

Legislative Council

Wednesday, 21 August 1991

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

PETITION - WESTERN WOMEN FINANCIAL SERVICES PTY LTD

Government Responsibility Inquiry

The following petition bearing the signatures of 1 761 persons was presented by Hon Peter Foss -

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

We, the undersigned citizens of Western Australia request that -

1. The Legislative Council do appoint a committee to enquire into the links between government agencies and the failed Western Women's Group, in particular to determine whether the State bears any legal responsibility for persons relying on the investment advice of that Group to their loss.
2. The Parliament of Western Australia consider legislation that may be necessary to prevent a recurrence of the events which led to the loss by investors who relied on the Western Women Group or at least to ensure that the problems associated with such an operation are detected at an earlier stage.

Your Petitioners therefore humbly pray that you will give this matter earnest consideration and your Petitioners, as in duty bound, will ever pray.

[See paper No 624.]

URGENCY MOTION - UNION OF SOVIET SOCIALIST REPUBLICS

Coup

THE PRESIDENT (Hon Clive Griffiths): I draw the House's attention to a letter I received this morning -

The Hon Clive Griffiths MLC
The President
The Legislative Council
Parliament House
PERTH WA 6000

Dear Mr President

Pursuant to Standing Order 72 I wish to move today, without notice that the Council at its rising adjourn to 11 am on Monday August 26th, 1991 for the purpose of debating as a matter of urgency the following motion -

That this House express its deep sympathy with the people of the USSR in this time of threat to their efforts to establish a Parliamentary democracy and hope that they will be able to restore the rule of law and constitutional processes unaffected by the present coup.

Yours sincerely

Hon Peter Foss MLC
Member East Metropolitan Region

The mover of this motion will require the support of four members.

[At least four members rose in their places.]

HON PETER FOSS (East Metropolitan) [2.35 pm]: I move -

That the House at its rising adjourn until 11.00 am on Monday, 26 August 1991.

It is at times like these that we become deeply conscious of the fact that we live in a democracy and accept as standard, and almost without question, that we are governed according to the processes of law, and that when there is a change of Government it will be a constitutional change. It takes events such as these in the Union of Soviet Socialist Republics to draw our attention to the fact that there are many places in the world which are not so fortunate as Australia. Due to the efforts of Mikhail Gorbachev, the USSR was moving towards a true parliamentary democracy and a true constitutional process. However, the present coup has put all that at risk. We owe a great debt to the work of Mikhail Gorbachev in his efforts in establishing changes in the USSR which have assisted moves towards world peace. Unfortunately, those moves have been threatened by the current coup.

Words are not necessary in this instance. Our heartfelt sentiments and emotions are what really count in the present circumstances. Therefore, rather than taking the time of the House with words, all I ask is that members join me in sympathising with the people of the USSR. I thank members for allowing me the opportunity of bringing this matter to the House.

HON MARK NEVILL (Mining and Pastoral - Parliamentary Secretary) [2.38 pm]: I support the urgency motion moved by Hon Peter Foss. While most people thought the events which have occurred in the past two days were possible, they still shocked most people. In the past two years democracy has been flowering in eastern Europe and events that we would not have dreamed possible in the next 50 years have taken place. In recent days the conservative establishment in the Union of Soviet Socialist Republics has regained control. Those privileged people who lived in a supposedly classless society have reasserted their presence because they feared the loss of power which would result from the changes that were to take place. The events in the Soviet Union have a special significance for me because I am due to leave on Friday week to visit that place.

Hon Tom Stephens: You had better watch your comments now; you might end up in goal.

Hon MARK NEVILL: One of the aims of my visit to the Soviet Union, Poland and Czechoslovakia is to meet with representatives of many of the new political parties which have been formed in those countries. The recent events will make it very difficult for those parties to exist in the Soviet Union, particularly with the Army in control in Leningrad where I hope to visit for a week. I understand there is a state of emergency in that city and I suspect that for the political parties and the Press in that city it will not be a case of business as usual.

The other day I contacted the Czechoslovak Embassy and asked for some of the names of the political parties in that country. The bewildered counsellor said that he had the names of 166 parties and he asked me where I wanted him to start. It is tremendous that all these new parties are being formed in eastern Europe and obviously they will coalesce in the years to come, but in the Soviet Union they seemed to have been chopped off. We will have to wait and watch how the coup develops in the next few weeks to learn whether the internal problems will be resolved peacefully or result in a bloody civil war. Either way I am still hoping to visit the Soviet Union to meet with representatives of political parties and to perhaps pass on to them the skills which they have never been able to enjoy - I refer specifically to the skill of campaigning in election campaigns.

I commend Hon Peter Foss for moving this motion. There is very little we can do and words do not count for very much in this situation. If we keep the oppressed people in our minds and pray for them, that is all we can do at this stage. I have much pleasure in supporting the motion.

HON PETER FOSS (East Metropolitan) [2.42 pm]: Hon Mark Nevill correctly stated that in this situation words will not take us very far, but it is our sentiments that count. I take this opportunity to thank the House for the opportunity to put this on the record and for that sentiment to be expressed.

Motion, by leave, withdrawn.

URGENCY MOTION - DROUGHT EFFECTS

Goldfields, Murchison, Pilbara

Debate resumed from 28 May.

HON MARK NEVILL (Mining and Pastoral - Parliamentary Secretary) [2.43 pm]: My

contribution to this debate was interrupted on 28 May by a conference of managers. At the time I was in full flight and referring to the permanent waterhole which is just north of Yakabindie.

Hon Phil Lockyer moved the motion to draw attention to the dreadful drought which was gripping the Pilbara, Murchison, Gascoyne and the pastoral areas in the north eastern goldfields. Subsequently, in June the rains came and the drought which had lasted for between 15 and 18 months was broken. Most of the pastoralists received good rain; however, some of them missed out.

During the debate I was recounting to the House that a month earlier I had taken my family on a camping trip during the first term school holidays. Our destination was the Carnarvon Range, which is about 800 kilometres north of Kalgoorlie where I live and about 200 kilometres north of Wiluna. I told the House that I found the condition of the countryside depressing as we travelled on the Wiluna road. Most of the stations along the road were absolutely overrun by goats. I mentioned that the first night my family camped at the old Wanjarri Station, which is a nature reserve. It was an old pastoral lease owned by Tom Moriarty and it was made a nature reserve in the early 1970s and now the Department of Conservation and Land Management has converted the shed into a camping area. While we were there two officers from CALM arrived and around the campfire that night they told us that in the previous week they had removed 150 dead kangaroos from the shearing shed. It appears that in drought conditions when kangaroos cannot survive any longer they head for caves and buildings where they die. The removal of 150 kangaroos from the shed illustrates how severe was the drought in the Wanjarri area, which is about 15 kilometres off the Kalgoorlie-Wiluna road. One actually travels through the Yakabindie mine campsite to get to the reserve.

I also mentioned previously that my family had visited Mail Change Well, which has become noteworthy during the recent dispute over the Yakabindie nickel deposits. We found many dead sheep around the well and half a dozen goats which were in good shape in spite of the fact that not a blade of grass was to be seen and the trees had been stripped of their foliage. Mail Change Well is one of the few registered Aboriginal sites in that area and it was once used by the Cobb and Co coaches which travelled between Kalgoorlie and Leonora. The horses were changed and rested at Mail Change Well, hence its name.

After we left Mail Change Well we travelled to Wiluna and to Cunyu Station, but we did not see many goats north of Wiluna. However, we saw a large number of kangaroos in that country. I spoke to Ken Shaw who had purchased Cunyu Station about 15 months previously and he told me that the station had not had a drop of rain since he purchased it. Cunyu Station is on the northern boundary of the pastoral country and it straddles the Canning Stock Route and extends as far as Well No 4. He pointed out to me that 3 500 kangaroos had been culled at Cunyu Station during the past 12 months. On driving through that station I noted that the culling had not made an impression because there was still a large number of kangaroos there. Belele Station has the best record of any station in the Murchison and about 5 000 kangaroos are shot there each year without making a long term impression on the numbers.

Hon P.H. Lockyer: Meeka Station has the best records. It averaged 13 000 goats shot over five years.

Hon MARK NEVILL: I will qualify what I was about to say. The records of Belele Station go back 20 or 30 years. I know nothing about the Meeka situation.

Several members interjected.

The PRESIDENT: Order!

Hon MARK NEVILL: I will mention the number of kangaroos that were on Cunyu Station for reasons I will come to later. The drought and drying up of waterholes in the country outside the pastoral area has resulted in a movement of feral animals onto the stations. Over 400 horses and 100 camels have been destroyed in the past couple of months since they moved onto properties as a result of the waterholes drying up in the desert areas. As soon as one leaves the pastoral country to go to the Carnarvon Range one does not see a kangaroo. When I got to the Carnarvon Range I found five or six euro carcasses dried up around every rock hole. There was not one live kangaroo in the whole area. That was a graphic illustration to me of the effect of artificial water points on the kangaroo population.

Several members interjected.

The PRESIDENT: Order! About six audible conversations are being conducted while Hon Mark Nevill is on his feet trying to address the House. I suggest that members pay him the respect to which he is entitled while he is speaking.

Hon MARK NEVILL: Thank you, Mr President. We later moved on to Windich Spring which many people here would have heard of. It is a famous waterhole on the Canning Stock Route. It is a massive waterhole discovered by one of the Forrest brothers and named after his Aboriginal aide Tommy Windich. That spring still has a rock wall along one side where the Aborigines used to trap wallabies. The pool is probably a kilometre in length. The spring would be at least 10 metres deep when full. When we arrived in April or May it was absolutely bone dry. We were told it had been that way since the previous November. It was the first time that waterhole had been dry in the memory of most white people in the area. That shows how severe the drought was. That matter was drawn to the attention of the House by a previous member who spoke.

Obviously, much of the feral stock at Windich Spring and in other areas has moved onto Cunyu Station. The cattle will have trouble competing with the horses and camels for food and water. The destruction of feral animals does not seem to be all that popular nowadays. However, it is a question of survival in such areas, especially because of the kangaroos. I would not be surprised if the kangaroos outnumber the goats in some areas. South of Wiluna the goats were predominant and strong and one would not think there had been a drought there. The kangaroos were so weak that when we passed them on the road they could barely hop away. I have never before seen kangaroos too weak to bother to move. North of Wiluna there were few goats but the kangaroos were worse than flies.

Upon returning from that trip I asked the Minister for Police representing the Minister for Agriculture the following question on 29 May -

What action is being taken or proposed by the Agriculture Protection Board to arrest the "explosion" in the goat population in pastoral areas of Western Australia?

The response, a couple of days after the urgency motion had been moved, was that the pastoralists and representatives of the soil conservation districts had got together and worked out a five year plan to destroy goats. Question 471, which I asked on 29 May 1991, was -

- (1) Has the Agriculture Protection Board investigated ways of involving Aborigines in the eradication of feral animals?
- (2) If not, would it undertake such an investigation?

The answer was -

- (1) Yes.
- (2) The Agriculture Protection Board has involved Aboriginal people in feral animal control programs. A recent example is a project to eradicate feral pigs from islands off the Kimberley coast. Opportunities for involving Aboriginal people in further such projects are continually under review.

That smacked to me of a sort of a "Yes Minister" response.

I believe that the APB could do far more to involve Aboriginal people in the destruction of feral animals in these areas. I know one young chap in Leonora who has applied to the APB to become a dogger. He is 19 or 20 years of age and cannot get a job with it until he is 21 years of age. It should look at people individually. This person's father was a dogger for many years. He is a capable bushman and mechanic and would make an excellent dogger, yet he has been told that he cannot get that job until he is 21 years of age. It seems rather strange that someone can go off to war and fight for his country when aged 18 years but cannot become a dogger at that age. As soon as this person turns 21 years of age I will want to know why someone with his capabilities and capacities is not given an opportunity of a job as a dogger if that opportunity is not provided. Aboriginal people are quite capable of shooting goats and kangaroos, and they do so regularly. Many of them are excellent shots.

One of the problems we have with this motion is that the drought has now broken. An opportunity was missed because action was not taken quickly enough. In May and June there were few natural watering points where feral animals could get a drink and it would

have been easy to destroy thousands of goats and kangaroos then. The rains having come, they are all back out in the scrub making it much more difficult to get on top of this problem. The APB should have run a short term program at that time. It may be that it applied to do so and could not get the funds. I am not suggesting that the APB is entirely to blame, but a short program in May and June would have probably been more effective in destroying feral animal numbers than a six month program now that the rains have come.

There is another question which I will draw to the attention of the House, because these opportunities do not arise very often. I asked the Minister for Agriculture whether research shows any justification for baiting dingoes outside existing sheep stations, other than in a 20 kilometre wide buffer zone around sheep stations. The Minister's answer was yes. That answer requires amplification and, having looked at the matter again, I might ask a supplementary question. It is quite evident to me that most of the tracks around the Carnarvon Ranges are dogger tracks, and to bait dingoes well away from sheep grazing areas seems to go against all the research the Agriculture Protection Board has done. The research that has been done in the Fortescue Valley and at Mundrabilla shows that dingoes move within a territory of about 30 or 40 kilometres in diameter; they are fairly fixed in that territory. I discussed this with the Federal member for Kalgoorlie, Graeme Campbell, who was a pastoralist. He does not subscribe to that theory; he believes the young dogs do wander. However, I cannot see the point of having baiting programs in areas where there are cattle stations, because dingoes rarely attack cattle. In my experience in the north, dingoes occasionally attack calves but only when the cow is very weak, and the dingo is probably doing the cow a favour when it does that. That happens during times of savage drought; typically dingoes attack only kangaroos and not cattle. I am not talking about areas where sheep are grazed. I fully agree with baiting in a buffer zone around sheep stations, but baiting vacant Crown land more than 50 miles from a station is absolutely pointless.

The PRESIDENT: Order! I am terribly interested in what the honourable member is telling us. However, just in case other members are thinking about speaking to this motion, I rather hope that every now and then they will relate their remarks back to what the motion is about; that is, the drought.

Hon MARK NEVILL: Mr President, I certainly did stray from the topic. As I said, there was a third question and I could not resist the temptation to address it. However, although you pulled me back into line you were a little late with that action because I have just finished.

The PRESIDENT: I am very tolerant.

Hon MARK NEVILL: I repeat that May and June represent a lost opportunity. It is good to see that the pastoralists and the Agriculture Protection Board have established a five year eradication program for goats. I hope they include horses and camels in that program, and that next time we have a major drought a bit of feed is left for the cattle and sheep.

HON BARRY HOUSE (South West) [3.04 pm]: I support the motion moved by Hon Philip Lockyer. We all acknowledge the severe effects the drought is having on the pastoral industry. Mr President, I hope you will not rule me out of order as well -

The PRESIDENT: I will do so only if you stray from the subject.

Hon BARRY HOUSE: - but I too want to bring into the debate something that this Parliament and the Government can do to assist the pastoral industry. I am speaking of some acceptable legislation on pastoral land tenure, which has been talked about for eight years or so. Such legislation is long overdue and would assist pastoralists with their drought problems and associated difficulties. The Minister for Lands, Hon David Smith, announced about a month ago that some draft legislation had been prepared and would be introduced during this session of Parliament. Yesterday I finally received an answer to a question I put on notice some time ago, which in part asked when the legislation would be introduced to the Parliament. The answer I received was that it would be introduced in the spring session of 1991 if the industry indicates its support for the Bill. The key words in that answer were "if the industry agrees". I certainly hope the Minister will not use the condition that the industry must agree to the legislation before he will even introduce it as a form of blackmail. I hope he will not use it, either, to further delay introducing legislation which has been promised to the pastoral industry since 1983.

Hon T.G. Butler: What if the industry does not agree?

Hon BARRY HOUSE: I understand the rural organisations, the Pastoralists and Graziers Association and the Western Australian Farmers Federation, are considering the draft legislation at the moment. I do not know what their deliberations are, but I know they have some concerns about some of the conditions of the legislation, such as the 50 year rolling lease, the 15 year review, some of the excisions, and also Aboriginal access, which seems to be another condition included in the draft legislation in addition to what was there before. It seems to be a feature of this form of legislation that every time it is raised the Government makes another slight retreat from its previous position. The Minister has already announced his intention to introduce the legislation and I certainly hope he does, because now it is time to deliver it to the pastoral industry. If the industry agrees to the bulk of the legislation - and certainly it agrees with it in principle - but requests some minor amendments, I hope the Minister will not take his bat and ball and go home; I hope he will consider those amendments seriously, in the spirit in which they are offered, and bring them to the Parliament.

This is an additional matter of uncertainty facing pastoralists, over and above the severe drought in pastoral areas, and I felt it was appropriate for me to make these remarks during the debate on this motion.

HON N.F. MOORE (Mining and Pastoral) [3.07 pm]: I too support the motion moved by Hon Philip Lockyer, and commend him on again bringing to the attention of the House the concerns of Western Australia's pastoral sector. He is a member who has consistently and continually brought to the attention of those people in charge of the Western Australian economy the problems of people living in the pastoral areas and I commend him most sincerely on that part of his activities.

The motion demonstrates quite clearly the changed circumstances of the pastoral industry. For many years, the costs and income of people in that industry balanced in such a way that they could overcome and tolerate the effects of drought. The income earned in good years was sufficient to overcome the bad years, and for a long time pastoralists were able to survive droughts, which became an accepted part of the industry. However, in recent decades this has changed due to increased costs and decreased returns to the industry. Pastoralists now find it more and more difficult, and in some cases impossible, to overcome the effects of drought.

Regrettably, most of the pastoral country in Western Australia is subject to periods of drought; it is a fact of life and we can do nothing about it. However, we can examine the costs facing the pastoral industry. We have already discussed high interest rates, but other costs such as transport, labour and Government services add up to a considerable pressure on people operating pastoral properties. At the same time, the return for wool has varied greatly and is very low at present. The same applies with beef. Prices fluctuate but do not relate to droughts and costs. As a result of cost pressures pastoralists are unable to survive long droughts as they could in the past. Hon Barry House referred to land tenure, and the sooner that problem is sorted out the better. Hon Mark Nevill referred to wild dogs causing problems in sheep areas, and Hon Phil Lockyer told us about kangaroos and goats which compete with stock for feed. Combining these factors with the cost pressures, it is no wonder that pastoralists in many areas are in severe financial circumstances.

We must find solutions to these problems. We can do nothing about droughts, but we can do something about cost pressures and the state of the economy. I was heartened to hear Dr John Hewson and Mr Tim Fischer explain what the next Federal Liberal-National Coalition Government will do about these cost pressures. It will provide help for people in the pastoral industry. The initiatives include taxation; labour market, waterfront and transport reform; and the privatisation of Government enterprises. This gives hope for an economy that will be competitive in the international marketplace. This will reduce the cost pressures on the industry and will provide hope on the income side of the equation. When these measures are introduced pastoralists will be in a position to tolerate the frequent droughts which occur in large parts of Western Australia. We can do something about the economy, and the day we implement these measures it will be unnecessary for members like Hon Phil Lockyer to inform the Chamber of the problems facing the industry as a result of droughts.

HON P.H. LOCKYER (Mining and Pastoral) [3.14 pm]: I am sorry that this debate

extended to this session of Parliament; for one reason or another the urgency motion debate had to be curtailed during the last session. At that time a severe drought was occurring, and I am happy to inform the House that the drought has broken in areas in the upper Pilbara. However, many parts of the north Gascoyne and the Murchison are still suffering severe drought conditions.

Pastoralists are entitled to an equal respect as other people across the economy who are suffering hardship; however, the pastoralists have few places to turn for assistance. I thank members, on behalf of the pastoralists, for their contributions to this debate. I particularly appreciate the comments of the three members who spoke today, as they recognise the problems being faced. Drought is only one of the problems pastoralists face, and they seem to confront more frequent problems these days. Also, they do not need extra interference from conservationists who believe that feral goats and kangaroos should not be shot. As a matter of fact, many millions more kangaroos exist in Australia today than was the case when Captain Cook landed here. It is ridiculous to suggest that they should not be culled. Anyone who has an idea of the breeding cycle of kangaroos will understand that unless they are harvested they will wipe themselves out. As Hon Mark Nevill convincingly indicated, Mother Nature has a way of thinning out animal populations. This occurs in drought areas. When the white man came to Australia he provided an enormous number of watering points and that has encouraged rapid breeding of various animals, particularly the kangaroo and goat.

Although I do not want to re-enter the feral goat debate, this issue represents a huge problem for conservationists, pastoralists and pastoral areas. Massive efforts must be made to solve this problem. The Government has committed \$100 000 for assistance to pastoralists in eradicating the goat problem. However, it is not \$100 000 that is needed; \$1 million is needed for an effective program. The Government is able to find \$70 million to prop up the R & I Bank Ltd and \$80 million to prop up the State Government Insurance Commission, and I ask for only \$1 million to prop up the pastoral industry and to prevent it from devastation. As members would be aware, drought is affecting the pastoralists of this State. As Hon Norman Moore said, there was a time when they could deal with such problems, but it is not so easy today. I thank the members for their politeness in listening to my comments.

Motion, by leave, withdrawn.

STATEMENT - BY THE PRESIDENT

Urgency Motion - Standing Order No 164

THE PRESIDENT (Hon Clive Griffiths): I advise the House that motions introduced in accordance with Standing Order No 72 are matters of extreme urgency. They need not necessarily be completed, but the situation which prevailed with the motion with which we have just dealt is, I believe, unprecedented in this Parliament - certainly in the time that I have been here. That is not to say that I suggest anything is wrong with the action just taken - it is perfectly legal - but I intend to raise this matter at the next meeting of the Standing Orders Committee with a view to its discussing whether to make provision for the one hour rule in Standing Order No 164 not to apply to an urgency motion. That is my intention; what the House subsequently chooses to do is up to the House to determine.

MOTION - SWAN BREWERY SITE

Buildings Removal - Parkland Establishment

HON R.G. PIKE (North Metropolitan) [3.19 pm]: I move -

That this House, having regard to the defeat of the Government on the Swan Brewery issue, now calls upon the Government to forthwith remove all buildings on the site and return the area to parkland under the control of the Kings Park Board.

When a motion regarding the old Swan Brewery site was passed in the Legislative Assembly the Government said that it would ignore the will of that Chamber. Many Labor members would have supported the motion if they had been given a free vote. We are all aware of the restrictions which apply when Labor Party members sign the pledge; they must do what they are told. Therefore, we will not obtain a clear indication of what members really think about

the Swan Brewery issue. However, it is important to note what the Premier said about the motion carried in the Legislative Assembly. She said that it was immature, unprincipled and misconceived. The Premier, Carmen Lawrence, joins the club. Members may well ask to which club am I referring. I am speaking about the Burke-Dowding leapfrog club because it is now absolutely clear that she has bypassed this Parliament, ignored it and treated it with disdain and contempt. We know of her contemptuous action in proroguing the Parliament in order to shut up the committees in this place. We know of her contemptuous denial of funds to the Parliament for committees, particularly the Legislative Council committees. We also know that, because she waited 10 months before being forced to implement a Royal Commission, she is a failed Joan of Arc. Never in the history -

Several members interjected.

Hon R.G. PIKE: I can handle one interjection at a time, Mr President, but seven or eight are a bit much. While defying the Westminster tradition in this place and demonstrating her skill in bypassing this substantive motion I ask the House to support the same proposition put in the Assembly concerning the Swan Brewery. With the support of the House I hope the Opposition will be in a position to say to the Government that the motion has been passed by not only the Legislative Assembly, but also the Legislative Council. At the same time, bear in mind the Premier's description of the motion as being premature, unprincipled and misconceived. The situation will then exist in this Parliament where both Houses have resolved to deal with this thorn in the side of the Government while it has consistently ignored the will of the people of Western Australia. It will then be apparent whether the Premier still has the gall to blatantly and publicly defy the will of Parliament regarding the Swan Brewery. If so, she will fly in the face of the proper function of the bicameral parliamentary system by manifestly ignoring the determination of both Houses of Parliament. Should this be done, as the Government submits its request to this House to enable it to carry on as a Government, that would need to be reviewed in the light of her determination to leapfrog and ignore Parliament.

The real issue in this motion is in two parts: The first is the merit of the motion that the Swan Brewery issue should be solved by removing the building and returning the area to parkland under the control of the Kings Park Board. However, more importantly than that is the issue of the Premier, Cabinet and the Executive of this Government setting out purposely to ignore the will, so far, of one House of Parliament. If the Government sees, in its wisdom, not to give support to this proposition it will be ignoring the will of two Houses of Parliament. I ask the House to support the motion.

HON D.J. WORDSWORTH (Agricultural) [3.25 pm]: I second the motion and although Hon Bob Pike has given, shall we say, the parliamentary attitude to the motion, I remind honourable members of the situation on the ground, so to speak. Firstly, it is obvious that the general public desire that the buildings be removed. The old Swan Brewery has been the subject of numerous gallop polls and protest meetings and I would have thought that politically that would have been the wisest thing for the Government to do. Every time I drive past the buildings - practically every day - I think one of the greatest advantages to the Liberal Party is those buildings clad in scaffolding and blue plastic indicating the inability of the Government to be able to make up its mind about what to do. Secondly, the Aboriginal community does not want the building to be restored. It has an affinity with the land without any buildings on it. Although we are often in conflict with Aboriginal interests when it comes to developing mining sites - economic reason exists to put the economy of the country ahead of the wishes of the Aboriginal community - this is a case for which no economic argument can be given to not do as the Aborigines have requested. They do not want the buildings to be made into an Aboriginal museum; that idea was thrust upon them. However, it appears that the artifacts which would be displayed there would have little association with the natives of the area.

Thirdly, the specialist organisation, the Kings Park Board, sees the area's return to parkland as the best use of the land. As Minister responsible for the Kings Park Board at the time the brewery was closed, I can vouch for that. The board approached me at that time to take over the land because the land beside it is a very popular place and the number of people who wish to use the area cannot be accommodated. Indeed, the Kings Park Board sold the licence to the restaurant at Kings Park and gained almost \$500 000 for it. It was willing to buy the land in the first place from the Swan Brewery. It is a great pity that did not take place; it was

sold, instead, to a friend of the Government, Mr Yosse Goldberg. Fourthly, removal of the buildings would be the right decision in the present economic climate. This is no time to put millions more dollars into that area. The Government must get down to the business of building up the State and not creating fancy developments such as revamping the Swan Brewery site. Fifthly, there is little heritage significance in the building. The only building of significance was the old stables which, of course, was the first thing to be bowled over because it stood where the car park had to go. By chance a fire occurred in that area.

Hon P.G. Pendal: The Government threw the baby out with the bath water.

Hon D.J. WORDSWORTH: The present buildings have no historic value. I know the Labor Party has tried to tackle the National Trust of Australia to change its views. I happen to be a member of that organisation and attended the annual meeting when it endeavoured to do that. Even that failed.

Hon Mark Nevill: That is news to me. I am a member of the trust.

Hon D.J. WORDSWORTH: Was Hon Mark Nevill at the meeting?

Hon Mark Nevill: No.

Hon D.J. WORDSWORTH: He would have been amazed if that had happened. The sixth reason is that the old Swan Brewery site is a traffic hazard. It has been pointed out to us by the Royal Automobile Club and others that the development is very dangerous at that section of Riverside Drive. While large chunks of cement have been built down the middle of the road that has not necessarily solved the traffic problem and it has certainly made that part of Riverside Drive very unattractive. Many accidents and fatalities have occurred there. The seventh reason is that the proposed multistorey car park is environmentally unsuitable. It would be built against the cliff face and the top of the building would be level with the area of Kings Park which holds the war memorial; the idea being that people could walk out from the park, use the elevators to reach road level and cross the road to use the tavern.

Hon Mark Nevill: It sounds like a great idea.

Hon Kay Hallahan: What tavern?

Hon D.J. WORDSWORTH: We have talked about a tavern on that site for so many years that it does not matter.

Hon Kay Hallahan: Because you talk about it does not make it true.

The PRESIDENT: Order!

Hon D.J. WORDSWORTH: I know it is hard for the Government to keep up with what is happening.

Hon Kay Hallahan: It is very hard for you to keep up with anything.

[Resolved, that the motion be continued.]

Hon Kay Hallahan: Where is your leader?

Hon D.J. WORDSWORTH: Where is the Minister's leader? The car park was to be a multistorey car park designed not only for cars but also to include an elevator to take people down to road level for whatever purpose, whether it be for a tavern or for a museum.

The eighth reason is that the original purpose for the restoration was for it to be a boutique brewery. I think I got that one right.

Hon Kay Hallahan: You are out of date again.

Hon D.J. WORDSWORTH: I am talking about the original purpose. There cannot be more than one original purpose. The original purpose was to restore it to what it was originally used for, a brewery, and it was decided to have a boutique brewery. I remember asking questions in this House of the Attorney General about how he carried on negotiations with the gentleman who, at that time, was a guest of Mr Berinson. I asked whether Mr Berinson was going backwards and forwards in the negotiations because I gathered that the person was an inmate of Barton's Mill at that time.

Hon Kay Hallahan: That is a very tenuous connection, but so much of what you are saying is.

Hon D.J. WORDSWORTH: I would have thought that at this stage of the Royal Commission the Government would want to forget the reasons for its beginning negotiations on that proposal. The sooner it pulls this down, the better.

Hon Kay Hallahan interjected.

The PRESIDENT: Order! I will not tolerate the tirade of interjections across the Table from anybody. I suggest the Minister allow the member to say what he wants to say and take the opportunity later to rebut anything with which she disagrees.

Hon D.J. WORDSWORTH: The halcyon days of those boutique breweries are over. That one has been taken over by an international firm and I thought that would be a good opportunity for the Government to step aside. We have been told that the Government is now clean. Perhaps now is the time for it to forget about its negotiations with its friends and get down to governing the State.

Hon W.N. Stretch: We can't believe everything we are told.

Hon Kay Hallahan: Careful, Mr Stretch, or you will be getting into trouble.

The PRESIDENT: Order! I will give the warnings.

Hon D.J. WORDSWORTH: Whether there was to be a tavern on the site is not now important; it was a definite objective at one stage. Finally, not only was the site to have a museum, but also a small Aboriginal tavern. However, the Licensing Court did not authorise or research that idea; it was done by Government Ministers. That is another reason for that idea being buried. It is for those nine good reasons that I implore the Government to put aside its pride because that can be the only reason it is going ahead with this project. The land should be used for recreation purposes. It should be levelled and a green lawn sown so that it can be used by everybody, including Aboriginals.

Adjournment of Debate

HON FRED MCKENZIE (East Metropolitan) [3.35 pm]: I move -

That the debate be adjourned to the next sitting of the House.

Question put and a division taken with the following result -

Ayes (16)		
Hon J.M. Berinson	Hon John Halden	Hon Sam Piantadosi
Hon J.M. Brown	Hon Kay Hallahan	Hon Tom Stephens
Hon T.G. Butler	Hon Tom Helm	Hon Doug Wenn
Hon Cheryl Davenport	Hon B.L. Jones	Hon Fred McKenzie
Hon Reg Davies	Hon Garry Kelly	(Teller)
Hon Graham Edwards	Hon Mark Nevill	
Noes (15)		
Hon J.N. Caldwell	Hon Murray Montgomery	Hon Derrick Tomlinson
Hon George Cash	Hon N.F. Moore	Hon D.J. Wordsworth
Hon Max Evans	Hon Muriel Patterson	Hon Margaret McAleer
Hon Peter Foss	Hon P.G. Pental	(Teller)
Hon Barry House	Hon R.G. Pike	
Hon P.H. Lockyer	Hon W.N. Stretch	

Pairs

Hon Bob Thomas

Hon E.J. Charlton

Question thus passed.

Debate thus adjourned.

SUMMER TIME BILL

Introduction and First Reading

Bill introduced, on motion by Hon Reg Davies, and read a first time.

Second Reading

HON REG DAVIES (North Metropolitan) [3.41 pm]: I move -

That the Bill be now read a second time.

This Bill provides for a two year trial period of summer time throughout Western Australia, commencing from 2.00 am on the last Sunday in October 1991 until 2.00 am on the first Sunday in March 1992, and from 2.00 am on the last Sunday in October 1992 until 2.00 am on the first Sunday in March 1993. The Bill then provides for a referendum to be held after 30 June 1993 on the question of adopting summer time on a permanent basis.

In recent years the introduction of daylight saving in Western Australia, to bring it out of the dark ages and into line with the rest of the country, has been a much debated public issue. In fact, the Government has attempted, unsuccessfully, to introduce legislation on this issue on two recent occasions. One could be excused for thinking, therefore, that it is committed to its introduction. However, for reasons known only to the Government, it has declined my invitation to introduce it during this spring session. I make the point that, in fact, this debate is not so much about daylight saving - which may be the primary concern for those who would like to extend their hours of daylight for leisure activities - but more about addressing the time difference between east and west of this vast country, bearing in mind that Perth is the most isolated major city in the world. The business sector has suffered particularly significant blows as a result of the economic downturn in a recession which is probably as devastating as the Depression of the 1930s. However, today we are able to prop up unemployed people and other pensioners through social security benefits which were not so easy to get in the 1930s.

We must acknowledge that times have changed in Australia and we must now rely not so much on the rural sector - the proverbial sheep's back - to generate income for this country but rather on the business sector. Without an equitable time frame in which business can operate, business which might have come to Western Australia will be lost. This is mirrored in the job market, where Western Australia has the unenviable honour of having the highest unemployment statistics in Australia. I am not saying that the time difference affects all business negatively. Some who buy only from the Eastern States, for example, and who do not find it necessary to meet exacting time constrictions, may be happy to use their fax machines and to wait for replies. However, for the highly competitive manufacturing industries, bankers, the mining industry, and the Stock Exchange, the three hour time difference with the Eastern States for more than four months of the year results in inefficiencies, costs and inconvenience for employers and employees alike.

Let me illustrate a typical day which was outlined by two different industries and which, for most of us, will reinforce the belief that business in general needs to come into line with the Eastern States of Australia.

Sitting suspended from 3.45 to 4.00 pm

Hon REG DAVIES: This is a typical 8.30 am to 5.00 pm day: One arrives at work at 8.30 am when eastern time is already 11.30 am. This allows 30 minutes' communication with the Eastern States before they commence their lunch hours; it is 9.00 am in Western Australia but 12 midday in the east. So we can say that there are two hours' disruption from 9.00 am our time while those in the Eastern States enjoy their lunch break. It is 11.00 am in Western Australia when the Eastern States return from lunch, giving one hour's communication time before the lunch hour commences in Western Australia. At 2.00 pm in Western Australia the lunch breaks here are over, but offices in the Eastern States are closed for the day.

This lunacy effectively leaves some one to two hours a day of undisrupted communication for trading. Members will understand that most business people do not want to mess around with waiting and trying to communicate within limited hours; and if another trading partner can be easily contacted, he will get the contract. This means that some manufacturers will miss out on contracts because they cannot be contacted at the appropriate time for over the phone quotes; it means that banking is disrupted with some depositors missing out on interest payments for that day because trading in the east ceases at 2.00 pm Western Australian time; and it means that people miss out on jobs because of business lost.

Summer time does not mean that the sun will shine more hotly for longer; nor does it not

mean that there will be more actual daylight hours. It just means that we can use our days to better effect for the benefit of just about everyone in the community. Opposition members, particularly those representing rural electorates, have voiced opposition to the introduction of a special summer time, and most Western Australians are sympathetic to their concerns. The major worry expressed is for young school children who must travel long distances in the heat of the day and rise early to catch school buses. Although the travelling days in the first year amount to 62 days, and less for years 11 and 12 students, I suggest that the month of November is generally reasonably temperate. Nevertheless the concerns of these people are recognised and appreciated. The Bill establishes a procedure for rural communities to seek a change of timing for a variety of activities; for example, school hours, hours of employment and trading hours. In this way we would overcome any adverse effects of summer time in country areas. Queensland has made similar allowances for country people in that State with an expected good response. Local authorities would be asked to coordinate submissions from their local communities suggesting ways to alleviate problems which might arise from the introduction of summer time. I am not suggesting that the actual time or the clock be changed, as having different time zones within the State would be chaotic. Rather the Bill has provision for changes to be made to the timing of certain activities which local communities want to alter during the period of summer time.

In summary I would like to recap that we have both pressing and fundamental economic problems in Western Australia, and the introduction of a time frame more aligned with our Eastern States neighbours could help overcome some of the problems associated with trading and at the same time may lead to greater numbers of people in employment. I commend the Bill to the House.

Debate adjourned, on motion by Hon Fred McKenzie.

FORESTS - STATE FOREST No 14

Partial Revocation - Assembly's Resolution

Message from the Assembly received and read requesting concurrence in the following resolution -

That the proposal for the partial revocation of State Forest No 14 laid on the Table of the Legislative Assembly on 13 June 1991 by command of His Excellency the Governor be carried out.

Motion to Concur

HON KAY HALLAHAN (East Metropolitan - Minister for Education) [4.07 pm]: I move -

That the proposal for the partial revocation of State Forest No 14 laid on the Table of the Legislative Assembly on the 13th day of June 1991 by command of His Excellency the Governor be carried out.

Members will note that the proposal relates to the revocation of part of State Forest No 14. The land involved adjoins the Dwellingup townsite and has an area of about 16 hectares. Excision of this area from State Forest No 14 will fulfil a dual purpose -

- (1) Part of the area will be made available to Bunnings Ltd so that it can dispose of some company houses in situ. There are 30 Bunnings' houses on this particular area which the current occupants are keen to purchase.
- (2) The remainder, which comprises several pockets of forest land, will be placed under the control of the Shire of Murray. These areas have been included in the proposal in order to ensure that a practical townsite/forest boundary results. Some of the uncleared areas are likely to be required by the shire for future residential purposes while others will no doubt be retained as parkland or recreation reserves.

I commend the motion to the House and seek leave to table the plan. [See paper No 625.]

Debate adjourned, on motion by Hon P.G. Pendal.

SELECT COMMITTEE ON PAROLE*Report Tabling - Extension of Time*

Message from the Legislative Assembly received and read notifying that the Legislative Assembly had agreed to the motion that the date for presentation of the report of the Select Committee on Parole be extended to Thursday, 29 August 1991.

ACTS AMENDMENT (JUDICIAL QUALIFICATIONS) BILL*Returned*

Bill returned from the Assembly with an amendment.

HUMAN REPRODUCTIVE TECHNOLOGY BILL*Second Reading*

Debate resumed from 13 June.

HON P.G. PENDAL (South Metropolitan) [4.11 pm]: I congratulate the Government on being prepared to do what many Governments around Australia, and I suspect around the world, have not had the courage to do; that is, to bring in a Bill designed to create some acceptable ground rules for human reproductive technology. As any member who has paid even scant attention to the Bill would know, this is an area that is not without complexity and difficulty. In that context, it is interesting that Western Australia is something of a world leader rather than being only a follower. In some respects, being a leader in legislative reform makes it all the more difficult - rather than more simple - for those charged with the responsibility of making laws because it means, of course, that we have few models on which to rely. It is easy for members of Parliament when they have the benefit of 10, 50, or even 100 model Bills. It is not quite so easy when we have few legislative models to which we can refer.

The Human Reproductive Technology Bill goes to the heart of human existence. As people of my age group grew up, any suggestion that we might create life in a test tube would have been regarded principally as science fiction - although I was surprised to learn that in the 1940s mankind made the first venture into the notion that we could produce a human being or begin life outside the womb. In an overall sense the Bill seeks to address two simple matters, albeit complex in their own way. First, the Bill seeks to address a very distressing situation for many couples who are unable to have children. Second, it seeks to address the justifiable fears of society that maybe unscrupulous people without proper supervision and control will abuse the system open to them in a way in which I will later describe. In a simple sense, we are dealing with a Bill that is offering hope for childless couples, and balancing that against the extreme activities perhaps of unscrupulous people who might engage in practices that most reasonable members of our community would call unacceptable.

The extent to which science has allowed us, if we want, to engage in unscrupulous practices ought not to be underestimated by members of this House. It is to the Government's credit that, for example, one of the more horrendous possibilities is addressed in a very responsible way in clause 7. It touches on one of the more extreme forms of behaviour that most, if not all, reasonable people would consider to be unacceptable. I refer to the production of a human-animal hybrid. Clause 7 makes it explicit that that sort of practice is illegal and prohibited. Without wanting to be provocative to people whose views differ from mine, I find it odd that when we are about to deal with a Bill of this kind and of this sensitivity, we must also deal with technology that is consuming millions of dollars - and I think wisely - at a time when we are also spending many millions of dollars aborting perfectly healthy human foetuses in this country and throughout the world. I consider that something of an irony. That is not the subject of the Bill, and that may be a topic for debate at another time. However, the contents of the Bill invite that observation about the curious way that men or women go about their business. No doubt we live in a society that has sanctioned the loss of human life through abortion, while at the same time many people who are unable to conceive go to great lengths - and will continue under this legislation to go to great lengths - in order to conceive a child of their own.

On the lighter side I note that this Bill was conceived on 22 November 1990 in the Legislative Assembly. Tomorrow represents the full nine months' gestation period for the Bill, and if we can get a move along here today we might even pass it on precisely the ninth month after it was conceived in another place.

Hon Tom Stephens: I fear it will be a few days overdue.

Hon P.G. PENDAL: I mention that because, having touched on the heavier matters of more substantial questions, I did not want to be seen as a party spoiler.

Hon Tom Helm: Let us hope it will be legitimate.

Hon P.G. PENDAL: I suggest it will be if Hon Tom Helm keeps out of the debate, but I am even feeling goodwill toward Mr Helm today.

Eventually the Bill will regulate the use of IVF technology. It creates a Reproductive Technology Council, and one of the more serious tasks of the council - amidst a magnitude of serious tasks - will be to write a code of practice that will effectively become a set of regulations that will ultimately be tabled in the House and be subject to disallowance. The Bill contains, as well, something that we would do well to emulate on more occasions than we do: A very worthwhile preamble. Whether one agrees or partly agrees with the contents of the preamble, the fact is that we have a preamble to this Bill. I find it helpful because it becomes part of the spirit or ethos of the Bill; it is a message to the wider community. Incidentally, it is not based in overtly legalistic terms. It contains a few simple, clear messages and therefore it is a preamble which conveys an understanding of the Bill which might otherwise not be there if the Bill in its more legal sense had to try to convey those to ordinary people. That is a healthy development, and because it governs so much of what is in the Bill I propose to read it. The preamble says -

WHEREAS:

- A. In enacting this legislation Parliament is seeking to give help and encouragement to those eligible couples who are unable to conceive children naturally or whose children may be affected by a genetic disease.
- B. Parliament considers that the primary purpose and only justification for the creation of a human egg in the process of fertilisation or embryo in vitro is to so assist these couples to have children, and that this legislation should respect the life created by this process by giving an egg in the process of fertilisation or an embryo all reasonable opportunities for implanting.
- C. Although Parliament recognises that research has enabled the development of current procedures and that certain non-harmful research and diagnostic procedures upon an egg in the process of fertilisation or an embryo may be licit, it does not approve the creation of a human egg in the process of fertilisation or an embryo for a purpose other than the implantation in the body of a woman.

I will break in there to commend that sentiment. I remind members that it is saying, in even simpler terms, that the only justification for going through this process is if there is a reasonable chance that the result will be implanted inside the body of a woman. There is a clear message for society that it is for the benefit of the couple, but more particularly for the benefit of the child that will result. Implicitly - because later it becomes explicit - it is unacceptable in the form of this Bill to use IVF technology in order to carry out some of the more horrific experiments we have heard about, or just because someone wanted to see what would happen at the end of the day. The preamble continues -

- D. Parliament considers the freezing and storage of a human egg in the process of fertilisation or an embryo to be acceptable only:
 - (i) As a step in the process of implanting; and
 - (ii) Only in extraordinary circumstances once the freezing and storage of eggs can be carried out successfully.

Anyone who has taken even a passing interest in the whole debate in the past 10 years will tell us that the question of freezing an embryo is something that we could spend six months debating in this Chamber.

I commend the inclusion of the preamble because even as a legislator I find it a big help to have the broad principles enunciated. I hope that the Government might even consider applying that principle to other legislation - especially complex legislation - and I hope that we will do that when we become the Government. If ever the plea for plain English legislation is met it should at least be in that broad introduction or preamble to a Bill.

I said earlier in my remarks that by the Government being prepared to introduce the Bill, and with the Opposition's preparedness to support the Bill, Western Australia has political parties which are up with the world leaders. It comes as something of a surprise to note that it is only 13 years since the first child was born as a result of in vitro technology. So 1978 is pretty recent in our time frame. Only in 1982, less than nine years ago, the first child was born from that procedure in Western Australia. It appears the worldwide trend - and this has been condensed for me in layman's terms - can be approached in three ways. First, the libertarian view of totally unrestricted access to IVF procedures. Scientists would not be limited in their work, resulting in an open slather approach. Second, the banning of IVF altogether. This approach is largely a reaction to the first approach. Third - and this is the only other real option - allowing childless couples access to the technology in controlled circumstances. I intend to refer to the controlled circumstances approach later in my speech because it is something that the Roman Catholic bishops in Western Australia paid some attention to recently. The Human Reproductive Technology Bill introduced by the Minister for Health in another place seeks to avoid the first two approaches; that is, the open slather approach and the total rejection of IVF. I commend the Minister for that. While the Government could have decided that it was too hard and potentially controversial, it opted to adopt the third approach, which gives hope to childless couples.

In 1987 one of the more notable documents issued in this area came from the Vatican. It was entitled "Instruction on Respectful Human Life in its Origins and on the Dignity of Procreation". I considered at that time that the document condemned all fertilisation procedures that occurred outside the womb. However, on a second reading of that document I have realised it was not condemning that process. Interestingly, the document reads at page 35 that, "The new technological possibilities . . . require the intervention of the political authorities and of the legislators" - I ask members to note some of the keywords - "since an uncontrolled application of such techniques could lead to unforeseeable and damaging consequences for civil society." Of course, those words now catch my eye. When that article was released I wrote an article in *The Record* in response to it. Now, four years after, those words jump out from the page at me and I realise that the Vatican is saying that if we had uncontrolled application of those techniques very undesirable consequences would follow. The Bill actually seeks to control the application of IVF techniques. The 1987 Vatican document was probably accepting some form of in vitro fertilisation so long as it was controlled.

Members may recall that in March this year the Roman Catholic bishops in Western Australia gave the current Bill - that is, before it was amended - qualified support. One of their concerns at that time was, naturally enough, the protection of the embryo and the very beginning of the fertilisation process. The amended Bill achieves that admirably and for that I congratulate the Government and the Opposition members in the other place who worked towards that common end. However, the Bill seeks to apply some common ground rules which represent contemporary community standards. For example, clause 23 of the Bill provides that a couple cannot apply for in vitro fertilisation unless they are married or are in a stable de facto relationship. The Bill goes as far as to say that if a relationship has not been established for five of the preceding six years it is not considered a stable relationship. It is interesting that such a moral statement is written into this Bill. Often I am astonished that people, not only in this House but also outside, who should know better say that Parliament should not be legislating for morality. The Parliament does that every day of its existence, it is just that on some occasions it is more visible and people get more upset about it than at other times. I am also pleased that written into the Bill is not only a whole raft of scientific constraints on scientists but also some reasonable restrictions which reflect contemporary community standards.

Another important aspect of the Bill is that it unequivocally accepts the first moment of fertilisation as the decisive point at which a new, independent human entity comes into existence. An amendment was made in the Assembly to this part of the Bill which tightened

that situation so no doubts were left about the original first day and a half existence and that that process at that early point was unprotected.

The question of research and experimentation is one of those elements of the Bill prohibited in the main, except for those circumstances I outlined. I suppose that area is one that was always likely to demand community attention. I have read out to members the preamble part C, and I understand that the Bill excludes all research on embryos unless the research is intended to be of direct therapeutic benefit to an embryo. The Bill specifically excludes the use of an embryo merely as some tool of the laboratory. It will prevent abuse of embryos, for example, by using them as some sort of a human guinea pig to test drugs on.

Hon Garry Kelly: What about for cystic fibrosis?

Hon P.G. PENDAL: Hon Garry Kelly knows about the reference to that in the Bill and I will come to that shortly.

The Bill also prohibits experiments where the intention is to destroy or dispose of the embryo. In other words, again it is underpinned by that notion that the intention must be there and there must be a reasonable possibility of it being implanted into the womb.

The advice I took indicated that the Western Australian Bill, even though it is more restrictive in some places, is more in line with that existing elsewhere. The Western Australian Bill is certainly more restrictive than the Victorian legislation. I understand in that State people can use so-called spare embryos for research purposes. On the other side of the equation, I understand that in the United Kingdom experimentation can occur within a 14 day period under conditions which are not envisaged in this Bill. I find it interesting that places like Denmark and Germany have outlawed experimentation, and I would imagine that would put their legislation within the same ballpark as the Western Australian legislation. If that is the case I find it rather curious because I have always imagined Denmark to be a fairly unrestricted country. Although I have not visited the country, the message it sends out is that it takes a fairly libertarian stance on most things, but that is not reflected in its in vitro fertilisation legislation.

The question of freezing embryos is a highly contentious one and some stalwart efforts have been made to ban that practice outright. I can understand people's fears that frozen embryonic material might face a situation where in uncontrolled circumstances it was thawed out, to use a less than scientific term, many years later. It would be disturbing to many people. The question of freezing raises, certainly in my mind, the possibility of scientific abuse because it provides the opportunity for scientists to adopt the attitude that they should see how far they can go. I suggest that is one of the reasons that efforts were made to ban the freezing of embryos outright.

I am aware from my reading of the preamble that the Bill expresses a reluctant acceptance of freezing embryos because it then brings about certain qualifications. For example, Parliament considers the freezing and storage of a human egg in the process of fertilisation, or an embryo, to be acceptable only if it is intended that it be implanted in a woman. It is a tight restriction, albeit it may not be the sort of restriction that some people would want. Members will realise that the whole spirit and, indeed, the letter of the proposed legislation is to allow IVF technology only to the extent that the embryo is intended to be implanted into a female. That is the recurrent theme throughout all clauses of the Bill. The Bill conscientiously comes to grips with the question of freezing, but I continue to have some reservations about it.

I pay tribute to one of my colleagues in the Legislative Assembly, the member for Riverton, for his efforts in handling that section of the debate in that place. People are concerned about this legislation for many reasons. For example, under this legislation a fertilised embryo may be frozen for up to three years and people are concerned about what will happen beyond that period. Therein lies one of the great unanswered dilemmas of the Bill and I certainly do not have the answer. The idea that somebody may not want that frozen embryo after that three year period is a possibility. The Bill also deals with the possibility of both parents being killed in, for example, a plane crash and that has happened on several occasions in the United States. We would be left with unique genetic material which no-one would own; that is, as much as anyone owns anything like this.

I am pleased that either during the Legislative Assembly debate or before the Bill was

printed steps were taken to include in the legislation something which is close to my heart; that is, the general idea that so-called orphaned embryos could be put up for adoption by the Commissioner for Public Health.

This is an appropriate time for me to refer to matters dealing with the code of practice. I imagine that the Act will be as good as the proposed Reproductive Technology Council makes it and, in the end, it will be as good as the code of practice will allow it. Clauses 14 to 19 of the Bill refer to the code of practice and the conditions for freezing embryos. I referred earlier to the preamble and to the qualifications that the Bill places on those matters.

The Bill also deals not only with what can be done, but also with what cannot be done and in clause 7 some of these things are spelt out. For example, an embryo cannot be maintained in a laboratory beyond 14 days. If one is obeying the letter and spirit of the law under this Bill, long before that the embryo must go back and be implanted in the woman. The effect of not doing that is to run the risk of allowing someone to see just how far they can go towards cultivating a life - in fact, growing a child to full term in a test tube and outside the womb. This clause prohibits practices that I understand have been widespread in some parts of the United States - for example, flushing live embryos from a pregnant woman presumably with the intention of dealing with them from that point on. That is outlawed by this Bill. An area that absolutely no-one in this Chamber, or in the State, would have any difficulty with is the Bill positively prohibiting the production of an animal-human hybrid.

Hon Garry Kelly: A chimera.

Hon P.G. PENDAL: I was unsure of the word, and appreciate Hon Garry Kelly's mentioning it. That involves the implantation in a woman of fertilised material from animals. I understand the Bill also prohibits splicing, which is not a technical term and one I understand, of two or more embryos. Those things are addressed overall, if not in their entirety. One of the central parts of what the Catholic bishops said earlier this year is that scientific research and technology should be encouraged and supported in every appropriate way but that science without conscience can lead only to ruin. I believe the Bill ensures some form of conscience. Cloning is in the same category as the animal-human hybrid. I do not know of anyone who would want to engage in cloning. It has been talked about during this debate and it has been said that a few Labor politicians were cloned, but I will not be unkind about that.

Hon Mark Nevill: One diagnostic procedure involves putting sperm into an animal egg, which is misconceived as an attempt to clone. That is where a lot of misconceptions arise.

Hon P.G. PENDAL: Cloning has not been of concern to everyone as there is widespread agreement that people will not have a bar of it. Of course, concern exists about the definition of cloning. I think that in a Bill in which the Government has been so conscientious in coming to grips with a complex issue it could have gone a bit further. The definition of cloning in the Bill is -

"cloning" means the use of reproductive technology for the purpose of producing, from one original, a duplicate or descendant that is, or duplicates or descendants that are, genetically identical, live born and viable;

That appears to say that cloning cannot be performed where it will result in a child that is live born and viable. That raises the question of whether cloning will be allowed to occur when the result will not be live born. That troubles me. I would have thought the good intention of the Bill is not to permit that sort of horrific activity. I guess it will be argued that the Bill does not permit a person to do anything by way of research that will not end up being transplanted into a woman. Therefore, I can understand that could be an answer, but I would have been more comfortable - as would many people in the community - if those words disappeared. The Bill is a good, if not ideal, one. It preserves many values implicit in a society which says that it respects human life, although I am not convinced that it does. I recall, as I am sure do other members, briefings we arranged earlier this year to which we invited Labor members.

Several members interjected.

The PRESIDENT: Order!

Hon P.G. PENDAL: Yes, indeed, some national Labor members attended. One member

who attended and who impressed me most was Father Walter Black, an ethicist from the L.J. Goody Bioethics Centre. One of my notes shows that he said no human embryo should be denied the opportunity to develop merely because of a disability. I know that many members had a few problems with that approach because it raised the question of what to do if one discovered an embryo had a terrible disability. I raise this matter not only because the principle is worth thinking about but also because it reminds me that in a world full of perfect people one would probably have no need for virtues such as compassion.

Last Sunday I attended an opening by the Premier of a centre for intellectually disabled people which is run, I think, by the Catholic centre for the intellectually handicapped. I was reminded of this part of the Bill when a severely retarded person was called from the audience and asked to read one of the lessons. It was a moving experience to see a person with a profound intellectual disability able to mix it with the more, so called, important people on the stage. That person might otherwise have been shoved out the back and ignored instead of taking part in that official opening. I repeat that that reminded me of what Father Walter Black said about the rights of people with severe disabilities to the best life they are able to have.

Hon Garry Kelly: If you had an embryo with Downs syndrome would you require it to live knowing that it would give rise to a Downs syndrome child?

Hon P.G. PENDAL: That is the very point Father Black was making. He said there is a place in this world for people who have Downs syndrome. I do not know that I would be terribly comfortable about that as a parent because I am sure it is horrific, but Father Black stopped all of us in our tracks and made us think about the rights of people with severe disabilities.

Hon Garry Kelly: It is, on one reading, an extreme view.

Hon P.G. PENDAL: I am sure that it is. The Bill is not perfect by any means, but it is a conscientious attempt by all the parties in this Parliament to produce the best legislation in a bipartisan way. My last point is that I believe there is some value in our looking at a sunset clause, or at least at a review clause. It has occurred to me that we should come back to this Chamber in 10, or perhaps five, years' time to find out what the Reproductive Technology Council is doing, and I will certainly raise that point at the Committee stage. That aside, many people in our society of all different persuasions have briefed me on this Bill and the input which has come from the Government, and I support the Bill.

[Questions without notice taken.]

HON CHERYL DAVENPORT (South Metropolitan) [5.30 pm]: I congratulate the Minister for Health for the very spirited way in which he has sought to cooperate in the delivery of this legislation, which we have needed for a number of years. There have been three major public inquiries, including a Select Committee, during the past six years which have come to terms with the sorts of legislation that we need for the in vitro fertilisation procedure. I want to pay a personal tribute to the Minister. I have been a member of the Caucus committee on health policy, and this has been a matter of serious concern in our party. Approximately 12 months ago, that committee had a joint meeting with the status of women policy committee and the civil rights and law reform policy committee of the Labor Party. The Minister addressed that joint meeting on the provisions of this legislation. That was a necessary process because, over the last six years, there has been much debate about this matter in the Labor Party and it was appropriate that the party participate in the discussions and in the determination of the provisions of the legislation.

I pay tribute to two members of the Health Department staff, Dr Sandy Webb and Ms Liza Newby, who have had a major input into the very difficult task of developing the various provisions of this Bill. Mr Francis Sullivan from the Minister's office has also been very involved in its formulation over the last 12 months. The cooperation that has existed between the Minister, the Health Department and the Opposition in formulating this legislation is commendable. The debate in the other place was extensive. I am delighted - I think I speak on behalf of my colleagues on the Legislation Committee, Hon John Caldwell, Hon Peter Foss, Hon Derrick Tomlinson and Hon Garry Kelly - that this legislation will not be considered by that committee. At one stage we all thought that it may come to that committee for consideration, after that committee had dealt with two very lengthy pieces of legislation including the .05 legislation.

The DEPUTY PRESIDENT (Hon Garry Kelly): Is that a promise?

Hon CHERYL DAVENPORT: I hope it is a promise. Nevertheless, most of the teething problems have been dealt with by the other place. I think the committee can look forward to not having to deal with this Bill because, knowing Hon Derrick Tomlinson and Hon Peter Foss as I do, the committee would have gone on ad nauseam. It may well have been another nine months before it reached this place.

Hon Peter Foss: We do not go on ad nauseam.

Hon CHERYL DAVENPORT: Some of us may think otherwise.

I am not an expert and do not intend to go into this legislation at great depth. However, there are a couple of areas on which I wish to touch. The major strength of this Bill is that we have not become bogged down on the issue of when life begins. In such public legislation it is important that we have agreement on contentious areas of bioethics. Arriving at a consensus about philosophical questions may prove too difficult and ultimately be counterproductive to the goals of the legislation. As I said, one of the major strengths of this Bill is that we have not become bogged down in those areas. I respect Mr Pental's view on that issue. We part company on other issues. My position on abortion is diametrically opposed to his and I do not want to get involved in that debate on this issue. It is important that we do not get into that argument, despite the fact that there were attempts in the debate in the other place to define that.

Hon P.G. Pental: The temptation was great.

Hon CHERYL DAVENPORT: I am sure it was and I appreciate that we have not become bogged down on that issue.

There is a need for regulation. There have been two deaths in Western Australia resulting from anaesthesia in the in vitro fertilisation process. For that reason we need to approve this legislation.

I, and the women's movement, have had some difficulty accepting the pressures that society places on women to have children. The women's movement is concerned about this legislation and the potential exploitation of women through in vitro fertilisation technology. While I acknowledge that many infertile couples are grateful that this technology is available, society needs to recognise that it is all right for women to be infertile and that we should not place great pressure on a woman or on a man if she or he is infertile.

I wish to quote briefly from a discussion paper on human embryo experimentation produced by the Western Australian Interim Reproductive Technology Council. It states that considerable opposition from the women's movement -

to embryo research stems from a concern that such research may undermine a woman's reproductive freedom and health. Human embryo experimentation is research utilising women's eggs, wombs and bodies, or in other words, human embryo experimentation depends on women... The experimentation is made possible by using ova recovery technology and IVF procedures and by relying on women (either those undergoing IVF treatment or those being sterilised) to supply eggs. An adequate supply of eggs is provided only by the administration of superovulatory drugs, which may pose a health risk to women... As a result, women's bodies are being used as laboratories to further techniques that will be of no benefit to the women themselves. "Concerns have been raised about the circumstances under which women "choose" to "donate" eggs and the possibility of coercion and manipulation of women to conform to expectations of altruism by reproductive gift-givers".

I know that relates to the debate on surrogacy for which legislation will be before the Parliament in the not too distant future. Another objection from the women's movement is that -

much of the public debate on reproductive technology focuses on the status of the embryo, rather than on the status and role of women. The rise of the foetal rights movement particularly in the US has seen the interests of adult women being legally subordinated to considerations of embryo interests thereby precipitating the oppression of women as a group in society.

It further states that many women -

question how often the choice of women to have children is genuinely free, given the social conditioning under which most women have been brought up and the subtle psychological and emotional pressures and coercion to which women are subject. They therefore question the need for IVF itself . . .

The medicalisation of reproduction in many ways takes away from women their autonomy,

The report further states that many women -

have expressed fear that the opening of reproductive options for some women may jeopardise women's freedom overall.

The debate in the other place on this subject did not touch this area but it has certainly been of concern to me and many other women with regard to reasonable regulatory procedures.

On the question of therapeutic research or experimentation, I am pleased the Minister has seen fit to move an amendment to the original legislation which will allow for research on embryos for the detection of abnormalities or diagnosis of various genetic diseases. That will be done under a strictly controlled and totally safe procedure for the embryo. When we spoke within the party forum 12 months ago it was suggested that that might not occur. I am very pleased to acknowledge that the Minister has, after much discussion and research into that procedure, allowed it to go ahead. I accept Hon Phil Pandal's argument relating to Father Walter Black from the L.J. Goody Bioethics Centre. I heard the debate and, again, I part company to some degree with Hon Phil Pandal on that point. I do not for a moment deny the example given, it was tremendous. However, I believe that the pressure on parents and family members who must cope with children who have genetic diseases such as Downs syndrome, cystic fibrosis, muscular dystrophy and the like could be eliminated at an early stage by such a procedure. I believe the Government has made the right decision in allowing that amendment.

A further point relates to the review provision in clause 61 of the Bill. Hon Phil Pandal suggested a review period of 10 years but the clause provides for a review of the operation and effectiveness of the legislation to be carried out as soon as practicable after the expiry of five years. That is a reasonable period in which to decide whether the Reproductive Technology Council is doing the job expected of it. I am sure that at this stage everybody has good intentions and they anticipate that the council will carry out the functions set out in this extensive legislation; however, it is wise to put in place a five year review clause. At that time we shall be able to weed out the practices that are not working. On that note I once again commend the Minister, his personal staff and the staff of the Health Department for the work they have done. It is tremendous legislation, and both the industry and the couples who have used and will use this technology have been waiting for it for a long time. I commend the Bill to the House.

HON J.N. CALDWELL (Agricultural) [5.45 pm]: From the outset I indicate how inadequate one feels in commenting on the Human Reproductive Technology Bill when one has very little knowledge of reproductive technology. As a farmer I have had experience of sheep being fertilised, and I am aware of the value of experimentation and the technology that has been developed in the sheep breeding industry. It is very interesting to note that Australia has been exporting animal breeding technology, specifically for cattle and sheep, to China, Romania and various other places.

Hon Tom Stephens: How long has it been in the agricultural areas?

Hon J.N. CALDWELL: I cannot answer that, but I am sure it is a fairly long time.

Hon W.N. Stretch: From the early 1950s.

Hon J.N. CALDWELL: I am advised by my colleague, Hon Murray Montgomery, that it has been used for animal breeding for 30 or 40 years. I understand that the technology was used on human beings before the 1980s. Unfortunately, the German empire in 1943 conducted a number of experiments in an endeavour to improve the human race, and everybody knows of the dreadful things that took place in Germany during that period.

The purpose of the Human Reproductive Technology Bill is to regulate human reproductive

technology practice and enforce compliance with adequate standards and ethics. As I have said, IVF was first used in 1980 and it was not successful until a couple of years later. I understand that in Western Australia between 600 and 1 000 couples have been blessed with a child as a result of this procedure. I use the word "blessed", and those who have shared the wonderful experience of having offspring enter this world - as I have with my wife - will understand why. I do not know whether any members in this House have been unable to have children but I can imagine the disappointment of such couples. A code of practice has been in place in Western Australia through the reproductive technology accreditation council, but compliance was voluntary and the code was not enforceable. Over a period many committees have investigated the advisability of introducing legislation such as this. Since 1983 a committee has been set up, research has been conducted, a working party has been in place and a Select Committee from the other place has conducted an inquiry.

Hon Tom Stephens: The Select Committee was established in 1988 but it took 12 months for it to work towards producing a report.

Hon J.N. CALDWELL: I can understand why when looking at the size of this Bill, which contains 112 pages. The Bill is very complicated and no doubt it deals with a number of emotional factors. This is a very complicated and controversial subject. This Bill establishes an 11 member Reproductive Technology Council as a statutory body to regulate reproductive technology, which will be funded from the Health Department budget. One wonders about the availability of funding for this council. Funding generally is being cut back, and it would be a shame to establish this council and find it limited by inadequate funding. We can only hope that the Government will come up with the money, as it has not done in many other cases.

Eligibility will be limited to heterosexual couples who have been married or living together for five years. I have noted that nothing is mentioned about de facto couples, although Hon P.G. Pental said something about them.

Hon P.G. Pental: I do not think those words were used in the Bill, but I shall check.

Hon J.N. CALDWELL: I question allowing de facto couples the right to bring children into the world in this way. I spent some months on a committee inquiring into de facto relationships and we were given many examples which indicated that de facto couples were somewhat unstable. The proper way for children to be brought into the world is by a man and a woman joined together in wedlock.

Hon Tom Stephens: These days marriages are pretty unstable institutions.

Hon J.N. CALDWELL: I agree with that, but these days Western Australians and people all around the world are coming to grips with this problem. De facto couples are not frowned upon anything like as much as they were 30 or 40 years ago.

Hon B.L. Jones: I think the Bill mentions people who have been together for four or five years, so it is talking about a fairly stable relationship.

Hon J.N. CALDWELL: The committee to which I referred reported that a de facto relationship was practically recognised after three years. Under this Bill, after five years these people would have as much right as any other couple.

Hon J.M. Brown: What about the issue?

Hon J.N. CALDWELL: The issue?

Hon J.M. Brown: The birth of a child.

Several members interjected.

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! We will hear from Hon J.N. Caldwell.

Several members interjected.

Hon J.N. CALDWELL: Members are confusing me. The de facto relationship issue had better lie down and I will get on to something else.

The most controversial part of this Bill concerns three clauses: Clause 24, storage; clause 25, rights in relation to gametes; and clause 26, control, dealing and disposal in relation to an egg in the process of fertilisation or an embryo. I have experience with animal semen and

embryos, and I hope that the storage of human embryos and sperm will be controlled a lot better than the animal side of it. Frozen semen and embryos have been found to produce somewhat questionable results. They are unreliable. My experience is that the success rate is anything between 60 per cent and nil. I hope those controlling the storage of these products will find a better way of doing it than those in the animal world.

The DEPUTY PRESIDENT: Order! There is too much audible conversation in the Chamber.

Hon J.N. CALDWELL: The storage of semen and embryos involves considerable cost. Perhaps Hon Tom Stephens might explain who will pay for the cost of storage.

Hon Tom Stephens: The practitioners.

Hon J.N. CALDWELL: I guess it would be the donors.

Hon Tom Stephens: No. Surely it will be the practitioners involved in this. I shall be able to respond with great eloquence before the debate is concluded; if not eloquence, in great detail. I shall get this information.

Hon J.N. CALDWELL: I know that storage is a very costly part of any reproductive technology, whether human or animal. Perhaps Hon Tom Stephens, who is handling the Bill in this place, will be able to give us some information on that.

It is interesting to see that research will be monitored, and that research on embryos will be prohibited. I am not sure whether that is correct because I think some experimentation on embryos will be allowed.

Hon B.L. Jones: Research; not experimentation.

Hon J.N. CALDWELL: I am sure experimentation will be allowed, or it may be research.

Hon B.L. Jones: I think it is research for medical purposes.

Hon J.N. CALDWELL: It is research to try to eliminate disabilities and hereditary diseases in embryos if they are to be implanted into human beings. I wonder if Hon Tom Stephens could clarify that in his reply? I am sure he is capable of telling us exactly how far experimentation with embryos can go.

Hon B.L. Jones: Not experiments.

Hon J.N. CALDWELL: A licence will be required to carry out artificial fertilisation procedures and to maintain storage facilities for sperm, eggs and embryos. Unlicensed procedures will carry a penalty of \$25 000 or five years' imprisonment for an individual and \$50 000 for a body corporate. That is one matter I question. We are setting up this Bill so that people will know the way reproductive technology can be carried out. I wonder whether that fine for experimentation or illegal procedures with this technology is adequate. I am sure my colleagues in the National Party will be fully supportive of my decision. People should not be allowed to play around with human lives as though they were bags of marbles. They should not be allowed to experiment. Experimentation is the major fear of this technology if it heads in the wrong direction. A licence will be granted by the Commissioner of Health.

Sitting suspended from 6.00 to 7.30 pm

Hon J.N. CALDWELL: Overall, the penalties contained in the Bill which relate to unlicensed procedures are adequate, although perhaps some could be regarded as less than adequate. If it is discovered that people are undertaking unlawful procedures with reproductive technology the Bill provides power for the courts to inflict a heavy penalty on them. Licences do not allow the creation or ownership of spare embryos. In the case of a dispute over an embryo or egg in the process of fertilisation, an ultimate resolution will be reached in a court of competent jurisdiction. If both parents of the embryo die, the residual rights and control will be vested in the Commissioner of Health, who must direct that the embryo be made available for treatment for a specific recipient. As Hon Phil Pandal has already mentioned, this could happen as a result of the death of a couple in an aeroplane or motor vehicle accident. It is gratifying that in the other place agreement was reached that the Commissioner of Health may direct that the embryo or egg be provided for treatment in a specific way. The Bill is long overdue. Because of its controversial nature it encountered

many trials and tribulations during its formation. This is the type of legislation which should be considered free from party influence.

Over the past few years many couples have benefited from reproductive technology. They have had the pleasure of having their own children, which they could not do in the past. There is nothing better than bringing up one's own children if that is possible, and this Bill makes that possible for many people. I am pleased that the House has decided not to refer the Bill to the Legislation Committee. No good purpose would be served by doing that because we would follow the same old procedure; we would receive hundreds of submissions -

Hon Tom Stephens: And pompous lawyers would parade themselves.

Hon J.N. CALDWELL: I am sure that has happened over the years. I am also pleased that in five years we will have the opportunity to consider the legislation again. Undoubtedly by then some problems will need to be confronted. However, in the long term the legislation will serve Western Australia well.

Debate adjourned, on motion by Hon Muriel Patterson.

SALARIES AND ALLOWANCES AMENDMENT BILL

Second Reading

Debate resumed from 4 June.

HON J.M. BERINSON (North Metropolitan - Attorney General) [7.38 pm]: The Salaries and Allowances Amendment Bill involves the position of members of this Council. It has been so long since it was last before the House that it might pay to remind members that it relates to the vexed question of whether members who are elected before May in an election year are entitled to payment of salary between the date of their election and the date in May on which they formally take up their post. In the course of the second reading debate Hon Derrick Tomlinson presented a very long argument to the effect that there was no entitlement to such pay. That was in line with the view which the Clerk of this House took in both 1986 and 1989. The reason the payment was made in 1986 and not in 1989 was that the Financial Administration and Audit Act came into effect between those two dates, with the effect that the Clerk became the accountable officer for these payments on the later occasion. Therefore, his view prevailed at the time in the absence of any challenge to it by an affected member.

Hon George Cash: Is that the same as saying that in 1986 you could direct that person but in 1989 the direction could no longer be sustained?

Hon J.M. BERINSON: To put the matter on a correct technical basis, the position, as I understand it, was that in 1986 the Treasurer could authorise and provide the funds required for the payment. Whether the authority went to the point of direction may well be the case, but I have not looked at the situation as closely as that. In 1986 the payment was made on the basis of comprehensive advice from the Crown Solicitor, and advice which he reconsidered when objections to his view were presented in the form of the Clerk's view. Both in 1986 and 1989 it was the opinion of the Crown Solicitor that his early advice remained valid and that members elected in the circumstances I have indicated were entitled to claim payment, even though another member who would be replaced in due course was still in office until the constitutional cut off date in May.

This Bill is for the limited purpose of putting that issue beyond doubt and making clear that payment in those circumstances is not available. I have indicated that Hon Derrick Tomlinson gave a very thorough exposition of the relevant issue. In the course of his thorough presentation we travelled through a substantial part of the geography of the constitutional Acts and other relevant Acts, and needless to say I put his argument to the Crown Solicitor for further comment. The Crown Solicitor advised me that the issues raised by Mr Tomlinson were considered in the course of the Crown Solicitor's earlier advice, and that he remained of the same opinion as then. No problems arise in these circumstances provided that no member elected earlier than May pursues a claim for payment over that period; maybe the politics of the situation are such that no member in that position would do so. However, it is still undesirable to leave open the possibility of the payment of two

members for the one position, which was the effect of the 1986 advice. This could well emerge again if, for example, a different accountable officer were appointed at some future time with a view which corresponded with that of the Crown Solicitor rather than the present Clerk. The long and short of this is that no huge issue is involved, but it is undesirable that the matter, having been raised two or three times now, should be left with any degree of uncertainty at all. We will overcome the possibility of uncertainty by enacting this piece of legislation.

In addition to those general comments, I correct a comment which I believe I made by way of interjection in the course of Hon Derrick Tomlinson's contribution to the second reading debate. I said that the payment in 1986 was of an *ex gratia* nature.

Hon Derrick Tomlinson: I used that term in response to your question. You agreed with my answer.

Hon J.M. BERINSON: Then we were both wrong. I took the opportunity to check the position in that regard, and I found that it was not an *ex gratia* payment but a payment from the Treasurer's Advance Account under the authority of the Treasurer. This was to meet the obligations as he accepted them of the special Act governing the payment of members, which is self-funding, so to speak, and does not require specific allocation. Nothing hangs on that regarding the eventual decision we will make. However, I take the opportunity to correct the error which Hon Derrick Tomlinson made, and in which he encouraged me to join.

Hon George Cash: Will you comment on the advice that was tendered by Daryl Williams, QC, a copy of which was tended to you at the time?

Hon J.M. BERINSON: I believe I have previously commented on that as well; however, I am happy to confirm that Mr Williams' opinion was also considered at that time. That was made available to the Crown Solicitor and he did not, and still does not, accept that view as covering the situation on which he gave advice. Nothing is unusual about leading lawyers coming to different conclusions; in fact, the survival of the profession largely depends upon it.

Points of Order

Hon PETER FOSS: I seek leave of the House to speak on this matter. I was taken by surprise -

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! There is a convention in this Chamber that after the mover of the debate has replied in the second reading the debate is closed. In my view, there is no provision to seek leave of the House, and I would not like to deviate from an established policy and convention that we recognise. There would be a possibility for the suspension of Standing Orders, but I would ask members to exercise caution, because if this becomes a precedent we will be creating a noose for ourselves in the deliberations of the Chamber. On this occasion because we are still to have the Committee and the third reading stages I would prefer to go down the path of the convention of this Chamber rather than ask the House to give consideration to the suspension of Standing Orders. Not only do I think that undesirable, but I also think the President and other members who occupy this seat would concur. Having said that I am prepared to listen to any further comment before putting the question.

Hon GEORGE CASH: Mr Deputy President, you will be aware that some unusual circumstances have occurred in the second reading of this Bill; that is, the Notice Paper clearly shows Hon Mark Nevill as the person who took the adjournment on this Bill. It was my understanding and that of Hon Peter Foss that Mr Nevill or some other member of the Government, other than the Attorney General, who introduced the Bill, would be speaking on the Bill. I argue that there are special circumstances in this situation. Members will be aware that as soon as Hon Peter Foss became aware that the Attorney General was closing the debate he came and spoke with me and made it clear that very special circumstances had arisen, hence the note that was passed to the Attorney General while he was on his feet. I accept the convention of the House; I understand it could be said that we would be following an undesirable path to move in the way sought by Hon Peter Foss, who will no doubt make representation on his own behalf in this matter and will clearly confirm those matters that I have already raised.

Hon J.M. BERINSON: I would like to make it clear that the last interest I have is to prevent

Hon Peter Foss speaking, and, in fact, Mr Deputy President, you, and other members, may have noted that I hesitated before rising in case there was another member in the House wishing to speak. I would hope that Hon Peter Foss does not pursue the path of a motion to suspend Standing Orders, because that is undesirable for the orderly processes of the House especially as it would then very likely be necessary for me to seek the same concession from the House in order to allow me to reply. It is obviously not possible for me to reply to what he has to say in the circumstances which have arisen. On the other hand if further debate is held during the early stages of the Committee there would be no question of our not agreeing to any extension of time that Hon Peter Foss might need to put his view. In that case the opportunity would be there for a reply without a whole sequence of changes to our approach to debate. It is for that purpose only, and not with any interest in limiting the honourable member's opportunity to speak on this, that I hope there will not be a move to suspend Standing Orders. I would be reluctant to oppose it, but for the orderly processes of the House I would be obliged to. It may help members to think their way through this if I indicate that because of an obligation that I have, I was in any event planning to move at the end of this vote that further consideration of the Bill be made an order for a later hour of this sitting, and any further consideration that members wish to give could be done in that context.

Hon PETER FOSS: I am also loath to depart in any way from procedures of this House, and I would not have even suggested it were it not for the fact that I have been taken completely by surprise by what has occurred, which was in itself somewhat unusual in that the person who was named on the Notice Paper - or somebody of equivalent status - did not take the call.

Hon J.M. Berinson: That is quite common really.

Hon PETER FOSS: Not when it ends up by closing the debate. Once the Attorney General was on his feet it was too late to do anything about that. I would hope that in future if it is intended to close a debate, which has come on after a fair break, the Attorney General will advise us that he intends to do so, and then we will not get caught in the way we have been. I see no point in moving for the suspension of Standing Orders in the present case if the Attorney General would oppose it, and I do not wish to do so in order to set a precedent. I wish it well known that the reason it has occurred is that the Attorney General has closed the debate as opposed to another member of the Government speaking on the matter. It is a little unfortunate that this has occurred.

Hon Tom Helm: In future, pay attention.

The DEPUTY PRESIDENT: Order!

Debate Resumed

Question put and passed.

Bill read a second time.

LEGAL CONTRIBUTION TRUST AMENDMENT BILL

Second Reading

Debate resumed from 8 May.

HON DERRICK TOMLINSON (East Metropolitan) [7.59 pm]: It is my understanding that the initiative for this Bill's coming before the House came from the Law Society of Western Australia which requested from the Attorney General an explanation or redefinition of the term "balance". The Law Society has a responsibility for the administration of the Legal Contribution Trust and as the administrator had some problems relating to that term and therefore requested of the Attorney General an amendment to the Act which would provide some guidance as to what balance meant. To its surprise, when the Bill was presented in this House and subsequently sent to it for comment, it found that it was not the redefinition but the clarification of the matter which muddled the waters. I understand another amendment is being contemplated by the Government, but I shall return to that later in my address.

A second matter included in the amendment Bill had not been anticipated by the Law Society of Western Australia and, indeed, had not been contemplated by it at any time; that is, the

insertion of proposed new sections 9A and 9B which will give the Minister access to information. I wish to address both matters because concerns about the proposed new sections 9A and 9B need to be aired and considered by the House before it makes a decision on the fate of the Bill.

The proposed new sections were derived from a 1990 Cabinet minute relating to standard accountability provisions. The minute specified a procedure that Parliamentary Counsel would include the provision contained in proposed new sections 9A and 9B in any Bill when the principal Act was amended for some other purpose. Therefore, the Legal Contribution Trust Amendment Bill was brought forward to address the concerns which were raised by the administrators of the Legal Contribution Trust. The Cabinet minute required that a clause, in terms of proposed new sections 9A and 9B, be included in the Bill. I do not have access to the Cabinet minute because I do not qualify to have access to it, but it is my understanding that the spirit of the minute was that those standard accountability provisions should relate to boards, trust accounts and so on and that they derive from the recommendations of the Burt Commission on Accountability report which are pertinent at this stage.

The Burt committee, in its deliberations, began with a definition of "accountability". The definition of accountability which it relied upon referred to agencies or Government instrumentalities - they are referred to consistently in the report as Government agencies - which invest public moneys or, by the exercise of an authority granted by Statute to the Executive, guarantee liabilities which the Government agencies which have the capacity to create liabilities may incur and which, at the end of the day, may be a charge against consolidated revenue. Where such agencies are so empowered a requirement of accountability, according to the Burt committee definition, is that there be a full reporting to the Parliament through the responsible Minister. Hence, in response to the Burt committee's recommendations, the Cabinet minute required, as I have just explained, that in any Bill brought forward for any other purpose which related to the activities of boards or Government instrumentalities the standard accountability provisions in terms similar to that of proposed new sections 9A and 9B be included in the Bill.

The questions which arise with respect to the Legal Contribution Trust are whether it is a Government agency, whether it invests public moneys or whether it has the capacity to create liabilities which may be a charge upon consolidated revenue. The Legal Contribution Trust does not invest public moneys and neither can it create liabilities against consolidated revenue. The trust exists to manage funds which are required to be held by the trust and which are required to be contributed to the trust by lawyers. They are not public funds; they are funds of a private enterprise nature. Nothing in the management of those funds can incur a charge against consolidated revenue and certainly neither do the trustees invest public moneys; they invest moneys which are held in trust by members of the legal profession. As the legislation now stands the moneys are paid into the trust. I mention in passing that the trust is managed by three trustees: One nominated by the Law Society, Mr Rory Argyle, who is chairman of the trust; one nominated by the Barristers Board, Mr Ian Viner, QC; and one nominated by the Minister, Ms Diana Newman, who is a chartered accountant. These people are well respected and trustworthy members of their respective professions and are highly reputable persons within the community of Western Australia. The trustees receive the moneys paid into the Legal Contribution Trust account and apply them to the purposes specified in the Act. Those purposes include the solicitors' guarantee fund and the legal assistance fund. As the trust funds are applied to the solicitors' guarantee fund and the legal assistance fund, they are themselves subject to the Trustees Act. Therefore, there are already two levels of accountability; one is the accountability expressed in the nomination of members of the trust from the Law Society of WA and the Barristers Board, and by the Minister. Those people are accountable to their respective nominating authorities. However, there is a second level of accountability in the management of those funds through the requirements of the Trustees Act. Not only are there those two levels of accountability, but also the trust itself is bound by the provisions of the Financial Administration and Audit Act, and under the terms of that Act it is required to present an annual report, including audited accounts and balance sheets, to the Minister, the Law Society and the Barristers Board. The Minister, in turn, is required to present those reports to both Houses of Parliament. A full accounting to the Parliament is already required under the provisions of the Financial Administration and Audit Act. There is full accounting to those who contribute to the fund

by virtue of the requirement that the trustees report to the Law Society and the Barristers Board and, through those bodies, to the members of the legal fraternity.

One is drawn to the conclusion that a thorough accounting exists for funds which are derived from the legal profession and held in trust by the trustees. However, those funds are in no way public funds, they in no way represent the investment of public funds, and they are in no way a charge against consolidated revenue. Neither can they become a charge against consolidated revenue. For those reasons the Opposition argues that the Legal Contribution Trust is not a Government agency. Since it is not a Government agency, it should not be caught by the recommendations in the Cabinet minute. It is not caught by the recommendations of the report of the Burt Commission on Accountability. I remind members that that report referred to Government instrumentalities and Government agencies. For that reason, I have given notice that the Opposition will move at a later date for the deletion from the Bill of proposed new sections 9A and 9B.

The second matter I wish to raise is concern about the redefinition of "balance" in the trust account. Members may recall that last year this Parliament passed amendments to the Legal Contribution Trust Act, the purpose of which was to provide another avenue of funds for legal aid in Western Australia. Without rehearsing the debate, one of the amendments agreed to by the Parliament specified that every practitioner should maintain on deposit to the credit of the trust an amount that is not less than 70 per cent of a prescribed amount. That was to ensure that there were adequate funds for the purpose of the practitioner's trust account and also to ensure that adequate allocation was made from the Legal Contribution Trust for the purpose of legal aid, as specified in the amendments debated and passed last year. That amendment is important to the redefinition of "balance".

The Act, as it now stands, has been interpreted in the following way: A practitioner calculates the size of the Legal Contribution Trust deposit on the basis of an unreconciled balance and in all other respects as specified in the Act relating to the 70 per cent. Where it is clear to the practitioner that the trust account will be overdrawn if further cheques are drawn, a form of reconciliation is allowed and a transfer from the Legal Contribution Trust deposit is permitted to ensure that the further transactions do not place the trust account in debt. If a practitioner, having calculated the size of the Legal Contribution Trust deposit, finds his account will be overdrawn if he draws further cheques, he is then permitted to transfer funds from the Legal Contribution Trust deposit so that his trust account is not placed in debit. A new calculation on the unreconciled balance takes place in the next reconciliation period, as directed by the Legal Practitioners Act. That was the matter to be clarified. However, the amendment to section 11 contains an overriding provision that precludes the practitioner from maintaining less than 70 per cent of the lowest balance in a trust account at any time. This means that if a practitioner has an unusual draw upon his trust account at any given time, and if that unusual draw upon his trust account means his debit exceeds the minimum balance over the specified period, he is in breach of the requirements of the Act. If the practitioner is in breach of the requirements of the Act the consequences are serious. He is required to maintain 70 per cent of the lowest balance of his trust account over a specified period; that is, the preceding six months. It was proposed in discussions with Parliamentary Counsel that that matter should be clarified by allowing a return to the previous situation; that where a practitioner anticipated, as a consequence of unusually heavy drawings on a given day, that his trust account would not meet the 70 per cent requirement he would be allowed to transfer funds from the legal practitioners' trust so that his account would not be overdrawn. The consequences of his then having an overdrawn account in the sense that it did not meet the 70 per cent requirement would be removed.

My understanding is that the Government was to consider the advice given by Parliamentary Counsel and return to this House with an amendment to meet that difficulty and to protect practitioners caught in that circumstance. To date we have not seen such an amendment. I anticipate that either the Attorney General will give a satisfactory explanation of how legal practitioners will be protected or an amendment will come forward. Provided such an amendment does come forward, the Liberal Party, and dare I say the Opposition -

Hon J.N. Caldwell: Yes.

Hon DERRICK TOMLINSON: - supports the Bill with the foreshadowed amendment that new sections 9A and 9B be deleted.

Debate adjourned, on motion by Hon Fred McKenzie.

SALARIES AND ALLOWANCES AMENDMENT BILL*Committee*

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

Clause 1: Short title -

Hon PETER FOSS: It is questionable whether this Bill is necessary. It appears to me to seek to amend the law by stating something which is already the law. The reason for the suggestion of some doubt is that the Government paid some members of this House prior to 22 May in the year they were elected.

Hon J.M. Berinson: The doubt does not arise from the fact that payment was made but on the advice on which the payment was based.

Hon PETER FOSS: I have said what I have said.

Hon J.M. Berinson: I am sure Hon Peter Foss would not want to insist on an incorrect position.

Hon PETER FOSS: No. There would be no question at all about the matter if the Government had not paid the money to those members because it would then be a purely academic matter of no concern whatever. If the Government had not paid members prior to 22 May of that year I do not think this question would have arisen.

Hon J.M. Berinson: Does Hon Peter Foss think that in circumstances where the Government was advised that the new members were entitled to payment it would have been acting properly if it had not paid them?

Hon PETER FOSS: If the Attorney General wishes me to deal with the propriety of the matter I will be pleased to do so.

Hon J.M. Berinson: Perhaps Hon Peter Foss could restrict himself to this question.

Hon PETER FOSS: Whichever the Attorney General wishes. As I understand it, we are considering whether the amendment is necessary. The Attorney General has mentioned that the Government received advice from Crown Law Department that it was appropriate to make payment to those members. That advice was contained in two documents, one dated 13 February 1986 from the Crown Solicitor to Mr Smith, ministerial adviser to the Attorney General, and the other a letter dated 25 February 1986 from the Crown Solicitor again to Mr Smith. Other advice was also given. One came from the Clerk of the Legislative Council, Mr Laurie Marquet, and was dated 28 February 1986. That was followed by a memorandum from the Crown Solicitor, Mr Panegyres, to the Attorney General dated 11 March 1986. Probably the most important document is an opinion from Mr Daryl Williams, QC dated 12 May 1986.

The first thing one should do is look at the various opinions. The Attorney General was quite correct when he said that the law thrives on the fact that lawyers disagree about the meaning of the law and that it is often as possible to get as many different opinions on the law as one has lawyers giving those opinions. However, there are good opinions and bad opinions. There are also considered opinions and not so considered opinions.

One of the important things we should consider in the present case is the fact that Mr Daryl Williams gave a highly considered opinion - not a short note or advice by any means. Secondly, Mr Daryl Williams is the acknowledged leader of the Western Australian Bar. The other matter we should look at is the fact that the advice from Mr Marquet could also be called a considered opinion. Mr Marquet is a person with considerable experience of the law relating to the Parliament. Without in any way wishing to put down Mr Panegyres, he gave an opinion which I say is not as considered. Furthermore, the role of Mr Panegyres is usually to be Crown Solicitor rather than Crown Counsel or Solicitor General, so his role is somewhat different from that of the other two people involved.

Hon Fred McKenzie: That is because you did not agree with it.

Hon PETER FOSS: At this stage we have not reached my opinion which Hon Fred McKenzie wishes to hear.

Several members interjected.

The DEPUTY CHAIRMAN (Hon Doug Wenn): Order!

Hon PETER FOSS: I arrived at this opinion, interestingly enough, independently of having read the opinions of Mr Marquet and Mr Williams, and prior to having read the opinion of Mr Panegyres. I am pleased to say that I came to the same opinion as Mr Marquet and Mr Williams.

Hon Tom Stephens: And different from that of Mr Panegyres.

Hon PETER FOSS: That is true. Again it would not be appropriate for me to count up the number of opinions on one side and say that three beats one. Nonetheless it is interesting that three considered opinions happened to come to the same result, whereas the one which I regard, without being critical in any way -

Hon Tom Stephens: Two considered opinions plus yours is two minus two which is zero.

Several members interjected.

The DEPUTY CHAIRMAN: Order!

Hon PETER FOSS: It is interesting that I have come to the same conclusion as the people who have given a considered opinion on this subject. I would like to look at the points and take them through in the order in which they were dealt with by Mr Panegyres. First, there is the letter of 13 February 1986. It is fair to say that this is obviously a preliminary letter to some extent dealing with the question of the obligation of members to resign from Government positions rather than with the question of whether they should be paid. The question of whether they should be paid was dealt with somewhat as an addendum to the letter. At the end of the first page this letter from Mr Panegyres says that the scheme of the recent statutory amendments is such as would make it appropriate for such a person to commence to receive payment as a member of Parliament from the date of his resignation as a teacher and declaration of the poll.

Members might reasonably say that that is not necessarily a reasoned opinion; that is a statement which may be correct or may be wrong. It does not actually give the workings and it does not appear to indicate for the benefit of anybody reading it how Mr Panegyres necessarily arrived at that opinion. It may very well be that he undertook long and hard research before arriving at that opinion, but on the face of it the mental processes by which Mr Panegyres arrived at that opinion are not obvious. As a result we are not helped by reading it to determine whether to regard it as a good or a bad opinion. It may be right or it may be wrong, but on the face of it it does not assist us to make up our minds whether it is or whether it is not a good opinion. The second opinion was on 25 February 1986, and it goes into a little more by way of explanation -

[The member's time expired.]

Hon DERRICK TOMLINSON: I was somewhat disappointed at the Attorney General's response to the matters raised in the debate because there were conflicting opinions. Hon Peter Foss has indicated that they came from the Crown Solicitor, Mr Panegyres, the Clerk of this House, Mr Laurie Marquet, and Mr Daryl Williams. But in 1986 the Attorney General acted on the advice of the Crown Solicitor. The consequence of that was a public controversy about the legality of the payments made to the new members of the Legislative Council elected at that time and paid as a consequence of the decision of the Attorney General acting on what he now says was the correct advice of Mr Peter Panegyres. That advice was that new members of the Legislative Council were entitled to payment from the date of their election, not from the date of their taking up office on 22 May. That was contrary to the opinion of the Clerk of this House, who, under the Financial Administration and Audit Act, became the responsible officer. As the responsible officer in 1989, the Attorney General explained to us that it was Mr Marquet's decision, not the Attorney General's decision in this case as it had been in 1986. Mr Marquet, consistent with the opinion he held in 1986 and the opinion which he communicated to the Attorney General in 1986, ruled that new members elected in 1989 were not eligible for payment from the date of election but only from the date of their taking up office, namely 22 May.

Not surprisingly, when the Attorney General referred the matters raised in debate to the Crown Solicitor, he decided that his original opinion was a correct one; that members of the Legislative Council were entitled to payment from the date of election, not from the date of

taking up office. There was not much controversy as a result of the decision in 1989 that members would not be paid. I think Hon George Cash's name was mentioned in newspapers, but apart from that there was very little public debate. But the surprising thing was that when the Government decided to amend the legislation to close that so-called loophole, the amendment was not consistent with the position held in 1986, or with the decision of the Attorney General in 1986, that members of the Legislative Council were entitled to be paid from the date of election.

Hon J.M. Berinson: It was perfectly consistent with my own opinion throughout. It was not a question of whether you thought it was a good idea to suggest that members should be paid. The question is, did the Act require them to be paid, and the decision on that was made on legal advice.

Hon DERRICK TOMLINSON: If the Attorney General looks at the legal advice, he will note that it is not a question of whether they were required to be paid; it was a question of whether they were eligible or entitled.

Hon J.M. Berinson: Are you suggesting -

Hon DERRICK TOMLINSON: I suggest to the Attorney General that requirement and entitlement are two quite different things.

Hon J.M. Berinson: That is wrong.

Hon T.G. Butler: Of course it is wrong!

Hon J.M. Berinson: Are you saying that a person entitled to payment from the State should not receive that pay?

Hon DERRICK TOMLINSON: The term used was not "received" but "required".

Hon J.M. Berinson: I am happy to go along with "entitled".

Hon T.G. Butler: He is getting senior counsel's advice.

The DEPUTY CHAIRMAN (Hon Doug Wenn): Order! I ask Hon Derrick Tomlinson to address his remarks to the Chair and ignore all interjections.

Hon DERRICK TOMLINSON: Thank you, Mr Deputy Chairman, but I would say to the Chair that it is always a good procedure not only to turn to senior counsel for advice but also to accept senior counsel's advice -

Hon J.M. Berinson: That is what I do all the time.

Hon DERRICK TOMLINSON: - which is exactly what the Attorney General did. He turned to senior counsel, in this case the Crown Solicitor, and in 1986 he acted consistently with the Crown Solicitor's advice. I understood him to say that he did not agree with it at the time but he did it. He was of a different opinion.

Hon J.M. Berinson: I said that the action we took at that time was not an indication either way. What it indicated was our decision to act on the basis of the advice available to us.

Hon DERRICK TOMLINSON: I put it to the Attorney General that the action in 1986 consistent with the advice of the Crown Solicitor is certainly not consistent with the action of 1989 -

Hon T.G. Butler: That is the problem, isn't it?

Hon DERRICK TOMLINSON: It is difficult to hear above these interjections.

The DEPUTY CHAIRMAN: The member should ignore the interjections and address his remarks to the Chair, as I asked him to do earlier, and I ask members to stop interjecting so that the Committee stage of this Bill can proceed.

Hon DERRICK TOMLINSON: I was trying to ignore them, Mr Deputy Chairman; in fact I was trying to drown them out. My remark was to the Attorney General, who was having difficulty hearing in spite of the considerable volume that I was using. I simply make the point that there is not consistency in the actions of the Attorney General. There is certainly not consistency between the amendments now proposed and the advice of the Crown Solicitor upon which the Government acted in 1986. If the Government were to be consistent it would not close the loopholes to prohibit members from being paid but would introduce legislation which would confirm the opinion upon which it previously acted.

In spite of the opinion of the Crown Solicitor I maintain that those various aspects and those various sections of the Electoral Act and the Constitution Act, to which I referred thoroughly in the second reading debate, make the amendment as contained in this Bill totally unnecessary and irrelevant.

Hon J.M. BERINSON: I have often regretted, and in fact in this House have expressed my regret, at how little I remember from my limited exposure to the study of philosophy, which was Philosophy 10. In fact, all I can remember from that course is Wittgenstein's view on the meaning of a word and Descartes' proof of the existence of God. I really regret that I do not remember more, because we had a course in logic that year and I am sure that if I had better remembered what I learnt I would have a better chance now of trying to accommodate the different views being put by Hon Peter Foss and Hon Derrick Tomlinson as though they were agreeing with each other.

Hon Peter Foss: You have not heard my view yet.

Hon J.M. BERINSON: I have. For example, I have heard Hon Peter Foss say that this amending Bill is unnecessary because it is perfectly clear that payment should not be made to members in advance of the May date. I have heard Hon Derrick Tomlinson argue that if we were to be consistent with the position we took in 1986 we would be moving an amending Bill to provide that the new members should be paid before the May date. I would have thought it would occur to one or other of the members opposite that, if Hon Derrick Tomlinson is right in saying that we should be moving to an amendment that he has suggested, my only response would be, "But that amendment is not necessary because, on the advice available to us, the entitlement to payment exists. That is precisely why the payment was made in 1986." It follows from that that we are really being told two things as though we are being told the same thing, and they are completely at odds. I am sure I am mistaken -

Hon Peter Foss: Of course you are!

The DEPUTY CHAIRMAN: Order!

Hon J.M. BERINSON: - and I am sure Hon Peter Foss will explain why. I can only excuse myself in advance by saying that I have forgotten my lessons in logic, obviously, or I would understand what is being said. Irrespective of what is being said, the greatest difficulty I have is understanding why it is being said. We have members opposite saying all the time that this Bill is unnecessary. If it is so unnecessary, why are we talking about it so much? Nobody suggests that it will do any harm, or that it will do any more than clarify the position which apparently all of us adopt now; that is, that members elected in February or March should not be paid before they actually take up their seats in May. We are all agreed about that; we are all agreed that this Bill will achieve that; we are all agreed that, to the extent that there is any doubt about the proper effect of the provisions, this amending Bill will put that issue beyond doubt. Why are we still talking about all that?

Hon Peter Foss: Sit down and I will tell you.

The DEPUTY CHAIRMAN: Order!

Hon J.M. BERINSON: We really are having a repeat of the arguments that have been put from the outset. I am very happy to hear what Hon Peter Foss has to say in addition to what he has already said, if he really feels it necessary to say anything additional. Could I suggest quite seriously, though, to him and to everyone, that at the end of the day, whatever anyone says, we will be left with conflicting views of the law by people whose views we respect. I respect the views of Daryl Williams QC and the Clerk; I would expect members opposite to respect the views of the Crown Solicitor. Those views conflict and we will not resolve that difference except by putting the issue beyond doubt, which is what this Bill does.

Hon PETER FOSS: I will not, for the time being, answer the Attorney General; I will deal with the matter with which I was dealing before my time ran out and I hope that I will be given the courtesy of an extension of time, as was promised by the Attorney General earlier..

The DEPUTY CHAIRMAN (Hon Doug Wenn): Order! I advise the member that he cannot receive an extension of time while we are in Committee. He has the opportunity to speak, then someone else can speak, after which he may speak again.

Hon PETER FOSS: I suppose if no-one else speaks I can speak again.

The DEPUTY CHAIRMAN: The member must talk to his colleagues about that.

Hon J.M. Berinson: There is no risk, Mr Foss; someone else will speak.

Hon PETER FOSS: The opinion of 25 February 1986 dealt slightly better with the question of why one might think it was possible to make this payment. At the bottom of the first page the Crown Solicitor states -

The concept which emerges from subsection (4) of section 8 of the Constitution Acts Amendment Act is that of a "member elected" to fill the particular vacancy through effluxion of time, but not eligible to sit or vote before the 22 May. Whilst section 6(1) of the Salaries and Allowances Act authorize the determination of the remuneration to be paid to "members of the Parliament", which phraseology would not conclusively determine the eligibility of persons elected under section 8(4) of the Constitution Acts Amendment Act, considerable assistance in this regard is obtained from subsection (5a) of section 6 of the Salaries and Allowances Act.

This is a most peculiar statement by the Crown Solicitor because there is no way that the Salaries and Allowances Act could in any way determine the eligibility of people under section 8(4) of the Constitution Act. All that one could possibly have is that the Salaries and Allowances Act might determine whether people are entitled to payment but it cannot possibly determine whether they are entitled to be members of Parliament. The Constitution Act is the only one that can determine that and the Salaries and Allowances Act could not accidentally amend the Constitution Act without being treated as a constitutional amendment. That is rather peculiar wording. He is probably trying to say the other way around what he is intending to say. It is not that eligibility is determined but that eligibility to payment is determined.

The Crown Solicitor quotes subsection (5a) -

Notwithstanding any other provision of this Act or any determination, where a person elected as a member of Parliament is a person to whom section 36 or section 37 of the Constitution Acts Amendment Act 1899 applies, that person shall not be entitled to any remuneration as such a member in respect of any period for which he remains a person to whom that section applies.

The wording of the section quoted refers to the circumstances under which a person is not entitled to payment; it is not a section which lays down the circumstances under which a person is entitled to payment - it quite to the contrary says the circumstances under which they are not entitled to payment. Prima facie we cannot by any rule of statutory interpretation read a section which says when a person is not entitled to payment as telling us that they are entitled to payment at some other time. He goes on to say -

This provision recognizes that a person may have been elected as a member of the Legislative Council at a general election, but not be eligible to sit or vote till the 22nd May, but nevertheless be entitled to remuneration from the date of election as long as he first resigns from his other office in respect of which section 36 applies to him (see section 36(9) which makes specific provision in that regard).

It does not say that at all. It recognises that a person may be entitled after he is elected as a member of Parliament to be paid and that that payment may not be dependent upon waiting until 22 May. Certainly there are circumstances under which that occurs but it does not specifically talk about every single instance where a person may become entitled to be a member of Parliament prior to 22 May. Even then, all he said is that the provision recognises that a person may have been elected to the Legislative Council and may not be eligible to vote and may be entitled to be paid. He does not actually say the circumstances under which the person will be paid are contrary to any other provision in the Act. There is no authorising provision in this clause which says one may pay. All he says about this is that the strong inference is, therefore, that any person who has been declared elected to the Legislative Council is entitled to be treated as a member of the Parliament. He puts it no higher than there is a strong inference. I cannot see how anybody could find from that alone that there is a strong inference that they should be paid.

I will go into the details later on as to why he is wrong. I am pleased to say that both Mr Marquet and Mr Daryl Williams picked up this point. The point they relied upon is not even dealt with by Mr Panegyres. In any legal opinion, one matter to be considered is all the

matters that have been taken into account. One can quite easily arrive at an incorrect opinion by looking at only part of the law which one should be considering. Mr Panegyres, I regret, has failed to address a very important part of this legislation. Members may wish to look at the legislation which we are seeking to amend. First of all we must see what the tribunal can do. That is set out under section 6(1) of the Act which states that the tribunal shall from time to time as provided by this Act inquire into and determine the remuneration to be paid to officers and members of the Parliament. The tribunal cannot make determinations for the payment of people who are not members of Parliament. The first question that must be asked is: What is meant by the term "members of Parliament" in section 6(1) because if one is not a member of Parliament as referred to in section 6(1) the tribunal cannot make an allowance for one to be paid, irrespective of anything else in the Act.

Hon D.J. Wordsworth: But the tribunal did make that determination; Mr Berinson determined that.

Hon PETER FOSS: No, Mr Berinson determined to pay to the members the amount which the tribunal had said should be paid to members of Parliament. If there is no determination in respect of members of Parliament one cannot pay it to people; and the tribunal has no power to make determinations other than in respect of members of Parliament. So, the first question to be asked is: Were these people members of Parliament? If they were not, the tribunal had no power to make a determination. Even if the tribunal had purported to make a determination saying that it will pay people who are not members of Parliament but who will be members of Parliament it will be ultra vires and invalid. The tribunal does not have the power to make determinations other than in respect of members of Parliament.

It is possible that the term "members of Parliament" bears a different meaning in the Salaries and Allowance Act from that which it bears in other legislation. It is possible that the term "members of Parliament" may be a special term in this Act, different from what it means under ordinary circumstances. To find out whether it has a different meaning we must look at the Act. There is no definition of members of Parliament in the Act. So, under the normal rules of interpretation, the term "members of Parliament" means what "members of Parliament" would mean in its ordinary sense.

[The member's time expired.]

Hon DERRICK TOMLINSON: The Attorney General has indicated that one of the things he remembers from his philosophy 100 unit at the University of Western Australia was Descartes' proof of the existence of God. If he remembers that aspect, he must have attended to the whole of Descartes' argument; if he had attended to the whole of my argument, he would have heard me say that the Bill is totally unnecessary. That is totally consistent with the argument presented by Hon Peter Foss.

Hon J.M. Berinson: I need a refresher course to cope with that!

Hon PETER FOSS: The only argument that has been put forward by the Crown Solicitor is to take section 6(5a) of the Salaries and Allowances Act and say that this indicates some contrary intention. However, it is not possible to use section 6(5a) to change the meaning of "member of Parliament". A person does not suddenly become a member of Parliament purely by means of subsection (5a). That is where the problem lies in relation to the Crown Solicitor's opinion. He has never really dealt with this basic problem of what is a member of Parliament, and he has taken a disqualifying clause and turned it into a qualifying clause for payment. That is contrary to all rules of statutory interpretation, and he has given no justification for doing so. I realise that lawyers may disagree on matters, but I cannot see how a proper examination of this provision could sustain the Crown Solicitor's argument. Furthermore, when considering his argument it is plainly not sufficiently full in dealing with the matters properly raised by Mr Daryl Williams and the Clerk of the Legislative Council. Perhaps this matter is best dealt with by Mr Daryl Williams, and I shall refer to his opinion given on 9 May 1986. Page 1 of the opinion properly points out, as I did, that the Salaries and Allowances Tribunal had an obligation to determine the remuneration of, among others, members of Parliament. The opinion reads -

The Salaries and Allowances Act does not define who is a member of the Parliament for the purposes of the Act. The Interpretation Act 1984 also does not contain any definition of a member of the Parliament, although it does define the Parliament as

being the Parliament of the State (s 5). Who is a member of Parliament must be determined by reference to the Constitution Act 1889-1984 and the Constitution Acts Amendment Act 1889-1984.

He then deals with certain circumstances under which people may be elected to the Legislative Council. He indicates that -

A vacancy in the Legislative Council may, of course, occur other than by effluxion of time. A casual vacancy will occur where, for example, a member resigns . . . or a member ceases to be a qualified to be a member, or becomes disqualified by reason of bankruptcy or convicted or some other reason . . .

It must be remembered that at the time of this opinion a casual vacancy was treated differently from the way it is treated now. It is still possible to have an election upon a casual vacancy, but that is now not generally done. At the time of the opinion it was the normal way to deal with a casual vacancy. The opinion continues -

On the occurrence of a the casual vacancy there is an election . . . The person elected becomes a member of the Parliament on the declaration of the poll and the return of the writ . . .

Clearly, in the case of a casual vacancy in this House at the time the opinion was written it was quite possible for a person, immediately upon the declaration of the poll, and immediately following the election, to become a member of Parliament. Section 6(5a) does not contain an implication that it is referring to members who are elected who will not become members until 22 May. Quite plainly section 6(5a), as far as it deals with persons elected to the Legislative Council and disqualifies them from payment, disqualifies those people who would become members of Parliament immediately upon election simply because they had been elected to fill a casual vacancy.

As Mr Williams states on page 3 of his opinion -

A person elected to the Legislative Assembly, whether at a general election or to fill a casual vacancy, is in a similar position to the person elected to fill a casual vacancy in the Legislative Council.

Therefore, the section adequately provides a disqualification because it provides circumstances in which disqualification of payment is necessary, even though a person has become a member of Parliament within the terms of the Constitution. When a person is a member of the Legislative Council, and when the person is elected to fill a casual vacancy in the Legislative Council, this section would apply. That section is consistent with providing a disqualification and cannot be read as a qualification for payment.

Hon Mark Nevill: Why do we not take our seats at the same time as the Legislative Assembly?

Hon PETER FOSS: That is another point.

Hon T.G. Butler: Don't introduce another point!

Hon PETER FOSS: I will be careful to stick to the one point.

Mr Williams refers to the advice of the Crown Solicitor and states -

From this I infer that the Crown Solicitor relies principally upon s 6(5a) of the Salaries and Allowances Act as authorising salary payments, from the time of their election, to persons elected to the Legislative Council for the first time at the recent general election. In this context it is also necessary to give consideration to ss 36 and 37 of the CAA Act.

He refers to those sections and the bottom of the page reads -

. . . if a person is elected as a member of the Legislative Council other than at a general election or is elected as a member of the Legislative Assembly he shall not take the oath or make the affirmation of allegiance until he has resigned from or otherwise ceased to hold the office or place by reason of which s 36 applies to him and his seat shall become vacant at the expiration of 21 days after the date on which he is declared to be elected if he is not, before the expiration of that period, resigned from or otherwise ceased to hold the office or place by reason of which the section applies to him (s 36(10)).

Mr Williams then quotes section 6(5a), and continues -

On the face of it s 6(5a) does not confer any entitlement to remuneration on any person. On the contrary, it appears to prevent a person elected to Parliament who holds a relevant office at the time of his election from receiving any remuneration as a member of the Parliament until he ceases to hold the relevant office.

The extraordinary aspect of the Crown Solicitor's advice is that it refers to a section specifically directed to disqualify people who hold certain office from receiving any payment. This was used to justify providing a salary, not only for people who hold certain office, but also for those who do not hold such office. An extraordinary leap in logic took place. The opinion continues -

A person elected to the Legislative Council at a general election does not become a member of Parliament until 22 May following his election. If at the time he is declared to be elected he holds an office such that s 36 of the CAA Act applies to him, he must cease to hold the office before 22 May following his election or his seat becomes vacant. If, as stated above, the person does not become entitled to remuneration until 22 May following his election, s 6(5a) appears to be redundant in relation to such a person.

[The member's time expired.]

Hon DERRICK TOMLINSON: A pertinent question that has to be answered in this debate is: What is the status of a person elected at an ordinary general election?

Hon J.M. Berinson: That was one of your better contributions, Mr Tomlinson!

Hon PETER FOSS: The fact remains that this section could apply to other people. Mr Williams' opinion states -

S 6(5a) of the Salaries and Allowances Act does have an application in relation to some persons to whom s 36 applies. A person elected to the Legislative Council to fill a casual vacancy and a person elected to the Legislative Assembly is, as stated above, a member of the Parliament from the time the poll is declared and the writ returned . . . In respect of this situation s 6(5a) provides that although he is a member of the Parliament and would ordinarily be entitled to remuneration, he is entitled to no remuneration until he ceases to hold the relevant office. That is, in my view, the only situation to which the subsection is directed. In my view it is simply a result of inaccuracy or excessive caution in drafting that the subsection refers to s 37 of the CAA Act and that, in relation to persons to whom s 36 of the CAA Act applies, it is not limited to persons elected to the Legislative Council to fill a casual vacancy and persons elected to the Legislative Assembly.

For the purposes of understanding legislation it is possible to look at certain materials and Mr Williams says -

In none of the material can I find any suggestion that the 1984 legislation was intended to change the time from which a person elected to the Legislative Council at a general election would become entitled to remuneration as a member of the Parliament. . . The explanatory memorandum stated in relation to that section:

"The proposed subsection (5a) would apply where a newly-elected member is a person to whom the proposed section 36 or 37 of the Constitution Acts Amendment Act applies, i.e. he holds an office or place that he must vacate before or on taking up his seat. The provision would prevent him from receiving any remuneration as a member of the Parliament until he has in fact vacated that office or place."

In my view, this confirms that s 6(5a) was intended only to prevent a person elected to Parliament who holds a relevant office at the time of his appointment from receiving any remuneration as a member of Parliament until he ceases to hold the relevant office.

There is nothing in that opinion about paying people who have nothing to do with holding a relevant office. Mr Williams referred to the Joint Select Committee report which led to this piece of legislation. He said -

In view of that the Committee recommended that such a person not be required to vacate the relevant office until the day on which it is prescribed the Parliamentary term should commence (Recommendation (14) p 18). This recommendation represented a variation on proposals in a 1979 Bill on which the Committee recommendations appear to be based. . . If any conclusion is to be drawn from this history it is only, it is submitted, that, although consideration was evidently given by the Select Committee to the question of financial disadvantage to a person elected to the Legislative Council at a general election through loss of a State appointment on election, there is no evidence that consideration was given to payment of a Parliamentary salary to that person before he became a member entitled to sit and vote.

Then Mr Williams says -

On that basis the payments from the Consolidated Revenue Fund to members-elect are made without legislative authority and are therefore illegal and ultra vires . . . The State may recover the payments from the members-elect to whom they are made

I will not read the opinion of the Clerk, but suffice to say I agree with his opinion. It is quite distressing that in this particular case the Attorney General chose to accept the opinion of the person who is the Crown Solicitor. I make no deprecation of his role, but it is not the same role as the Solicitor General; he is not even the same sort of person as Crown Counsel.

Hon D.J. Wordsworth: Was that opinion given before or after the payments were made?

Hon PETER FOSS: Some opinions were before and some were after. The payment was eventually made when the Attorney General wrote to the Clerk directing him to make payments.

Hon D.J. Wordsworth: It is a little late to ask for an opinion after the payment has been made.

Hon PETER FOSS: Certainly one, or maybe more, of the opinions were obtained prior to the payments being made.

As I was saying about the opinion of the Crown Solicitor, any lawyer reading it would note that it did not have the depth of consideration of the opinions of Mr Marquet and Mr Williams. I would not be doing Mr Panegyres a disservice to say that the opinion of Mr Williams is obviously an opinion which should be very seriously considered, probably more seriously than the opinion of most other counsel in Western Australia. That is not to say he is universally correct, but when Mr Williams gives a considered opinion such as he did give, and when Mr Panegyres gives an opinion which does not appear to deal adequately with the matters of substance dealt with in Mr Williams' opinion, and appears, on the surface of it, to omit dealing with some of the parts that I, and most lawyers, regard as most important - that is, what is the authority contained in section 6(1) of the Salaries and Allowances Tribunal Act - there must have been very serious doubts as to whether that payment should have been made. It was unwise for all of that payment to be made over the protests of the Clerk of this House, especially when those protests were cogently argued by the Clerk. I am firmly of the opinion that the advice of the Crown Solicitor is wrong, and I take comfort in the fact that I am in agreement with both the Clerk and Mr Williams. The reason I find this legislation disturbing is that I would have thought perhaps what we should be looking to - if we were to look at anything - was some legislation to validate what happened at that particular event. Looking at the situation now we must come to the conclusion that those payments were wrongly made in the first instance.

Hon D.J. Wordsworth: The first of the WA Inc payments.

Hon J.M. Berinson: Come off it.

The CHAIRMAN: Order! The honourable member has two minutes remaining.

Hon PETER FOSS: Either we should come out as a Parliament and authorise what happened - notwithstanding that it was incorrect at the time - or we should reject doing so, and we should pass an Act requiring the recovery of those moneys. It seems that we have an unsatisfactory situation where this Bill tends to sweep the matter under the carpet. The Attorney General is saying, "Look, it does not matter; it was illegal then and this puts it beyond doubt."

Hon J.M. Berinson: Hon Peter Foss knows I am not saying that at all.

Hon PETER FOSS: All right, the Attorney General is saying that if we say it is illegal, this puts it beyond doubt.

Hon J.M. Berinson: But I am saying you are wrong.

Hon PETER FOSS: I know, but I do not agree with the Attorney General. He has no sound basis to say that. The Attorney General is trying to get this House to say that is all in the past.

Hon J.M. Berinson: It is all in the past.

Hon PETER FOSS: The Attorney is saying that although as an Opposition we believe those moneys were improperly paid, that is an inconsequential fact. The Attorney wants us to put this legislation in place to make certain it is treated as a being a matter of the past.

[The member's time expired.]

Hon J.N. CALDWELL: I admire Hon Peter Foss' tenacity with this Bill and the way he has tackled it. He must have done an enormous amount of research into it. In fact, he did so much research that his argument is pretty good. He has presented a fair case. However, I can see what the Government is getting at. It does not want the confusion to occur again. At that time different legal opinions were given. How many times have we seen opposing legal opinions given and, in many cases, the decision has been wrong and the court has agreed with it. I am not saying whether the decision was right or wrong this time. Maybe the advice was not clear enough. The decision that the payment be made was given following one of the highest legal opinions and maybe there was confusion. Maybe the matter was not looked into properly by the Crown Solicitor. However, the decision was made. If we do not correct it now, in 50 years' time, when most of us will be pushing up daisies, a similar conflict could arise. Something should be put in place so that it does not happen again. I think the Government is trying to clear up any confusion that could occur about this matter in the future.

Hon PETER FOSS: I do not agree with that interpretation of the Government's motives. This legislation is an attempt to indicate to the public that there is doubt when there was never any doubt.

Hon J.M. Berinson: Do you really think the public is now worried about decisions made in 1986 on this narrow, ephemeral question.

Hon PETER FOSS: No, but I believe the Government is worried about any criticism that it acted improperly.

Hon J.M. Berinson: Here he goes again!

Hon PETER FOSS: I do not believe there is any doubt. The problem with passing legislation such as this is that it seems to signify that there is some doubt, that there was some doubt, and that the Government was justified in making this payment because there was a reasonable doubt. However, there never was any reasonable doubt. All this legislation does is give a false impression on the Statute books which the Government can use to say, "Look, we were right; there was a doubt and we were justified in paying it because of that doubt" because the Parliament has agreed to amend to remove that doubt. The Government is asking this House to remove a doubt that does not exist. The Government made the payment at the time the Clerk of the Legislative Council told it that it was not proper to make that payment and when there was controversy in the public arena about whether it was proper for it to make that payment.

Hon T.G. Butler: We did not have your advice.

Hon PETER FOSS: The Government had advice from Mr Daryl Williams and it hardly needed any more advice than that. I sympathise with the import of legislation because I believe I sympathise with the law as it stands at the moment. I agree with it as it stands at the moment. I do not need to have another piece of legislation that says that the law as it stands at the moment will continue to be the law as it stands at the moment, but we are passing this legislation to say to the Government that what it did then was all right because there was doubt, whereas now we will get rid of some doubt. As far as I am concerned there was no doubt, there is no doubt and there can be no doubt. I do not believe the legislation is

necessary and I find it disturbing that we are passing this legislation because it gives the stamp of approval of this House to the contention by the Government that there was some doubt.

Hon J.M. BERINSON: I welcomed the contribution by Hon John Caldwell not only because he supports the passage of the Committee stage, but also because he brought a breath of fresh air to what was becoming an unnecessarily convoluted debate. I think Mr Caldwell has summarised it correctly and his view reflects what I have been trying to put to the House.

I agree with Hon Peter Foss. What we have been arguing is that the purpose of this Bill is to put any question of doubt to rest. That is worth doing and we should do it, especially considering how close to our operations as a House this question comes. It appears to be agreed on all sides that we should not be paying two members for the one position. That happened once. We are saying that this measure should be supported so as to ensure that under no circumstances will it happen again.

Although I do not want to go off on a tangent, I think I should say something about the Crown Solicitor's view, given the number of comments that have been made about it. The fact that the Crown Solicitor's advice is not as extensive or as formal an opinion as Mr Williams provided should not be taken to indicate that the Crown Solicitor did not consider all submissions and address all the issues which were raised in them. Nor should the Crown Solicitor's role and seniority be misunderstood. He is the equivalent of a chief executive officer of the State's legal professional service. For many years, Crown Solicitors have been looked to by successive Governments for advice at the highest level. That is what we have always received and what we continue to receive from the present occupant of that office.

In elaborating on Mr Caldwell's view, the nature of the debate has been rather surprising, given the limited scope of the Bill. I could well imagine that the sorts of submissions that have been made in this debate would be well in place on an application to the Supreme Court for a declaration as to the true meaning of the legislation with which we are dealing. It could well be in place even if the fear was that a misunderstanding of the current law would result in some undesirable result from this Bill which should be resisted at all costs and by all means. Nobody could seriously suggest that we are dealing with anything remotely of that nature. That is not the position. The very worst that could be said is that this Bill will simply preserve the current position, but in a clear and unarguable way. The position of the Government is that it does not serve to preserve the current position. Our position is that it will change that position to one which would clearly preclude double payments for a single position. It is as simple as that, and with due respect to all the views expressed so far, I doubt very much whether the debate can be taken further. I do hope that members, even taking into account the arguments that have been raised, will see this as a suitable time to proceed with this Bill and especially to pass it.

Hon GEORGE CASH: In view of the comments of the Attorney General, and given the comments of both Hon Derrick Tomlinson and Hon Peter Foss, I want to make my position very clear with respect to this legislation. I intend to support this Bill, but my support as such should not be taken in any way as an acceptance of the payments made by the Government in 1986. Those payments were illegal and they are illegal today. I suggest that the legal advice the Government obtained in 1986 suited its political purpose at the time and that is the reason it accepted that advice. The Attorney General well knows there was conflicting legal advice.

Hon J.M. Berinson: Not from the Crown's own legal officers.

Hon GEORGE CASH: I do not know whether that was the case. As to whether there was conflict with respect to the advice tendered by advisers of the Crown Law Department, I am aware of the advice tendered by Mr Panegyres and that is the advice the Government was prepared to accept at the time. There is no question in my mind that the advice was accepted for political purposes. Alternative advice was available from legal advisers outside the Crown Law Department and their advice indicated that the payments were believed to be illegal. Clearly that advice did not suit the Government's political purpose and it put it to one side.

Several members interjected.

Hon GEORGE CASH: Let us not play games. The Attorney General has already said that we could obtain as many legal opinions as we wanted and they would differ all the way through.

Hon J.M. Berinson: That is what Hon Peter Foss said.

Hon GEORGE CASH: I reiterate that the payments made in 1986 were illegal and they were made for political purposes. The Government's reason for bringing this Bill into this place today is to try to get the Government off the hook.

Several members interjected.

The DEPUTY CHAIRMAN (Hon Doug Wenn): Order! I ask the honourable member on his feet to direct his comments through the Chair and not to members. I also ask that interjections cease.

Hon GEORGE CASH: I am more than happy to do that, Mr Deputy Chairman. Hon Joe Berinson has brought this legislation before us today in an attempt to justify the position he adopted at that time. The Bill is not before us to correct the law; the law never needed to be corrected. I will support the Bill because I do not want the opportunity to arise again in which people can be paid as they were in 1986; that is, illegally.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Section 6 amended -

Hon DERRICK TOMLINSON: One of the questions which has led to contention in this debate is the meaning of the word "election". This clause refers to a person elected as a member of the Legislative Council. A question asked in the second reading debate was: What was the consequence of the declaration of the poll as specified in section 147 of the Electoral Act? That section requires the returning officer to declare the result of the election and the name of the candidate or candidates elected. The question is, elected to what? In the case of a casual vacancy the person is elected to fill that vacancy. In the case of a general election in the Legislative Assembly the person is elected to fill a vacancy caused by the effluxion of time. In the Crown Solicitor's opinion to the Attorney General dated 13 February 1986 he made specific reference to section 147 of the Electoral Act and said that it applied from the time a person is elected to fill a seat vacated by the effluxion of time.

In the case of the Legislative Council, because of the fixed term, the seat is not necessarily vacant at the time of the election as is the case in the Assembly, but most frequently it is vacated some time after the election is held. The person who has been declared the winner of an election in the case of the Legislative Council might be described as the member-elect. In proposed subsection (5b)(a) the Bill makes reference to a person elected to the Legislative Council at a general election. He is not elected as a member of the Legislative Council; he is elected to fill a vacancy which will occur with the effluxion of time. I ask the Attorney General to comment on that.

Hon J.M. BERINSON: The various references Hon Derrick Tomlinson provided also provide the answer to his question. I do not have all the papers or legislation with me, but he referred to the provision of section 147 of the Electoral Act which concludes with the description of the person who won that election as "elected". As the member asked, and it is a fair question, elected to what? The answer is that he is elected to take a seat in the Legislative Council as from 22 May next; that is, unless the position arises which is covered by the proviso in proposed subsection (5b)(a), namely that the person we are talking about was already a member at the time of the election.

Hon DERRICK TOMLINSON: In the light of that answer, if the person declared elected at the declaration of the poll is elected to fill the vacancy which will occur with the effluxion of time, is the provision of proposed subsection (5b)(a) not redundant? It states, in effect, that the person is not entitled to any remuneration before 22 May when, in fact, the person is not entitled because he is not elected as a member of the Legislative Council until 22 May.

Hon J.M. BERINSON: That is the whole reason for this Bill. When I said the meaning of "elected" in this context would be elected to the Legislative Council to take a seat as from 22 May next, I was referring to the effect of this Bill.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Attorney General), and transmitted to the Assembly.

ORDERS OF THE DAY - No 13

Discharged

On motion by Hon J.M. Berinson (Minister for Corrective Services), resolved -

That Order of the Day No 13 be discharged from the Notice Paper.

STANDING COMMITTEE ON LEGISLATION

Road Traffic Amendment Bill (No 2) - Final Report Tabling

HON GARRY KELLY (South Metropolitan) [9.42 pm]: I present the final report of the Standing Committee on Legislation on the Road Traffic Amendment Bill (No 2). I move -

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

Question put and passed.

[See paper No 626.]

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [9.43 pm]: I move -

That the House do now adjourn.

Adjournment Debate - State Government Insurance Commission - Property Investments

HON PETER FOSS (East Metropolitan) [9.44 pm]: I want to pick up a couple of points from the speech I made in the adjournment debate last night. One important aspect is the question raised by Hon Mark Nevill with regard to criticism of property trusts in Australia because of the failure of the property trusts' assets across Australia. I said that one of the criticisms made of the State Government Insurance Commission was the quantity of its investment in property and the quantity of those investments in one or two properties.

The **DEPUTY PRESIDENT** (Hon J.M. Brown): Order! I know that this is the adjournment debate but I think members should show a little more respect. Members are either walking around the Chamber or standing around and talking in groups. The House is still in session and until the adjournment debate is concluded it will remain in session. I ask members to show the member on his feet the courtesy to which he is entitled.

Hon PETER FOSS: There is a world of difference between the type of investments that a company such as the SGIC should invest in and those which a property trust should invest in. It is clear that a prudent insurance company would have a wide spread of investments, and even within particular categories of investments it should have a wide spread of properties or items. It is no answer to say that property trusts are having problems with their property investments. Any insurance company at any time will have some investments doing well and some not doing so well. However, part of the skill of managing an insurance company is to make sure that the company has a proper breadth of investments so that it is not unduly affected by these events. That is something the SGIC is now attempting to remedy so that it is not exposed to particular areas. Another area in which it overexposed itself was the major acquisition of Bell Group shares, which was another large investment in one area.

A further matter raised by the Leader of the House relates to the premiums paid in various other States. We have always been lucky in Western Australia that the awards for damages in this State are lower than those in other States, particularly those in New South Wales where for a long time those types of cases were tried by juries which tended to give much higher awards than those given in this State. Also the statutory provisions in this State which

have applied for many years to the Motor Vehicle Insurance Trust brought home to the local public and the judiciary that large awards by way of damages for motor vehicle accidents directly reflected themselves in the premiums charged, and the tendency to increase the amount of awards is a social measure which has a cost to the community. It has been well recognised by the courts in this State that one can go only so far by way of compensation before it becomes too great a burden on the community. High Court decisions have made it increasingly difficult for that to be maintained in this State, but we have been well served by the MVIT system and the judiciary in the granting of awards for damages.

I would like to mention one other point; that is, the report in this morning's newspaper of the speech I made last night. It is unfortunate that the newspaper report does not include one of the points I made, but includes another. I said last night in the adjournment debate -

I am pleased to say that at long last we have somebody in the SGIC who is not a craven servant of this Government, who is prepared to come out and tell this Government that it made useless investments. I give great commendation to Mr Ron Cohen. I am pleased to see the other people who have been placed on the SGIC board. I am at long last happy to say that we are getting people of integrity who will tell the people of Western Australia the true position.

That is a very important fact that needs to be drawn to the attention of the people of Western Australia: The current board is a board of integrity in which we can have some confidence. I am afraid I was not able to say that of the former board of the State Government Insurance Office. I was referring to the former board when I commented that if the SGIC had not been a Government corporation, it would have been closed down, made bankrupt and all its directors would have been gaoled. The directors who would be subject to that would be those who took the actions by way of investment at the behest of the Government. I would not want it thought that I referred to the current directors when making that statement. Anyone reading the speech in full would recognise that I was complimenting the current directors of the board as men of integrity, and certainly I do not believe that they should at any time be gaoled.

Yesterday only the first part of my speech was recorded, and I hope that the Press will now report the other side of the story in that we have some cause for optimism because we have a board of directors with integrity, who will tell the people of Western Australia the true situation of the SGIC, who take their duty to the SGIC seriously and who will carry out that duty. I sincerely hope that we shall see good things from such a board, and had such a board been in place all along, the SGIC would not be in the position it is in today. I want that placed on the record and I hope it is recognised by the people of Western Australia and by the media in its reporting in future.

Question put and passed.

House adjourned at 9.50 pm

QUESTIONS ON NOTICE

STATE ELECTORAL COMMISSION - FEDERAL CONTROL

591. Hon N.F. MOORE to the Attorney General representing the Minister for Parliamentary and Electoral Reform:

With reference to evidence given by the State Electoral Commissioner to the Legislative Council Estimates Subcommittee A on 25 October 1990, *Hansard* page 151, in which he stated, "The Commonwealth is very keen to assume most of the activities relating to electoral matters and it is probably even getting to the stage of conducting State Parliamentary elections.", will the Minister advise -

- (1) Has the Commonwealth sought to increase its involvement in the affairs of the State Electoral Commission and if so, how?
- (2) Has the State Government firmly resisted these approaches and if not, why not?
- (3) Has the State Electoral Commission moved to the South Australian position of allowing the Commonwealth to control the database of electors?
- (4) If so, why?
- (5) If not, is it intended to move to this position and if so, when?

Hon J.M. BERINSON replied:

The Minister for Parliamentary and Electoral Reform has provided the following reply -

In addition to the statement of the Electoral Commissioner for Western Australia, Les Smith, on 25 October 1990, *Hansard* page 151, he also stated at *Hansard* page 152, "The observation that I made earlier is my personal view that this is what the Government may have in mind well down the track."

The answers to the five parts of the question asked by Hon N.F. Moore are -

- (1) On 7 February 1991 the Prime Minister wrote to the Premier about formal negotiations taking place with a view to arriving at a suitable basis for revising the 1983 Commonwealth-State arrangement for a single enrolment procedure and revision of electoral rolls. The Premier replied to the Prime Minister in March 1991 indicating that the request for formal negotiations to commence was supported. The Premier stressed that a wide ranging approach would need to be adopted to the issues to be discussed, including costs met by the State as well as the direct costs incurred by the Commonwealth in maintaining joint rolls and conducting habitation reviews. Les Smith wrote to the Australian Electoral Commission in Canberra on 10 April pointing out that the Australian Electoral Commissioner had recognised this State's attitude to continuing to maintain the State electoral roll rather than give that function to the Commonwealth as was contemplated in Queensland.

An AEC-WAEC meeting was arranged for 21 May at which it was agreed that the issues to be discussed included -

- (a) Costs met by the State and direct costs incurred by the Commonwealth.
- (b) Improvements to the consultation process.
- (c) Setting up a joint management group in this State.
- (2) The approaches from the Commonwealth are still subject to

negotiation and consideration by the WA Electoral Commission. In view of the emphasis on information technology in the negotiations, the WAEC engaged Mr Garry Trinder, Senior Consultant, Execom Group Pty Ltd, to provide independent and expert advice on the Commonwealth-State arrangement. Garry, who is also National Vice President of the Australian Computer Society, has been contracted by the State Electoral Department of South Australia to provide an objective assessment of South Australia's position in respect of the joint roll arrangements and to develop a recommended position for South Australia in response to the stated intention of the Australian Electoral Commission in its December 1990 Information Technology Strategies Plan to centralise in Canberra the maintenance of the joint rolls.

It is understood that the State Electoral Commissions of New South Wales and Victoria are also going to use Garry Trinder as a consultant in their negotiations with the Commonwealth. In his strategy paper prepared for the Western Australian Electoral Commission, Garry Trinder recommends that the WAEC adopt a position which favours the option of the AEC adopting the WAEC system to process the WA electoral roll along the lines of the South Australian model.

If that recommendation was not acceptable to the AEC, Garry Trinder's further recommendation as a fall back position is that the WAEC retain the current position of maintaining a separate roll maintenance system which precludes any further Commonwealth involvement. That position is acceptable to the AEC.

Notwithstanding agreement on that aspect, in a letter of 19 June 1991 the AEC's Acting Deputy Electoral Commissioner states, "I hesitated to make suggestions of this nature, but it seems to me that given the Commonwealth has to maintain a Roll, it would be far cheaper for your Commission not to maintain one and receive a dump from the AEC when required for your own special applications such as local government elections". Electoral Commissioner, Les Smith, is strongly opposed to this latest assertion from the Commonwealth.

- (3) As is the case in Western Australia, in South Australia the AEC controls about 90 per cent to 95 per cent of enrolment by way of the initial processing of enrolment claim cards, but the computer programs and the database for the maintenance of the electoral roll are controlled by the State. The South Australian Electoral Commissioner has confirmed that situation.
- (4) Not applicable.
- (5) It is not intended to move to the position of allowing the Commonwealth to control the database of electors in Western Australia.

CAR THEFT - ALBANY, BUNBURY, KALGOORLIE, PORT HEDLAND

613. Hon GEORGE CASH to the Minister for Police:

How many car thefts have been reported to police since 1 July 1990 to 31 May 1991 in the following districts -

- (a) Albany;
- (b) Bunbury;
- (c) Kalgoorlie; and
- (d) Port Hedland?

Hon GRAHAM EDWARDS replied:

- (a) 50.
- (b) 166.
- (c) 368.
- (d) 32.

CONSERVATION AND LAND MANAGEMENT DEPARTMENT - ROYALTIES
Funding Purpose

621. Hon W.N. STRETCH to the Minister for Education representing the Minister for the Environment:

Further to question on notice 570, can the Minister advise to what purpose the funds raised by the royalties are put (ie research, fire control, etc)?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

Royalties are paid into the Consolidated Revenue Fund as required by section 64 of the Constitution Act and section 63 of the Conservation and Land Management Act.

SWAN RIVER - MATILDA BAY FORESHORE RESERVE
Collapsed Embankment

629. Hon P.G. PENDAL to the Minister for Education representing the Minister for the Environment:

With reference to pictorial publicity in March this year, given to the erosion of the river foreshore at Crawley in the vicinity of the Matilda Bay Tearooms -

- (1) Did the Minister's department or the Swan River Trust investigate this matter?
- (2) If so, with what result?
- (3) Has it yet been ascertained who or what has been responsible for the collapse of the embankment?
- (4) If yes to (3), will the Minister outline the findings and any proposed action, including any proposals to further limit powerboat speeds in the area?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

- (1) Yes. The SRT provided to CALM, which is responsible for the Matilda Bay Foreshore Reserve.
- (2) Advice was provided to CALM that the beach should be renourished with sand.
- (3) Natural erosion and people gaining access to the beach.
- (4) As the natural erosion is a slow process, the best course of action is to renourish the beach with sand. Some maintenance work on the embankment may be necessary. Powerboats are not a major factor.

PREMIER - HOWARD SATTLER SHOW
"Rednecks" Reference

631. Hon P.G. PENDAL to the Attorney General representing the Premier:

With reference to the Premier's comments on the Howard Sattler show in late July during which she referred to Mr Sattler's listeners as "rednecks" -

- (1) What, or whom does the Premier regard as a redneck?
- (2) Does not the use of such a term cut across her own oft-repeated request for members of Parliament to avoid abusive terms?

Hon J.M. BERINSON replied:

The Premier has provided the following response -

(1)-(2)

I did not make the comments to which the member refers on Mr Sattler's program, nor did I identify his listeners. Nevertheless, I do not resile from the view that I expressed at the launch of a study into Aboriginal imprisonment in Western Australia. I said I hoped this document would reach a wide audience and would be discussed by people who have different viewpoints from the extreme ignorance, prejudice and bigotry which characterises a handful of callers to radio stations. I gather the description is worn as a badge of pride by some extreme elements in the community. At no time do I deny the right of people to put a point of view. On this important issue I am seeking a rational, informed community debate. I hope the member shares that goal.

GNANGARA MOUND - SERVICE STATION

647. Hon P.G. PENDAL to the Minister for Education representing the Minister for the Environment:

- (1) Will the Minister give Parliament a full explanation of the reasons for having overruled the Environmental Protection Authority and giving approval for the siting of a service station above the Gnangara mound?
- (2) Will the Minister now reconsider the position and move to prevent this site being built on?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

- (1) An appeal was lodged through the Environmental Protection Act 1986. Given existing policies and consistency with a decision made on a similar proposal in the area, the appeal was determined in favour of the appellant.
- (2) The determination of an appeal is final.

ENVIRONMENTAL PROTECTION AUTHORITY - CARNARVON FASCINE
Dredging Impact Study

665. Hon P.H. LOCKYER to the Minister for Education representing the Minister for the Environment:

- (1) Is an Environmental Protection Authority impact study being undertaken to examine the possible dredging of the Carnarvon Fascine?
- (2) If so, when did the study commence and when is completion expected?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

- (1) A referral was received on 21 June 1990 from the Shire of Carnarvon for a proposed residential/canal development which includes some dredging of the Fascine, Carnarvon. The authority had determined the level of environmental impact assessment required for consideration of the proposal a public environmental review - PER.
- (2) The authority has issued guidelines for preparation of the PER by the Shire of Carnarvon. The Shire of Carnarvon is yet to submit its draft PER to the authority, which will then be released for a public review period of eight weeks. The Shire of Carnarvon is unable to determine the timing for submission of its PER and until this is known the authority will not be in a position to advise on when the review process will be completed.

QUESTIONS WITHOUT NOTICE

SCHOOLS - WANNEROO SENIOR HIGH SCHOOL

Education Support Unit

402. Hon GEORGE CASH to the Minister for Education:

- (1) Is the Minister aware of the valuable work being done by the education support unit at Wanneroo Senior High School?
- (2) Given the number of students who have been identified as requiring the services of the education support unit at that school, will the Minister consider making representations to her department to ensure that additional teacher support is made available to the unit?
- (3) If not, would the Minister explain the reasons why such representations will not be made?

Hon KAY HALLAHAN replied:

(1)-(3)

If the member wants the matter thoroughly considered, the best way to achieve that is for him to put the question on notice and I will have the matter looked at.

SCHOOLS - WANNEROO SENIOR HIGH SCHOOL

Education Support Unit

403. Hon GEORGE CASH to the Minister for Education:

Supplementary to the previous question and in respect of the Minister's answer, I point out that representations have already been made to her and her department on a number of occasions in this regard, and again I ask whether she will make further representations to her department to ensure that the education support unit at Wanneroo Senior High School is afforded additional teacher support.

Hon KAY HALLAHAN replied:

Again I say that if the member puts his question on notice I will have the matter looked at thoroughly.

TOBACCO ACT - AMENDMENTS

Health Promotion Foundation - Sport and Recreation Funding

404. Hon MURRAY MONTGOMERY to the Minister for Sport and Recreation:

Further to question 394 which I asked the Minister last night, will he consider amendments to the Tobacco Act, which gave rise to the Western Australian Health Promotion Foundation, to enable the foundation to give sport and recreation funding in the spirit in which the Bill was debated?

Hon GRAHAM EDWARDS replied:

As I indicated last night, I do not have ministerial responsibility for this legislation or for the Western Australian Health Promotion Foundation. However, I undertake to raise the matter with the responsible Minister, Hon Keith Wilson, in an endeavour to facilitate some further discussion on it.

SCHOOLS - WANNEROO SENIOR HIGH SCHOOL

Maintenance Visit

405. Hon GEORGE CASH to the Minister for Education:

Will the Minister accompany me on a visit to Wanneroo Senior High School so that she can see at first hand the condition of that school and its urgent need for repairs and maintenance and, with me, conduct discussions with those involved in education support in order to better understand the need for additional teacher support in that unit? I am more than happy to pick the Minister up and drop her off.

Hon KAY HALLAHAN replied:

I am sure Hon George Cash will drop me off!

Hon George Cash: Yes - on the other side of Yanchep!

Hon KAY HALLAHAN: Since I have been the Minister for Education I have visited a number of schools, and on some occasions members of the Opposition have accompanied me on those visits, as have Government members. Wanneroo Senior High School is a large and important high school and when time permits, having particular regard to the parliamentary session, I will include that school on my itinerary of planned visits. When I set a time to do that I will advise Hon George Cash so that he can accompany me on that occasion and point out the things that are of concern to him.

Hon George Cash: I will be delighted to join you on that occasion.

Hon KAY HALLAHAN: The President also wants me to visit some of the schools in his electorate.

SCHOOLS - PHENOL CHEMICAL CONTAMINATION

406. Hon P.G. PENDAL to the Minister for Education:

I refer to the crisis that is developing in the Government school system over the discovery of the chemical phenol in, I understand, six schools.

- (1) Is the Minister prepared to accede to a request by the Executive Director of the Western Australian Council of State School Organisations that a State Government investigation of the first case of contamination, at Dryandra Primary School, be made public?
- (2) Is she prepared to accede to Mr Rogers' request that an explanation be given of how phenol came to be used at all six schools in the first place?

Hon KAY HALLAHAN replied:

(1)-(2)

Members will appreciate that this matter has been of some concern to me and to the Ministry of Education and I place on record a commendation of the Ministry of Education's handling of the matter, because very often accusations are made that bureaucracies are not sensitive or responsive enough to problems of this kind. An investigation of the matter is under way. Officers from the Ministry of Education and the Building Management Authority are looking into various aspects of it, and I would be happy to make available an explanation of what occurred. That report has yet to be compiled but I believe we will have it very shortly, and I would think a body such as WACSSO would need to be fully apprised of the circumstances of the case - as, indeed, the parent bodies are currently being apprised.

As people would have seen in the media, when the chemical was first discovered at Dryandra Primary School parents were very disturbed about the situation, but with a great deal of discussion and open communication about their concerns and the facts as they were known the matter settled down, as people realised that everything was being done in the way of testing and eliciting information about which chemicals had been used. A very cooperative spirit then developed between the parents and the ministry, which has continued. Great cooperation has been shown by the staff as well, and that is why the students were able to be brought back to the school with a section of the school being fenced off. I understand that the same process of advising parents about the circumstances and eliciting information about other graffiti that had been removed has been followed in the other schools and the situation at those schools is also in hand. We all need an explanation of what precisely happened and what chemicals were used. Some questions remain about the graffiti removal at the Dryandra school, the detection of an odour and the time at which action was taken.

SCHOOLS - PHENOL CHEMICAL CONTAMINATION

407. Hon P.G. PENDAL to the Minister for Education:

- (1) Has she determined how health and environmental authorities permitted the use of such a poison in an educational institution?
- (2) If she has not, will she seek advice on this matter which, after all, is central to the whole problem?
- (3) Will she inform the House as soon as possible?

Hon KAY HALLAHAN replied:

(1)-(3)

As I have indicated, an investigation is under way by the Ministry of Education and the Building Management Authority, and this will cover the matters to which the member refers.

COMMUNITY SPORTING AND RECREATION FACILITIES FUND - FEDERAL GRANT

408. Hon MURRAY MONTGOMERY to the Minister for Sport and Recreation:

- (1) What is Western Australia's share of the \$30 million earmarked in the Federal Budget for community sport and recreation facilities?
- (2) To whom are applications made, noting the comments in today's newspaper?
- (3) Can the Minister confirm that this money is in addition to the \$5 million announced recently by the Premier for community sport and recreation facilities?

Hon GRAHAM EDWARDS replied:

(1)-(3)

I thank Hon Murray Montgomery for his interest in the matter. Country members are eagerly awaiting the return of the community sport and recreation facilities fund. From the State's point of view I confirm that whatever the Federal Government will provide it will be in addition to the State contribution in this area. The amount to be allocated to Western Australia will depend upon the quantity and quality of the applications which are forthcoming. I will be making the strongest possible representation to the Federal Minister for Sport to ensure that Western Australia receives a fair share of the sport facility grants. I am not sure that a number of special considerations about Western Australia are always taken into account when this type of grant is distributed.

STATUTORY CORPORATIONS (DIRECTORS' LIABILITY) BILL - REVIEW

409. Hon PETER FOSS to the Attorney General:

I remind the Attorney General of question on notice 410 which I asked on 28 May of this year in which I asked him to advise the stage which the Government had reached in its review of implementing on a general basis the provisions of the Statutory Corporations (Directors' Liability) Bill. The Minister signed an undertaking that he would carry out this review, and I asked him whether he would expedite the review. The answer given was that the review was nearing finalisation and that a report should be available to the Government by the end of June.

- (1) What stage has the review reached?
- (2) When may we expect to see it?

Hon J.M. BERINSON replied:

(1)-(2)

I do not know. If the member puts the question on notice I will direct it to the responsible Minister.

STATUTORY CORPORATIONS (DIRECTORS' LIABILITY) BILL - REVIEW

410. Hon PETER FOSS to the Attorney General:

As a supplementary question, I remind the Attorney General that it was he who gave the undertaking that the review would be carried out. Will he carry out the undertaking he gave on behalf of the Government?

Hon J.M. BERINSON replied:

I gave the undertaking and I acknowledge the responsibility that goes with it. It is because of that that I have pursued this question when it has been raised. I will do so again.

UNIVERSITIES - ESTABLISHMENT LEGISLATION

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

Some notice has been given of this question.

- (1) Is it possible for universities to be established in Western Australia without legislation?
- (2) If not, which Act of Parliament provides that new universities can be set up only by legislation?

Hon KAY HALLAHAN replied:

I thank the member for giving some notice of the question. I am advised as follows -

- (1) Yes. However, the Post Secondary Education Institutions (Title and Degrees) Bill currently before the Parliament will require an Act of Parliament to establish a university in Western Australia in future.
- (2) Not applicable.

COMMUNITY SPORTING AND RECREATION FACILITIES FUND - FEDERAL GRANT

Applications

412. Hon MURRAY MONTGOMERY to the Minister for Sport and Recreation:

Supplementary to the question I previously asked, to whom do groups make applications for Federal funding?

Hon GRAHAM EDWARDS replied:

I assume that it will be the Sporting Commission, although I am not positive of that. However, we will be receiving more detail on the grants and where the applications will be sent, the opening and closing dates and other such matters. As in the past, these aspects will be advertised in various newspapers and through other means. We will be promulgating the information as it comes available through our regional offices of sport and recreation.

COMMUNITY SPORTING AND RECREATION FACILITIES FUND - PORT HEDLAND SHIRE

Sport and Recreation Facility

413. Hon MAX EVANS to the Minister for Sport and Recreation:

- (1) Has a decision been made regarding the \$2 million allocated to the Shire of Port Hedland for a sports and recreation facility?
- (2) If so, how much has been paid, and does it match the amount paid by the shire?

Hon GRAHAM EDWARDS replied:

(1)-(2)

Roughly \$2 million was made available a couple of Budgets ago, and this has been carried over from the last financial year to this. How much will eventually be allocated is dependent on the final details of the building. I have met with the shire and the matter is being vigorously pursued by the

excellent local member, Mr Larry Graham, and I hope that the details can be drawn to some conclusion over the next few weeks. I was very impressed with the members of the community I met in the area who are doing an excellent job in attempting to pull things together. Their enthusiasm for the building is terrific. I hope for their sake that the building will get off the drawing board and the careful work and planning will reach fruition soon.

**COMMUNITY SPORTING AND RECREATION FACILITIES FUND - PORT
HEDLAND SHIRE**
Sport and Recreation Facility

414. Hon MAX EVANS to the Minister for Sport and Recreation:

Supplementary to my previous question, the Minister indicated that the project was not off the drawing board; is it true that the shire is purchasing a building and developing that?

Hon GRAHAM EDWARDS replied:

The project involves an existing building which is too small for the community's needs. Therefore, it wants to build around and extend the building. I have seen one set of plans; however, some consideration was given to changing the plans depending upon the resources generated by the community and the council and the funds received from the Government. I understand that an application has also been made to the Lotteries Commission. A building of some kind is assured. It is a matter of working through the details to find out the exact design and the cost of this building.

POLICE - BUDGET CUTS
Rally for Justice - Budget Spending Increase

415. Hon P.G. PENDAL to the Minister for Police:

- (1) Is he aware of calls made at yesterday's Rally for Justice to increase the State Government's spending in this area in this year's Budget?
- (2) If so, will he comment on remarks made on radio today by a Perth policeman that the department's budget has been cut this year by \$11 million?

Hon GRAHAM EDWARDS replied:

(1)-(2)

I attended the rally yesterday but I certainly did not hear any reference to police funding. However, as the member who asked the question would be aware, the Government has significantly increased police funding over the years. The police budget will be announced in the State Budget soon and members must wait to see the details.

Hon P.G. Pendal: You are not denying the \$11 million?

Hon GRAHAM EDWARDS: If Hon Phil Pendal had listened to the radio he would have heard the answer. If he is going to make a partial quote he will have to live with the response.

POLICE - AIRCRAFT

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

- (1) Will the Minister inform me how many aircraft, excluding the police helicopter, the Police Force operates in Western Australia?
- (2) Are the police considering buying a bigger aircraft?

Hon GRAHAM EDWARDS replied:

(1)-(2)

I do not know why the member wants to exclude the police helicopter, because it is very much a focal point of the police service. The Police Force has, I think, a Cessna 310 which it uses out of Perth, it has a smaller Cessna which is used in the Kimberley district, and it has fairly constant use of a

Cessna 402. I am very much aware that the Police Force would like to convert the lease on the Cessna 402 to enable it to purchase a similar aircraft.

Hon N.F. Moore: Perhaps it could use the King Air aircraft.

Hon GRAHAM EDWARDS: It does use it. I do not know what would make Hon Norman Moore think the Police Force does not have use of it. Western Australia is a big State. Members of the Opposition are always on the backs of Ministers to get out of the metropolitan area and into the country. I enjoy travelling to outer areas. I do not think Ministers should restrict themselves to the metropolitan area, but one must have a means of travelling to distant areas, particularly when those areas are not provided with a regular air service. I am keen to support the expansion of the police air wing, but it must be on a needs basis and it can be expanded only if finance is available.

POLICE - VICARIOUS LIABILITY LEGISLATION

417. Hon GEORGE CASH to the Minister for Police:

- (1) What is the Government's policy on vicarious liability imposed on police officers under the current laws?
- (2) Does the Government intend to amend the law on vicarious liability?

Hon GRAHAM EDWARDS replied:

(1)-(2)

As the member is fully aware, the Government has been working to resolve this position for some time. The few difficulties have been, I think, all but overcome and I will be in a position to give a substantial answer to that question over the next two or three weeks.

WORKERS' COMPENSATION AND ASSISTANCE ACT - AMENDMENTS *Police Officers*

418. Hon GEORGE CASH to the Minister for Police:

What is the Government's position concerning amending the Workers' Compensation and Assistance Act to ensure that police officers are covered by that Act?

Hon GRAHAM EDWARDS replied:

That is an area which requires more work. Hon George Cash would be aware that police are not covered by the Workers' Compensation and Assistance Act. They have an arrangement which has been in place for many years. The issue is of concern to me and has been since I have been the Minister for Police. However, more work is required on the matter before changes can be made.

POLICE - RETIREMENT *Thirty Year Plan*

419. Hon GEORGE CASH to the Minister for Police:

What is the Government's policy on the 30 year retirement plan for police officers?

Hon GRAHAM EDWARDS replied:

I am very keen to see a 30 year retirement plan implemented for police. I am currently discussing that with the union. However, the union is certainly discussing a wage claim with the Government and it has been agreed that we will resolve that before we discuss the 30 year issue.

BUILDING AND CONSTRUCTION TRAINING FUND - LOCAL GOVERNMENT ASSOCIATION OF WA (INC) *Negotiations - Road Construction Levy*

420. Hon W.N. STRETCH to the Minister for Education:

- (1) Has the Minister had negotiations with the Local Government Association on the building and construction industry training fund?

- (2) Can the Minister affirm to the House whether the building and construction levy will apply to road construction as well as dwellings and industrial-type buildings?

Hon KAY HALLAHAN replied:

(1)-(2)

Some debate has taken place about the areas of construction which apply under the BCITF. I understand it is a very wide interpretation of construction. However, if the member would like to put his question on notice I will obtain a definitive answer for him. I would prefer to do that rather than give an equivocal answer now. In fact, while the fund, the board and the subcommittees are in place, and because organised contributions to training are still relatively new to local government and to private industry, the matter is not yet without some debate. I would not care to add to that debate by giving anything other than a very accurate response in the House.

BUILDING AND CONSTRUCTION TRAINING FUND - SHIRES
Road Construction Levy

421. Hon W.N. STRETCH to the Minister for Education:

Has the Minister received a breakdown of what the imposition of that levy will mean to shires regarding a road construction levy? I cannot overestimate the seriousness of the backlog of road construction requirements in shires throughout Western Australia.

Hon KAY HALLAHAN replied:

The training agenda is very important nationally. The country is on the brink of great changes and for that reason I encourage the member to place on notice any of his questions on this subject. I would be very happy to provide him with that information because it is a much underdebated area and his question will no doubt help to inform other members. He should add that to his original question, which I presume he will put on notice following my sound advice.

Hon W.N. Stretch: Do you have those figures?

Hon KAY HALLAHAN: If the member is referring to the impact of road funding, he should put his question on notice.

SUPERDROME - ACCOMMODATION

422. Hon MAX EVANS to the Minister for Sport and Recreation:

In the Press this week mention was made of live-in accommodation at the Superdrome. Can the Minister explain what is involved?

Hon GRAHAM EDWARDS replied:

I did not see the article. It would refer either to the Lotteries Commission project or some accommodation which is being developed at the swimming pool in the building adjacent to the pool in the back area. It was used as the main competition area at the recent world swimming championships. The proposal is to change some of the office accommodation into living accommodation.

Hon Max Evans: How many people would be accommodated?

Hon GRAHAM EDWARDS: A figure originally mentioned was up to 90 people. That figure may be a little ambitious and the Western Australian Institute of Sport was looking at cutting it back. It is quite a good development and will greatly enhance the use of the sporting facility.