that you have mentioned?

Hon PETER FOSS: Judge Heenan was the presiding judge, but it should not make any difference who the judge was.

Another point that I have raised previously is that when the last appeal was heard by the High Court, two of the judges with whom the rest agreed queried whether it was possible for the Mickelberg brothers to be convicted both of conspiracy to defraud and of the actual theft. They had the view that they could not be, but that matter could not be dealt with as it had not been raised on appeal. The reason was that the matter had been raised on an earlier appeal but had been dismissed by the judge as not being correct. The court was of the view that they could not be convicted of the two offences concurrently. We have to get away from this idea that we cannot let this man out because he may say the wrong thing about the police. To keep him in gaol is to do the wrong thing by him. It is time we faced up to that and let him out.

HON J.M. BERINSON (North Metropolitan - Attorney General) [11.06 pm]: The Mickelberg case has attracted a lot of attention over many years. It has been the subject of the most intensive and wide ranging inquiries both as to the facts and the law, and every single argument which has been raised on any issue related to this case has been thoroughly explored and has been the subject of the closest professional attention and advice.

Many of our judges have commented that sentencing is by far the most difficult part of their duties. That is right, and would be acknowledged by anyone who has any contact at all with the legal system. Tonight Mr Foss read out a list of other convictions and sentences, with a view to demonstrating that the sentence imposed in the particular case, in which the member has some interest, was too severe. I could produce whole files of papers containing submissions to suggest that convictions and sentences imposed in certain cases should be

interpreted as meaning that the convictions in other cases about which correspondents have been interested have been too light. The fact is that we cannot pluck out lists of convictions and sentences to suit our purposes and end up with anything persuasive at all. All we can end up with is a list of convictions and sentences.

We do not have before us all the information that the sentencing judge has. We do not have the benefit of the facts in relation to the offence and the personal circumstances of the offender, as the sentencing judge has before him. All we have is the black and white list which says, "Here are some convictions. Here are some sentences. They do not seem to match up. Does that not mean the whole system is wrong?" The answer to that is no, the system is not wrong but it is based on human factors and on questions of judgment and on community standards, which do change from time to time.

Mr Foss is quite right in saying that the standards applying to sentences have changed over the period since Mr Mickelberg was first convicted. I acknowledged that myself at the time that I indicated that the Royal prerogative had been exercised in his favour; but there are limits to the extent to which one can take a change in sentencing attitudes and apply that to sentences which have been imposed in earlier times.

I believe no-one, and that includes Mr Foss, is suggesting that at, say, periodic three year intervals we should look through the lists of prisoners to determine whether the sentences applied at the time they were first convicted would be applied today. There are limits as to how far this can be taken. I, for one, have taken a great deal of criticism for supporting the very trends which have reduced the emphasis on imprisonment in many respects over the period about which we are talking. I do not resile from the position that I have taken but there are limits to how far that can go.

Hon Peter Foss: We accept that, but what about the gold's having been returned.

Hon J.M. BERINSON: In the case which Mr Foss has raised, the fact is that the sentence was a severe one but it was one applied in the proper exercise of the discretion of the court. The overwhelming principle that one must defend in this situation is the need for judicial independence. The sentence was appealed first to the Court of Criminal Appeal and affirmed.

Hon Peter Foss interjected.

Hon J.M. BERINSON: Mr Foss will accept that neither he nor I are talking about the merits of the case or the various appeal procedures which were engaged in, in that respect. I am talking at the moment on the same restricted basis as Mr Foss did; namely, the question of the sentence. The fact is that sentence was applied in the proper exercise of the discretion of the sentencing judge.

Hon Peter Foss: But the gold had not been returned.

Hon J.M. BERINSON: The sentence was appealed to the Court of Criminal Appeal and upheld; the sentence was further appealed to the High Court and upheld.

Hon Peter Foss: I did not even say it was wrong in the first instance; do not misrepresent me.

The PRESIDENT: Order!

Hon J.M. BERINSON: At the end of the day what does one do about that? In the seven years I have held my present portfolios the number of cases in which the Royal prerogative has been exercised with the object of reducing a sentence would be literally a handful - maybe two handfuls at most.

Hon Peter Foss: But what about the gold?

The PRESIDENT: Order!

Hon J.M. BERINSON: In almost every such case, the reasons have been very special reasons of a compassionate nature going to terminal illness and matters of that kind. The Mickelberg case is quite distinctive in not coming within any of those categories; it is a unique case over this period of the Royal prerogative being exercised in order to reduce a sentence.

I do not know how many times I have sat here and batted against the cries of the Opposition complaining that sentences were too short. I remember a case when Hon Gordon Masters

was Leader of the Opposition and we were discussing the case of Ronald Joseph Dodd, a person convicted for a crime where the average length of imprisonment before parole had been six years. He had been in prison for nine years. We went back and forth arguing about whether parole which had been recommended by the Parole Board should have been allowed to proceed. At one point, in desperation, I said to Mr Masters, "If you say that release at this point was wrong, how long do you say the prisoner should have been held in prison?" Quick as a shot, Gordon Masters replied, "Longer." The answer by Mr Foss is "shorter".

We have a case where uniquely the Royal prerogative has been exercised in recognition of a whole range of factors, and now Hon Peter Foss says that the sentence has been made shorter but it should have been made shorter still. I am satisfied that every single aspect, going both to the merits of the case and the length of sentence, have been absolutely exhaustively examined and that, to the extent that relief could reasonably have been provided to Mr Mickelberg, it has been.

Point of Order

Hon E.J. CHARLTON: Mr President, under Standing Orders are only two persons allowed to speak?

The PRESIDENT: No.

Hon E.J. CHARLTON: Can I speak?

The PRESIDENT: No, you cannot. There can be more than two speakers, except that the Minister has closed the debate.

Debate Resumed

Question put and passed.

House adjourned at 11.16 pm

QUESTIONS ON NOTICE

BREAST CANCER - MOBILE BREAST CANCER SCREENING UNIT

433. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for Health:

(1) Has the Government approved a mobile breast cancer screening unit for the north of Western Australia?

(2) Will it be built in Western Australia?

(3) When will the unit be operational?

(4) Is the Minister aware that the Breast Cancer Action Group in Port Hedland has raised an substantial amount of money to put towards this unit?

(5) Is it a fact that because of a grant from the Federal Government that money raised by the community is not needed?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) Yes.

(2) Tenders will be called for the construction of the mobile breast cancer screening unit. If the most suitable tender is from a Western Australian firm, then the mobile unit will be constructed in this State.

(3) In the first half of 1991.

(4) Yes.

(5) No. It is anticipated that the cost of the mobile breast cancer screening unit will exceed the amount allocated for this purpose by the Commonwealth and I am advised that the Breast Cancer Action Group is already discussing with the Health Department how the money raised by the group may be best used.

FARRELL, MR - GOVERNMENT CONTRACTS
Coolgardie Hospital Contract

454. Hon N.F. MOORE to the Minister for Planning representing the Minister for Works:

I refer the Minister to the answer given on 7 June 1990 to question on notice 323 and ask -

(1) Has the BMA experienced any problems relating to Mr Farrell's alleged non-payment or late payment of subcontractors and/or suppliers in the past?

(2) If so, was any action taken with respect to the awarding of Government contracts to Mr Farrell?

(3) Are credit checks into tenderers undertaken before Government contracts are awarded?

(4) If so, did this occur with respect to the Coolgardie Hospital contract?

(5) If not, why not?

(6) Has Mr Farrell been receiving progress payments for the Coolgardie Hospital contract and, if so, are these still being paid?

(7) Is it likely that there will be a cost overrun on the Coolgardie Hospital contract and when is it expected that the work will be completed?

(8) Are any problems being experienced with the two other Government contracts (Wagin and Laverton) that have been awarded to Mr Farrell?

(9) Does the BMA make provision to assist subcontractors and/or suppliers who are not paid for their goods or services by a prime contractor who has been awarded a Government contract?

(10) Is it intended that the BMA take over the Coolgardie Hospital project and finish the work using BMA day labour?

(11) If not, how is it intended that the project will be completed?

Hon KAY HALLAHAN replied:

The Minister for Works has provided the following reply -

(1) Problems have been experienced with a business in which Mr Farrell was a partner.

(2)-(4) Yes.

(5) Not applicable.

(6) Yes, he has been receiving progress payments. Further payments to Farrell are currently suspended.

(7) Yes, there is likely to be a cost overrun on Coolgardie Hospital. Expected completion date cannot be established at this stage.

(8) Yes.

(9)-(10) No.

(11) If it becomes necessary to take over the works, local contracting resources are favoured for the completion of the project.

HOSPITALS - KUNUNURRA HOSPITAL
RFDS Medical Evacuation Request

456. Hon N.F. MOORE to the Minister for Planning representing the Minister for Health:

(1) Was a request made by the Kununurra Hospital to the RFDS for a medical evacuation from Kununurra to Darwin on 24 September 1989?

(2) Was the RFDS able to meet this request and, if not, why not?

(3) Is it correct that the Derby based aircraft which could have met this request was involved in a priority one flight to Port Hedland at the time of the request?

(4) If so, what were the circumstances relating to this flight and who authorised it?

(5) Is it correct that the patient for whom the Kununurra to Darwin evacuation was requested was eventually transferred by the Northern Territory Air Medical Service?

(6) If so, what was the cost of this service and who paid the account?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) No.

(2)-(6) Not applicable.

SCHOOLS - NEW PEMBERTON SCHOOL
Imported Timber

459. Hon MURRAY MONTGOMERY to the Minister for Planning representing the Minister for Works:

(1) Is it a fact that timber for the new Pemberton school is to be imported from overseas?

(2) If the answer is yes, why is local timber not being used?

(3) What is the estimated cost of the imported timber?

(4) Was the local timber industry given the opportunity to supply the timber?

(5) If the answer is yes, how?

(6) Whose decision was it to use imported timber instead of the local product?

Hon KAY HALLAHAN replied:

The Minister for Works has provided the following reply -

(1) A combination of local and imported timber has been specified for the school. Approximately 35 per cent is imported timber.

(2) Local timber will be used extensively for light trusses, ceiling linings, joinery and other structural timberwork. Imported timber has been specified for exposed heavy trusses and for posts and beams due to -

its superior stability and lesser tendency to split and warp than local hardwood when using larger sections;

its lower cost to supply and work than local hardwood;

the difficulty in obtaining large sections of local softwood; and

the potential delays to the contract due to the need to kiln dry purpose cut large sections of local softwood.

(3) $44 000.

(4) Yes.

(5) The architect was prepared to substitute local hardwood for the specified imported timber. However, Bunnings Forest Products Pty Ltd was not prepared to guarantee to replace timbers found to be defective. Local firms are also able to supply the specified imported timber.

(6) The decision to use imported timber was made by the commissioned architect, Willcox and Associates Pty Ltd with the knowledge of the Building Management Authority.

PORTS AND HARBOURS - VICTORIA QUAY REDEVELOPMENT
Shipping Operations Transfer

461. Hon GEORGE CASH to the Minister for Police representing the Minister for Transport:

Further to my earlier questions calling for the redevelopment of Victoria Quay, will the Minister confirm with regard to shipping operations within the inner harbour that the transfer of the current operations on Victoria Quay to North Quay would not cause any undue impact on the total level of service able to be provided by the inner harbour?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

There are no proposals before the Government to transfer the current operations on Victoria Quay to North Quay.

PORTS AND HARBOURS - ROUS HEAD BOAT HARBOUR
Land Leases

462. Hon GEORGE CASH to the Minister for Police representing the Minister for Transport:

(1) Will the Minister advise if the leasing rate of the Rous Head development land has met with earlier expectations on which the recent dredging program has been justified?

(2) Has the disappointingly low level of interest in the Rous Head development land placed any additional financial burden on the Fremantle Port Authority?

(3) If so, will the Minister advise of the additional burden and the likely impact on increased charges?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

(1) Initial forecasts recognised the lead time involved with rental of Rous Head Development. Current leasing rates are in accordance with expectations.

(2)-(3)
Not applicable.

RAILWAYS - REGENERATIVE BREAKING SYSTEM
Cost and Viability Evaluation - Northern Suburbs Rail Link

477. Hon GEORGE CASH to the Minister for Police representing the Minister for Transport:

Will the Minister provide a copy of the evaluation of the costs and viability of a regenerative breaking system, which was done for the proposed northern suburbs rail link?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

It is essential that equipment be compatible with the other sections of the suburban rail system and therefore no evaluation of the regenerative braking system has been carried out specifically for the proposed northern suburbs rail link. The considerations in respect of the use of regenerative braking on the existing rail system have been answered in response to earlier questions.

HOSPITALS - GRAYLANDS HOSPITAL
Criminally Insane Facility

482. Hon P.G. PENDAL to the Minister for Planning representing the Minister for Health:

(1) Is it correct that a facility for criminally insane people is being developed as part of the Graylands Hospital?

(2) If so, what form will this facility take?

(3) What is the rationale for housing criminally insane people at the Graylands Hospital instead of developing a secure facility for them elsewhere, away from residential areas?

(4) Is the Minister aware of the great concern of residents who live in the vicinity of the hospital about their safety in regard to criminally insane people who may escape from the hospital, especially as the hospital is so close to two schools?

(5) If the proposal proceeds, what safeguards will operate to protect local residents from criminally insane people who may find their way out of the hospital?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) A new secure facility for mentally disordered offenders is being developed at Graylands Hospital.

(2) The new unit will be a separate, purpose built, secure facility which will accommodate 30 patients.

(3) Mentally disordered offenders have been receiving treatment at Graylands Hospital (and formerly Claremont Hospital) for very many years. It is the Government's opinion that the benefits which this group of patients have obtained over these years from treatment in a hospital setting need to be maintained with more assured security.

(4) Yes. I am aware that some residents hold concerns about the new unit. These need to be balanced against the needs of the patients to be

treated in a setting which is most likely to enhance their prospects for successful rehabilitation.

(5) The level of security for the new unit will be such as to ensure the safety and security of the community in the most effective but unobtrusive way possible.

QUESTIONS WITHOUT NOTICE

JARMAN, MR HARRY - PUBLIC SERVICE COMMISSION INQUIRY
Totalisator Agency Board Subsidiary Companies

369. Hon GEORGE CASH to the Minister for Police representing the Minister for Racing and Gaming:

Some notice of this question has been given.

(1) When did the Minister order the Public Service Commission to inquire into Mr Harry Jarman's links with Totalisator Agency Board offshoots Fair Play Newspaper and Printing Works Pty Ltd and Dynamic Business Resources Pty Ltd?

(2) Why was this inquiry ordered?

Hon GRAHAM EDWARDS replied:

The following answer has been supplied by the Minister for Racing and Gaming -

(1)-(2)

The Public Service Commissioner was requested on 23 January 1990 to advise on matters relating to subsidiary companies of the TAB following allegations of conflicts of interests.

JARMAN, MR HARRY - PUBLIC SERVICE COMMISSION INQUIRY
Totalisator Agency Board Subsidiary Companies

370. Hon GEORGE CASH to the Minister for Police representing the Minister for Racing and Gaming:

Some notice of this question has been given.

(1) When did the Minister first hear allegations about possible conflicts of interest by Mr Jarman, former Totalisator Agency Board Chairman, which encouraged her to order an inquiry by the Public Service Commission into Mr Jarman's business links with the TAB?

(2) What action did the Minister take to confirm the allegations prior to ordering the inquiry?

(3) What was the basis of the allegations?

Hon GRAHAM EDWARDS replied:

The following answer has been supplied by the Minister for Racing and Gaming -

(1) I was made aware that the Public Service Commissioner had been asked by the former Minister for Racing and Gaming to advise on matters relating to a possible conflict of interest with subsidiary Totalisator Agency Board companies on assuming the portfolio in February 1990.

(2) I have asked the Public Service Commissioner to investigate allegations of Mr Jarman's participation in International Totalizator Systems (Australia) Pty Ltd. His involvement in this company was made known to me by media reports in late June 1990, and in those reports Mr Jarman confirmed he had held a position in the company.

(3) The basis of the allegations was that there may have been a conflict of

interest due to Mr Jarman's involvement in International Totalizator Systems (Australia) Pty Ltd and public positions he held at the same time.

JARMAN, MR HARRY - PUBLIC SERVICE COMMISSION INQUIRY
Former Police Minister's Awareness

371. Hon GEORGE CASH to the Minister for Police representing the Minister for Racing and Gaming:

Some notice of this question has been given.

(1) Was the former Minister made aware of the allegations against the former Chairman of the Totalisator Agency Board which are currently being investigated?

(2) If so, when was the previous Minister made aware of these allegations and what action did the previous Minister take in respect of these allegations?

Hon GRAHAM EDWARDS replied:

(1) The answer is yes, with the exception of allegations raised in relation to Mr Jarman's connection with International Totalizator Systems (Australia) Pty Ltd.

(2) The previous Minister referred the allegations known to him to the Public Service Commission for advice on 23 January 1990.

LOTTERIES COMMISSION - POLICE HELICOPTER
Trust Fund Moneys

372. Hon PETER FOSS to the Attorney General:

(1) Is he aware that Lotteries Commission moneys were passed through a trust fund in order to permit the purchase of the police helicopter, which purchase the Lotteries Commission could not finance directly?

(2) Was the Crown Law Department consulted on this arrangement?

(3) Did his department approve it?

Hon J.M. BERINSON replied:

The advice of the Crown Law Department is available to departments and statutory authorities by direct approach and not through my office. I am therefore unable to say whether Crown Law advice was sought, but if the member would like to put that question on notice I will ensure that it is pursued.

LOTTERIES COMMISSION - POLICE HELICOPTER
Trust Fund Moneys

373. Hon PETER FOSS to the Minister for Police:

(1) Is he aware that Lotteries Commission moneys were passed through a trust fund in order to permit the purchase of the police helicopter, which purchase the Lotteries Commission could not finance directly?

(2) Did his department consult Crown Law on this arrangement?

(3) If so, did the Crown Law Department approve it?

Hon GRAHAM EDWARDS replied:

Lotteries Commission funds were not used to purchase the helicopter; Government funds were used. However, the Lotteries Commission, along with other sponsors - including, for instance, Westpac - has sponsored the helicopter. My understanding is that Crown Law advice was sought in the establishment of the trust, and I might say that in my discussions with all of the sponsors they are very happy with the way everything was put together and with the sponsorship, which has ensured that a very good police and emergency rescue service is available to the State.

I ask the member to put that question on notice so that I may confirm those details further.

The PRESIDENT: Order! If the Minister wants the question put on notice he should not answer it.

POLICE - HELICOPTER
Trust Fund Name

374. Hon PETER FOSS to the Minister for Police:

Can he tell me the name of the trust fund which was established?

Hon GRAHAM EDWARDS replied:

I am not sure of the exact name of the trust fund, but if the member makes that a part of his question on notice I will provide that answer as well.

OFFICE OF LAND SERVICES - FUNCTIONS

375. Hon BARRY HOUSE to the Minister for Lands:

Who or what will comprise the proposed Office of Land Services and what will its function be?

Hon KAY HALLAHAN replied:

The Premier's announcement to bring together a number of Government bodies involved in land services was, in some part, in response to comments made by people in the private sector land development business who have indicated that life would be a little easier for them if there were some coordination across Government activities in land development. For that reason and because of those quite sensible approaches about the matter, the Premier gave it her attention and proposed the development of this office, which is to include parts of the Department of Land Administration, LandCorp, and another Government body. I cannot think which one it is at the moment, but if I think of it before the end of question time I will tell the member.

Hon Barry House: I have your media statement here.

Hon KAY HALLAHAN: The member will find the information in that media statement.

SEXUAL OFFENCE -MINISTERIAL EMPLOYEE
Police Inquiry

376. Hon GEORGE CASH to the Minister for Police:

I refer to question 349 which I asked in this place last evening and which, in part, asked whether any Minister had received a written complaint about a woman regarding offences of a sexual nature alleged to have occurred during the course of her employment in the Minister's office in which the alleged offender was employed by another Minister. In part - and I stress in part - the answer was -

> I understand that the matter was the subject of a police investigation some three and a half months ago, and to my knowledge -

And in this case, "my" refers to the person answering the question. The answer continued -

> - no charges have been preferred.

Can the Minister confirm that a police investigation into this matter was conducted, and whether charges were preferred?

Hon GRAHAM EDWARDS replied:

I have had no direct confirmation given to me that a police investigation was initiated. I assume, however, that one was. I am not aware of the results of that investigation.

SEXUAL OFFENCE - MINISTERIAL EMPLOYEE
Police Inquiry

377. Hon GEORGE CASH to the Minister for Police:

Will the Minister make inquiries into whether any investigation was conducted into the matter, and whether charges were preferred, and advise the House tomorrow?

Hon GRAHAM EDWARDS replied:

I invite the Leader of the Opposition to put the question on notice; I will give it consideration.

LAND - HAMPTON ROAD-SOLOMON STREET, FREMANTLE

378. Hon BARRY HOUSE to the Minister for Lands:

What is the State Government's intention in relation to a large parcel of land which runs from Hampton Road to Solomon Street in Fremantle and which contains the old Fremantle Hospital nurses' quarters?

Hon KAY HALLAHAN replied:

I suggest that the honourable member put the question on notice; I will obtain the information for him.

IP14 STRATEGY PLAN - KWINANA AND ROCKINGHAM
Barnett, Mr Mike

379. Hon P.G. PENDAL to the Minister for Planning:

I refer to remarks by the Minister in this place a few days ago on the IP14 strategy plan for Kwinana and Rockingham.

(1) Has the Minister seen the front page remarks of the member for Rockingham, Hon Mike Barnett, that the proposal is a ridiculous one?

(2) Is it correct that Mr Barnett was part of the committee process that oversaw the preparation of the report of which he is now highly critical?

Hon KAY HALLAHAN replied:

(1)-(2)

No. I did not see the comments to which the member refers. That committee was not established under any of my portfolios. I cannot provide further information on the matter.

HERITAGE OF WESTERN AUSTRALIA BILL 1989 - PROGRESS

380. Hon P.G. PENDAL to the Minister for Heritage:

In view of the answers given to Parliament yesterday, has the Minister decided to expedite debate on the Government's heritage legislation in this current session?

Hon KAY HALLAHAN replied:

I thought I was very unambiguous in my statements yesterday. Perhaps the honourable member would care to read my answers.

IP14 STRATEGY PLAN - DAMES AND MOORE REPORT
Public Meeting, Rockingham

381. Hon GEORGE CASH to the Minister for Resources:

(1) Is the Minister aware of a public meeting to be held at Rockingham on 10 July to discuss the Dames and Moore report on improvement plan 14?

(2) In view of the apparent sudden change of heart of the Minister for the Environment who stated late last week he would not be attending the public meeting after all, will the Minister be attending that meeting in his ministerial capacity?

(3) If not, why not?

Hon J.M. BERINSON replied:

(1) I am aware of a meeting due to be held in Rockingham, although I was not aware of its actual date.

(2)-(3)

I have undertaken to respond to a number of questions that have been conveyed to me by the member for Rockingham, Hon Mike Barnett, but I do not propose to attend that initial meeting. The reason for that is that it would be premature to do so, given that the IP14 report has been made public, without Government commitment and on the basis that it should be available for public comment. I do not have a fixed view on the recommendations of that report, and I would not expect the Government to arrive at a firm view on it without the advantage of the public submissions which we would expect. No doubt the meeting in Rockingham will give rise to some submissions, and they will of course be taken fully into account. At a later stage, when we reach the point of determining the Government's position, it would of course be appropriate for Ministers to make themselves available for discussion with interested parties. We have not reached that stage yet.

IP14 STRATEGY PLAN - KWINANA AND ROCKINGHAM

Barnett, Mr Mike

382. Hon P.G. PENDAL to the Minister for Resources:

My question refers to the previous answer to the question in respect of the IP14 strategy for Kwinana and Rockingham.

(1) Has the Minister seen the front page remarks of the member for Rockingham, Hon Mike Barnett, that the proposal contained in the report is a ridiculous one?

(2) Is it correct that Mr Barnett was part of the committee that oversaw the preparation of the report of which he is now so highly critical?

Hon J.M. BERINSON replied:

(1) No.

(2) So far as I am aware, Mr Barnett would certainly have been in a position to put his views to the committee which made those recommendations. I am not aware, without the ability to check on this at the moment, whether Mr Barnett was a full member or whether his views were advanced in some other capacity. In any event, from my knowledge of the situation, I am not aware of any change of position by Mr Barnett in respect of these proposed developments.

CENSORSHIP - LEGISLATION REVIEW

383. Hon P.G. PENDAL to the Minister for The Arts:

(1) Is she aware of the activities by the Federal Government in seeking to review certain elements of the censorship laws in both Commonwealth and State spheres?

(2) Is she aware that her Federal counterpart has invited State members to express views on the question of censorship rewriting?

(3) Is it the intention of the Government to make a formal submission to the Commonwealth about the West Australian Government's position on that matter?

Hon KAY HALLAHAN replied:

(1)-(3)

I suggest that the honourable member put his question on notice. The responses will be made available to him.

VICTIMS OF CRIME OFFICE - ESTABLISHMENT

384. Hon GEORGE CASH to the Minister for Police:

(1) Has the Minister's department established a victims of crime office, as he promised on 12 May this year in a Press release in his name?

(2) If so, where is that office located and what staff resources have been allocated to it?

(3) If not, when will that office be established, given the continuing need for a crisis intervention and counselling referral service which the Minister identified some time ago?

Hon GRAHAM EDWARDS replied:

(1)-(3)

I am very pleased to say that the terms of the Press release have been and are being met. I am not sure exactly to which Press release the member refers. At the time, I stated that the work on the planning of the victims of crime office would start immediately; that has started. No staff have been allocated to the office yet; that will be the next step. The question of the location of the office is still a matter for consideration.

VICTIMS OF CRIME OFFICE - LOCATION

385. Hon GEORGE CASH to the Minister for Police:

When can we expect an announcement by the Minister in respect of the location of the victims of crime office, given his announcement early in May? Is it a reality or is it another case of fiction?

Hon GRAHAM EDWARDS replied:

Of course the victims of crime office will be a reality. The member can expect an announcement at the appropriate time.

HERITAGE OF WESTERN AUSTRALIA BILL 1989 - STANDING COMMITTEE ON LEGISLATION REFERRAL

386. Hon P.G. PENDAL to the Minister for Heritage:

Given that the Government, Liberal and National Parties have each expressed support for the need for appropriate heritage laws, will the Minister agree that this is a perfect example of the need to refer a Bill to the Legislation Committee of this House where differing views may well be reconciled?

Hon KAY HALLAHAN replied:

I am not at all convinced of the value of the Standing Committee on Legislation which is operating in this House.

Hon P.G. Pendal: Mr Kelly would not be too pleased to hear you say that.

Hon KAY HALLAHAN: Mr Kelly would accommodate my views. I want to see it prove its worth. He would understand and accept that.

Hon P.G. Pendal: Nod, Mr Kelly, just like a monkey.

Hon KAY HALLAHAN: Hon Phillip Pendal is the monkey in this place - hear no evil, see no evil.

The PRESIDENT: Order! The Minister will direct her answer to the question.

Hon KAY HALLAHAN: I am sorry, Mr President. That is the starting point from which I come. I am not convinced that it is a body for finding compromise. If it proves to be, it will be of benefit to us all. Let us see if that is the case.

Hon P.G. Pendal: So the hold up is with the Government, is it?

Hon KAY HALLAHAN: Mr Pendal wants to get off the hook.

The PRESIDENT: Order!

Hon KAY HALLAHAN: I have made it very clear that the heritage legislation is important legislation.

Hon P.G. Pendal: But it is in trouble, is it not, internally in your Government?

Hon KAY HALLAHAN: That is rubbish.

Hon P.G. Pendal: You produce the document.

Hon KAY HALLAHAN: The documents are sitting in the lower House.

The PRESIDENT: Order! I will stop questions without notice if members do not ask questions and keep quiet and Ministers do not answer them and -

Hon KAY HALLAHAN: In a less colourful way?

The PRESIDENT: - be less flamboyant.

SEX OFFENDERS - COMMUNITY-BASED SEX OFFENDER TREATMENT PROGRAM

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

(1) How successful has been the community-based sex offender treatment program?

(2) Did any of the participants fail to comply with the program's requirements?

(3) Is a report on the effectiveness of the program forthcoming from the team manager?

(4) Is it the Government's intention to still run this program on a pilot basis?

(5) If so, for how long will it run?

Hon J.M. BERINSON replied:

(1)-(5)

I have not received a recent report on this program. I suggest that the member place his question on notice.

MOTOR VEHICLES - REGISTRATION AND TRANSFER
Stamp Duty - Statutory Declaration Requirement

388. Hon D.J. WORDSWORTH to the Attorney General:

My question relates to the transfer of registration of vehicles. Mr Paul Fellowes announced on Thursday that the transfer of any vehicle and the payment of stamp duty would require the lodgment of a statutory declaration not only from the purchaser but also from the seller before the stamp duty would be accepted. It appears that a statement was made on Thursday that that provision would come into operation on 1 July, which was Monday, which would allow people one day to lodge their transfer forms and the required statutory declarations. However, those forms were not made available to people who asked the Minister's department for them when transferring their vehicles. In fact, I do not know whether they have yet been printed.

Hon J.M. BERINSON replied:

I discerned from his comment that Hon David Wordsworth is upset, but I could not discern the question. The only part of his comments which relates in any way to the Attorney General's portfolio is his reference to statutory declarations. I am responsible for the relevant Act, but I am not responsible for the registration of vehicles; I am not responsible for the State Taxation Department and I am not responsible for the distribution of forms.

Hon Max Evans: What are you paid for?

Hon J.M. BERINSON: In short, I think Mr Wordsworth has misdirected his question.

MOTOR VEHICLES - REGISTRATION AND TRANSFER
Stamp Duty - Statutory Declaration Requirement

389. Hon D.J. WORDSWORTH to the Attorney General:

Is the Attorney General aware that his department in Esperance which handles the registration and transfer of vehicles now requires a statutory declaration from the seller and the purchaser on the price of the vehicle before stamp duty is payable?

Hon J.M. BERINSON replied:

I am aware that a number of our non-metropolitan courts handle these transactions. However, that does not make me responsible for the transactions. There is no other way for me to deal with this than to advise Mr Wordsworth to put his question on notice to the responsible Minister.

McCUSKER INQUIRY - REPORT TABLING

390. Hon E.J. CHARLTON to the Attorney General:

Will the Attorney General advise the House of the date that he expects the McCusker report to be made public and when it will be tabled in this House?

Hon J.M. BERINSON replied:

I have indicated previously that my understanding is that Mr McCusker's timetable will be met. I have suggested that that would have the report completed by about mid-August. If anything, I understand that it might be completed some days before that. Was Mr Charlton's question directed to the completion of the report or to its publication?

Hon E.J. Charlton: Both.

Hon J.M. BERINSON: I cannot indicate anything that is different about the date of publication from my previous answer to the question. I said then that my understanding of the procedures was that the report would be made available through the Ministerial Council to all members of that council and that the procedure for publication would follow in the same way as was applied to the interim report of the National Companies and Securities Commission. That added about two or three weeks to the process. I think that was about the time lapse between the completion of the report by the NCSC and its presentation in one of the Parliaments. I anticipate something of the same order will apply.

McCUSKER INQUIRY - WITNESSES

391. Hon E.J. CHARLTON to the Attorney General:

Will the Attorney General advise the House whether he is aware that witnesses are still being called by the McCusker inquiry?

Hon J.M. BERINSON replied:

My last discussion with Mr McCusker indicated that he still intended to interview witnesses but that this would not affect his proposed timetable for completion of the report.

STATUTORY CORPORATIONS (DIRECTORS' LIABILITY) BILL - IMPLEMENTATION

392. Hon PETER FOSS to the Attorney General:

What measures is the Government taking to honour its undertaking to look into the implementation of the Statutory Corporations (Directors' Liability) Bill?

Hon J.M. BERINSON replied:

That matter has not been the subject of recent consideration by the Government. I believe that, at the current state of this session, it is unlikely that anything useful could be done before the recess. I will ensure, however, that any previous undertakings in respect of this matter are reviewed and updated.

SITTINGS OF THE HOUSE

393. Hon GEORGE CASH to the Leader of the House:

I refer to the answer to question without notice 357 which dealt with the sittings of the House. Is the Leader of the House able to further advise on the possibility of the House sitting this Friday in lieu of next week? My understanding was that the Leader of the House would speak to the Leader of the National Party and me. However, he may have further advice for the House.

Hon J.M. BERINSON replied:

There has been a misunderstanding or a misprint. I intended to say - I thought I did say - that we would certainly sit next week. The reference to a Friday sitting related to the possibility of our sitting on Friday of next week in order to avoid a sitting in the week after that.