

## LEGISLATIVE COUNCIL

Thursday, 9 May 1991

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

## MOTION - CONSERVATION AND LAND MANAGEMENT ACT 1984

*Disallowance*

HON P.G. PENDAL (South Metropolitan) [2.38 pm]: I move -

That the Order-in-Council published in the *Government Gazette* on 30 November 1990 and tabled in this House on 4 December 1990 under the Conservation and Land Management Act 1984 be and is hereby disallowed.

Motions Nos 1 and 2 are inextricably bound up with each other, but I am advised that it is not possible to have a cognate debate. Therefore, it is my intention to speak only briefly to this motion in order for the House, if it thinks fit, to adjourn it and proceed with the second motion on the Notice Paper. That would allow me to outline the Opposition's case for the creation of a marine park in Shark Bay. At this point it is sufficient to say that the Opposition is in a peculiar position concerning the Order-in-Council because the Opposition supports the creation of a marine park in Shark Bay. However, there is sufficient confusion in the local community of Shark Bay, Carnarvon and other parts of the State to warrant the Opposition using this device to put the whole issue on a sound basis for as long as it takes to sort out the uncertainties that have been expressed to the members of the Opposition. Therefore, I make it clear at the outset that it is my intention, with the concurrence of the House, to keep this motion alive for as long as it takes the House to receive sufficient reassurances from the Minister for the Environment that would satisfy the people in Shark Bay, Carnarvon and other parts of the State.

I will not discuss the matters that seek clarification because they come under the terms of the second motion on the Notice Paper. It is my hope that when I resume my seat the debate on this motion will be adjourned.

Debate adjourned, on motion by Hon Fred McKenzie.

## MOTION - SHARK BAY MARINE PARK PROPOSAL

*Order-In-Council Disallowance Avoidance*

HON P.G. PENDAL (South Metropolitan) [2.42 pm]: I move -

That this House notes that the Order published on 30 November 1990 and tabled on 4 December creating a marine park in Shark Bay has failed to clarify certain matters that remain a concern to local residents and therefore calls on the Government to avoid disallowance of the Order by explaining its position at its earliest opportunity thus ensuring that the marine park, supported by the Opposition as a matter of policy, remains in place.

The Opposition is not seeking to debate the proposal for establishing a marine park in Shark Bay. An Order-in-Council cannot be amended and the Opposition is using this motion to seek to clarify the matter for local residents and as a mechanism to let the Government know that the Opposition, the local people, the local authorities and the local fishermen want to support it. However, until the Government gives us certain assurances, members on this side of the House are unable to give passage to the notice in the *Government Gazette*. This motion is also being used as a device which calls on the Government to avoid the provisions of the first motion on today's Notice Paper; that is, to avoid a disallowance of the Order-in-Council that was published in the *Government Gazette* on 30 November 1990. Once those matters are clarified it is my intention to seek the withdrawal of the disallowance motion.

Some weeks ago, after months of controversy, the parliamentary Liberal Party accepted a set of recommendations that were put to it dealing with the matter that is now before the House. In coming to its decision, the parliamentary Liberal Party relied on information which I

provided and which was, in turn, provided to me by a senior officer of the Department of Conservation and Land Management. It would appear that, on the surface, some of that information has turned out to be inaccurate. I am not suggesting that the information supplied by the senior officer of CALM was known by him to be inaccurate. I am simply making the point that the information upon which the Opposition made its decision has now had sufficient doubt cast over it as to prompt the Opposition to move in the way it has done today.

One of the key pieces of information which the parliamentary Liberal Party accepted was that all the trawling grounds had been excluded from the proposed park and, therefore, any threat to the livelihood of fishermen and their industry had been removed. Secondly, in the case of other fishermen, the Opposition was advised that some 95 per cent of the proposed park would still be accessible to both commercial and recreational fishermen. Thirdly, the Opposition was advised that the five per cent of the park not being open to fishermen would become sanctuary zones. In turn, those areas would not adversely affect fishermen because, the Opposition was told, fishermen had never used them in the first place. From that the Opposition accepted the recommendation that it should support the creation of a marine park in Shark Bay. It is also worth remembering that as a matter of law the provisions of the Fisheries Act take precedence over those of the Conservation and Land Management Act. To that extent plenty of protection is available for fishermen. However, that is dependent on the willingness of the Minister for Fisheries to use those overriding provisions. Of course, that is something about which neither we nor the fishermen and the local authorities can be certain.

Not long after the Liberal Party accepted those recommendations a picture began to emerge, on the surface at least, which was somewhat different from that which had been painted for the Liberal Party - indeed, the picture which I had helped to paint. The Denham Fisherman's Association wrote to me on 2 May, the day on which I gave notice of the disallowance motion, expressing their concerns. In order to persuade the Government and the Minister that the Opposition is acting in good faith I will read into the record a number of letters that I have received - and, indeed, which the Minister for the Environment has received - on this matter to show the Government that the assurances the Government has accepted are adding to the state of confusion on this matter. Dick Hoult, the President of the Denham Fishermen's Association, said in his letter to me on 2 May that -

The fishermen of Denham have previously used the areas that have been proposed to be set aside as a sanctuary however, with the exceptions that have been raised in previous correspondence, the fishermen are satisfied with the proposal.

The fishermen do not believe that the area set aside for sanctuary zones is 5% of the total (more like 10%), however this is not a concern. What is regarded as important is that the inner boundaries of the Marine Park - i.e. the sanctuary and recreation zone boundaries - with amendments as previously advised, are gazetted at the same time as the outer boundaries.

Of course, what the association is saying is that, before it accepts the game, it needs to know the rules of that game: It should know not only the external boundaries of the marine park, because they can have an impact on the fishing industry, but also the internal boundaries of the park. Clearly, in an atmosphere of confusion and uncertainty, the internal boundaries can have a very serious adverse impact on their livelihood. Mr Hoult's letter continues -

I would also note that the Council of the Shire of Shark Bay met yesterday and a number of other amendments were proposed. No doubt these will be forwarded to you in the very near future.

The recommendations were referred to the Opposition on the same day by Mr Oliver, the acting shire clerk. These comments followed a telephone conference I had with officers of the Shark Bay Shire Council on 1 May, at the council's request. I was asked to clarify what I believed to be the situation with the sanctuary zones. It was during that meeting that Mr Hoult challenged the information I had been given in the matter of the five per cent. It is clear that, when the shire had further time to examine some of those assurances, more uncertainty arose, rather than its being disabused of the position. The letter, dated 2 May, said -

Dear Sir,

Council, at a special meeting held on 1st May, 1991, resolved the following points with respect to the preliminary draft management plan for the Shark Bay Marine Park:

It horrified me to learn that a very senior person in the area came by a copy of the draft management plan only because it fell off the busy truck that keeps travelling the length and breadth of Western Australia. It seems to me to be less than acceptable that people making decisions at a municipal level or people making decisions about their industry should be making them without an official copy of the draft management plan. The authority went on to list 10 brief points -

1. Monkey Mia recreation Southern boundary to extend East from the spit;
2. Surf Point conservation area to be no greater than 1 km radius from Surf Point;
3. Lharidon Bight conservation area Northern boundary to extend East from the existing Wilson Island fence line;
4. Council should retain control of Little Lagoon, limiting C.A.L.M.'s control to the inlet channel;
5. Channels at Wooramel need to be excluded from the sanctuary zone;
6. Provision should be made for ship anchorage other than in the shipping channels (pages 57 and 58);
7. Provision be made to accommodate the spoil, when dredging the shipping channel;

That may ring a few bells with members representing the south west because Hon Barry House is complaining about a similar matter involving the Bunbury Harbour. To continue -

8. Alternative provision be made for wet line fishermen to allow for medium term (seasonal) moorings (page 63);
9. The Lharidon Bight sanctuary zone exclude the proposed extensions to the shell quarry reserve; and
10. That the Eastern boundary of the Park be the high water mark.

It is surely not acceptable for us to proceed with a major matter of creating a national park, about which there is no dispute - I know of no-one who wants to stop it - if it is true that those questions have not been satisfactorily negotiated. Subsequent to that, the Minister received a letter from the Denham Fishermen's Association, from the same Mr Hoult. It is a brief letter, but I want it recorded because it illustrates the fears which the people have and which have not been dispelled by the Government. The letter reads -

Dear Bob,

At a meeting of the Denham Fishermen's Association on 24/4/91 the DRAFT MANAGEMENT PLAN - SHARK BAY MARINE PARK provided by CALM was discussed by the members.

A motion was put and accepted unanimously by the members.

MOTION: The Marine Park Legislation should proceed -

That is an important comment because the Denham Fishermen's Association is on record saying that the marine park proposal should proceed. To continue -

- but the inner Zone Boundaries should be gazetted at the same time. The Zone Boundaries [Sanctuary, Recreational and General Use] as proposed by CALM be accepted but with two minor changes.

1. Lharindon Bight Sanctuary Zone boundary to run due East from Wilson Island fence as previously discussed with CALM.
2. Monkey Mia Recreational Zone southern boundary not to run East from the Monkey Mia Reserve boundary but to run due East from the Monkey Mia spit.

Also the Denham Fishermen's Association would recommend that the Surf Point Sanctuary Zone be no more than a km radius from the point.

The Denham Fishermen's Association is prepared to negotiate with CALM on sections of the coral area at Sandy Point.

The letter concludes -

Our Association believes this would be the minimum requirement for the Legislation to pass through Parliament.

That seems to me to be a fair act on their part in supporting the legislation. Accompanying that letter were copies of the proposed zoning plan, the Big Lagoon sanctuary zone, and a number of other maps of different bights and islands. Members will see from all of this that a pattern emerges which basically says, "Please slow down the process. We want to be sure what it is. We are being asked to accept and if certain things are done we are prepared to give our support."

I will come to what is at the heart of this matter in a moment because of a document I have which indicates a political agenda and not a departmental or environmental one. Before I do that I will express the concern of the Western Australian Fishing Industry Council which sent me a fax in the past two days. From the word go the Opposition has made it clear that it would support - and ought to support - all of the provisions of the 1988 Shark Bay plan produced under the signature of the former Premier, Mr Dowding, because that plan had bipartisan support and was one that would allow the whole matter to remain in the hands of State and local officials - as a way, I suspect, of avoiding World Heritage listing, which we oppose. It was to be the facility that would allow the area to be used by fishermen, pastoralists and tourist interests while at the same time achieving conservation objectives contained in the Shark Bay plan. Unfortunately, that has not turned out to be the case. WAFIC raises further alarm in its fax which states, in part -

We have just obtained a copy of the draft Management Plan for Shark Bay Marine Park.

We are appalled to find that trawling will be prohibited within the Park boundaries. This is contrary to our understanding of the purpose of these boundaries.

The boundaries generally follow the 14 metre contour which the fishermen generally do not fish shallower. However there are deep water gutters which meander into shallower waters which the fishermen trawl from time to time. CALM were well aware of this fact and had indicated that this practise would not be discontinued in the management plan for the Park.

In addition the boundary north of Peron generally follows the Fisheries Management line. The purpose of this line is as a result of the prawn industry's request to ensure that prawns are harvested at the optimum size of the market which is currently for large prawns.

It is conceivable that the market may change and demand smaller prawns in which case the industry would wish to take advantage by harvesting the smaller prawns which are distributed south of the proposed boundary. Again CALM were well aware of this requirement.

We now find that contrary to this advice that CALM proposes to ban trawling within the proposed boundaries. This is totally unacceptable and we therefore request that in your disallowance motion and motion requesting clarification of matters for local residents prior to disallowance you refer to this situation and request CALM to liaise with WAFIC to obtain an acceptable compromise. If CALM is not prepared to resolve this situation we suggest that the disallowance motion go through.

That fax is signed by the Assistant Executive Officer, Guy Leyland. I cannot emphasise enough the spirit of that fax and letters whose effect is that these people are happy to support the creation of a marine park in Shark Bay but not in the dark and without knowing what they are agreeing to. All of that is concern enough, but another matter has come to my attention today which I suggest raises the suspicion that Mr Pearce has deliberately manufactured conflict on the Shark Bay issue. I have explained to members that the fishermen and the two local authorities are in revolt because of the uncertainty surrounding the future of the fishing industry in the park.

Hon Mark Nevill: What would be Mr Pearce's motive for deliberately manufacturing conflict?

Hon P.G. PENDAL: I think it might be that after many months of being at the receiving end it was the political agenda of getting the Liberal and National Parties in this place to reject creation of the marine park.

Hon Doug Wenn: You think, you do not know.

Hon P.G. PENDAL: I will produce a letter relating to this matter.

Hon Mark Nevill: You have always supported the Shark Bay management plan, as I understood it.

Hon P.G. PENDAL: We did, but Mr Pearce made these people an offer he knew that the Liberal Party and the National Party could not accept. It is quite true that we have said publicly that we support the marine park in principle. However, without seeing any details we are entitled to say we "support it in principle".

Hon Mark Nevill: As outlined in the Shark Bay management plan.

Hon P.G. PENDAL: That plan has been available for only a few days.

Hon Mark Nevill: It has been available for months.

Hon P.H. Lockyer: Hon P.G. Pendal is talking about the draft management plan of the marine national park. Hon Mark Nevill is talking about the Shark Bay plan.

The PRESIDENT: Order! Members should let Hon P.G. Pendal tell us what he is talking about.

Hon P.G. PENDAL: Circulated with that "Preliminary Draft Management Plan" - so it now has another name - is a cover note written by G.W. Mercer, Regional Manager, Greenough Gascoyne Regions for CALM on behalf of the planning team for the whole process. This note confirms my worst suspicions. I received this copy only today -

The attached draft plan for the Shark Bay Marine Park has been prepared at the request of the Shark Bay and Carnarvon communities prior to the vesting of the Marine Park with the National Parks and Nature Conservation Authority. For this reason it has been titled a 'Preliminary Draft Management Plan'. It has been prepared by a CALM Planning Team and has not been viewed or endorsed by the NPNCA.

Another thing that has emerged from all of this is the need for a comprehensive review of the way in which we go about creating these reserves in the first place. If their creation is to cause so much ill will when everyone is agreed about their ultimate creation, it is the future parks that will suffer. The letter goes on -

Once the marine park has been formally vested in the NPNCA a draft which will evolve from this document will be considered by the NPNCA for release for public comment. During that process there will be further consultation between the NPNCA and two Shire Councils.

We now come to the important bit which convinces me that not all is well. It reads -

The Preliminary Draft Management Plan aims to present management concepts for the Shark Bay Marine Park in a format that reflects a complete Draft Management Plan.

I ask members to take note of this -

The issues addressed and management strategies proposed have been collated by a Department of Conservation and Land Management team after limited consultation with individual community members and organisations.

Hon P.H. Lockyer: Unbelievable!

Hon P.G. PENDAL: It is, because for months now we have been assured that there has been the maximum consultation. The local people have been saying, "We dispute that." Here is evidence to confirm what they are saying.

Hon J.M. Brown: To whom was the letter addressed?

Hon P.G. PENDAL: It is not addressed to anyone. It says it is a cover note attached to the preliminary draft management plan.

Hon J.M. Brown: I thought you said you had a letter.

Hon P.G. PENDAL: I have. It is a letter sent by Mr Mercer, the regional manager.

Hon J.M. Brown: Is it addressed to somebody?

Hon P.G. PENDAL: No. It says "Cover note - Shark Bay Marine Park". What Mr Mercer appears to be saying is, "I want you to read the preliminary draft management plan, but I want you to read it with the following points in mind." This is a covering letter or, as he calls it, a cover note. The first of the points is: The issues addressed and the management strategies proposed have been collated by the management team of the Department of Conservation and Land Management after limited consultation with individual members and organisations. He goes on to say -

The normal and desirable process of having an Advisory Committee for consultation on issues was not available to the Planning Team in this case.

I suggest that gives rise to the concerns of local people that the normal and desirable processes for consultation were not available. But there is more. He goes on to say -

As a result there are recommendations in the document that have been developed without the extensive community consultation which normally occurs in the evolution of a Management Plan.

He then goes on to deal with other matters.

Hon J.M. Brown: Is that dated?

Hon P.G. PENDAL: No, it does not appear to be.

Hon J.M. Brown: I wonder if it was this year or when.

Hon P.H. Lockyer: It is very recent.

Hon P.G. PENDAL: I do not know, but it appears to be a recent letter. I therefore ask, is it any wonder that the communities at Denham and Carnarvon are up in arms? That is why I say that I now believe it has been part of Mr Pearce's political agenda to set up Opposition members by, in effect, daring us and members of the National Party to reject the plan for the park in order for us to mollify the local people. I believe our actions in moving the two motions, the one which has been adjourned and the one before the House, actually puts the park on ice pending clarification of the kind that I have talked about. To that extent, therefore, the whole matter goes back into the Government's court. I hope that the Government will deal with this second motion with some expedition. I shall certainly resist any attempt to deal with the first motion, or the adjourned motion, before we have those areas clarified, not only by the department but also by the Minister for the Environment.

Another significance is attached to all this, and that involves the plans for the Houtman Abrolhos. The methods used by the Government in the way I have just outlined in the matter of Shark Bay compare very interestingly with the way in which the Government has approached the Abrolhos question, because organisations such as the Fishing Industry Council appear to be well satisfied with the Government's handling of the islands. I understand that an Abrolhos consultative committee was formed and is advising the relevant Ministers on matters relating to the islands, including appropriate management measures and zoning, but prior to the vesting taking place. That begs the question, why are we not being asked to do that with Shark Bay? That is, why do we not get the external and internal boundaries clarified so that everyone is happy with them before the vesting or before the Order-in-Council is made?

Hon Mark Nevill: That is probably why it is called a preliminary draft.

Hon P.G. PENDAL: That could be. It does not matter what we call it, we should be coming to some agreement about the proposed management plan and the boundaries, and then we should deal with the question of publishing the Order-in-Council. Once it is gazetted and laid on the Table here, the Order-in-Council proceeds down the path of creating the marine park. At the Abrolhos the matter is being worked out in a rational and calm way. No-one would argue that the Abrolhos is any less worthy of protection. The islands have different

characteristics; all sorts of fishing, tourism and environmental issues are attached to them, yet, according to the peak fishing industry body in this State, that very difficult, very thorny question is being sorted out prior to the gazettal taking place. For the life of me I cannot work out why it is that the Minister for the Environment is so hell bent on operating in this way when it comes to Shark Bay. I know that he is under pressure from the Commonwealth over the matter of World Heritage listing, but the Minister for the Environment in this State was the man who broke ranks over the bipartisanship which we had in Western Australia over World Heritage listing. Everyone in Western Australia was prepared to tell the Commonwealth to mind its own business. While it is true that the provisions of the Commonwealth World Heritage Properties Conservation Act may well take precedence, the fact is that politically the Commonwealth would be very reluctant to act if all the bodies in Western Australia, Liberal, Labor and National, stuck together. As far as I am aware the Liberal and National Parties stuck together, as did the community bodies. It was the Australian Labor Party members who broke ranks because Mr Pearce was unable to withstand the pressure of his Federal counterpart.

I am sorry that my speech has been of such length but this is a matter of the highest concern to the people of Western Australia because of the impacts that will occur when a marine park is created. I appeal to the Government to remove all the impediments so that we can get on with the job and create a marine park. If the Government has a political agenda, I warn that it is in so much strife at the moment that, although it might take up one or two percentage points from the environmentalists, it will not be at our expense. I have had a number of discussions in the last few days with members of the environmental movement who understand the reasons we have moved two motions instead of a blunt disallowance motion. Environmentalists understand that the Opposition is acting in good faith. I therefore commend the motion to the Government. I urge it to act quickly so that the fishermen and the local authorities may have their fears allayed and so that we can create a great piece of National Estate at Shark Bay by declaring it a marine park. I commend the motion.

**HON P.H. LOCKYER** (Mining and Pastoral) [3.22 pm]: I second the motion and congratulate Hon P.G. Pandal for his ongoing support of this matter. As a member who represents the area and one who has been closely involved both with the Denham Fishermen's Association and the people of Carnarvon, I support and have always supported the formation of a marine park. When the regulation was first introduced to Parliament on 4 December 1990, I immediately set up a meeting with and took the regulation to both the Shire of Shark Bay and the Denham Fishermen's Association. Broad agreement was reached on the concept of a marine park. From the outset, concern was expressed not over the outer boundaries but over the inner boundaries. A request was made through me to the Minister seeking clarification of the reason that the regulation and the management plan could not be introduced as one matter. Subsequently, I had the opportunity to speak with Dr Barry Wilson, a person for whom I have great respect. He is one of the most respected marine environmentalists and scientists in this State. He said that it is illegal for a management plan to be introduced with the regulation for the boundaries because we are bound by law to ensure that a management plan is available for three months for public comment prior to its becoming law.

I asked the Minister to undertake discussions with the Denham Fishermen's Association and with the Shark Bay Shire. I also indicated that it was necessary to include the fishing industry of Carnarvon and the Shire of Carnarvon in those discussions. Throughout the debate regarding World Heritage listing, the Minister was always reluctant to include Carnarvon. He always maintained it was the business of only Shark Bay. My argument is that Shark Bay is not just the township of Denham; it is the whole bay, which includes Carnarvon, and particularly the trawling industry. One of the main businesses involved is North West Seafoods. The resident manager of that company, Brian Leahy, has always indicated that he has been less than informed on anything pertaining to the marine national park. That company has always been a supporter of the marine park provided that it was not to be an intrusion on the industry's ability to carry on business.

During the early discussions, some rough lines were drawn on a map and the industry was led to believe that this was how the eventual management plan would be presented. When the regulation was brought in, and after much harassment of the Minister and the department, as Mr Pandal said, a draft management plan was finally given to the Shark Bay Shire and the

Denham Fishermen's Association. Neither I nor my colleague, Hon Norman Moore, received a draft management plan.

Hon N.F. Moore: After many requests we did.

Hon P.H. LOCKYER: We requested a copy of the plan on many occasions, and I ended up getting one from the back of a truck.

Hon P.G. Pental: The same truck!

Hon P.H. LOCKYER: It is not a laughing matter -

Hon Doug Wenn: No-one is laughing.

Hon P.H. LOCKYER: Is not a matter in which politics should be involved.

Hon Doug Wenn: You should have told Mr Pental that.

Hon P.H. LOCKYER: The member should listen to me.

Hon Doug Wenn: I do listen to you.

Hon P.H. LOCKYER: We all basically agree. The shire, the trawling people, and Labor and Liberal members all agree on the national park boundaries. However, we do not agree to having some internal management plan and boundaries foisted upon us without discussion. Despite repeated requests for these matters to be clarified, they have not been clarified in an acceptable way with the people concerned. The people of Shark Bay and Denham, in particular, have long memories. They remember the World Heritage listing matter, where in the end, despite unanimous objections, the listing was forced upon them. I do not know whether this issue has a political background; I will be charitable and say that perhaps it does not.

Clearly, the industry will not accept this measure on the present basis. If there is no concession on the part of the Minister or the department, in the end we will have to dispense with the boundaries in the management plan, and that will be throwing the baby out with the bath water, because we will have no national park. That would be an extreme action to take.

The best course to take would be for the Minister to direct his departmental officers to talk to everyone involved in the industry, not just to the Shark Bay people. The Minister, or officers of his department, should talk to members of the fishing industry at Carnarvon. I refer specifically to North West Seafoods and the amateur fishermen, who are less than impressed with the present situation. I refer also to the people at Wooramel. The measure is objectionable to the people in the amateur fishing business. Hon Phillip Pental has referred to the concerns expressed by the Denham Fishermen's Association. Until these matters are cleared up and mutual trust is restored between the parties, the problem will remain. Good sense should prevail. I have confidence in the Minister. He purports to be fond of the area so he should do something quickly about the issue.

[Pursuant to Standing Orders, debate adjourned.]

## MOTION - ROTTNEST ISLAND AUTHORITY AMENDMENT REGULATIONS 1990

### *Disallowance*

Order of the Day read for the resumption of debate from 8 May.

Debate adjourned, on motion by Hon Fred McKenzie.

## ADDRESS-IN-REPLY - ELEVENTH DAY

### *Motion*

Debate resumed from 8 May.

HON FRED McKENZIE (East Metropolitan) [3.33 pm]: I support the motion moved by Hon Jim Brown on opening day and I thank the Governor for his Address to us.

It is appropriate that I begin my speech by referring to the railway industry in Western Australia. To some extent I disagree with my colleague's, Hon Mark Nevill's, interpretation of how well the railways have done in recent times. I must disappoint Hon David



Wordsworth, who commented during Hon Mark Nevill's speech that Hon Mark Nevill would have to see me about his comments because I have always blamed members of the Opposition for the state of the railway service. To some extent I do disagree with my colleague, Hon Mark Nevill, about the efficiency of the railways. However, I will continue to blame members opposite for the state of the industry, particularly Hon David Wordsworth, because he was the Minister for Transport when changes were first mooted. Hon Mark Nevill was correct in saying that greater efficiencies had been introduced into the railway system. Those efficiencies were largely attributable to Mr Julian Grill. However, the current state of the railway system goes back to when Mr Wordsworth introduced a complete change in transport policy in Western Australia. As a result of that, what is the situation today? I warned the House at the time that the proposals would see the demise of the railway system to a large extent. My warning has been vindicated by what we see today. Recently I travelled to Geraldton, as did many members in this Chamber.

Hon E.J. Charlton: What were you doing up there?

Hon FRED McKENZIE: I went there to survey the recent by-election.

Hon P.G. Pental: A very nice result it was too.

Hon FRED McKENZIE: I would not be so happy about that if I were Mr Pental and looked at the results carefully.

Hon P.G. Pental interjected.

The DEPUTY PRESIDENT (Hon Jim Brown): Order!

Hon FRED McKENZIE: I do not think even Hon Phil Pental believes that. With the numbers in this place favouring the Opposition parties we would probably have heard some talk about blocking Supply. I am not ruling it out even now. Certainly much activity after that Geraldton by-election would have been favourable to Mr Pental's party. However, no-one can take a great deal of joy out of the Geraldton by-election. But I am getting away from my subject. I could make a speech on the Geraldton by-election, but I will remain with the railways. I travelled to Geraldton twice; once as a rail passenger and once by motor vehicle. I guess we are fortunate that the road is fairly straight, but I could not believe the amount of heavy traffic I saw on that road.

Hon E.J. Charlton: Did you know that 750 000 tonnes a year of mineral sands is transported on that road because some people in this place would not agree to ensuring it went by rail?

Hon FRED McKENZIE: That is right. That product should be transported on rail. Any further mineral sand transport - deposits mentioned in the south west of this state - ought to be moved on rail.

Hon E.J. Charlton interjected.

Hon FRED McKENZIE: No, I do not think that should have been the case and I am critical of the Labor Party in that respect. It should have stood up to the mining companies in the interests of the State. That type of commodity ought to be tied to rail transport.

Hon E.J. Charlton: Will you assist me in trying to ensure that 100 000 tonnes from the new pulp mill being built at Moora is transported on rail?

Hon Fred McKenzie: I will do what I can. The difficulty I face - I am used to it; not only here, but also within my party - is that I do not have the numbers.

Hon E.J. Charlton: You have them here.

Hon P.G. Pental: A lot of your colleagues will be gone soon on long holidays.

Hon FRED McKENZIE: I will not be going.

Hon Doug Wenn: Mr Pental will be the first out.

Hon FRED McKENZIE: If Hon Phil Pental thinks I will leave the Australian Labor Party, he has another think coming. The Australian Labor Party is the oldest and, throughout most of its history, has been the largest party in Australia. It is in its centenary year. There is absolutely no chance of my being a member of any other party.

Hon P.G. Pental interjected.

*Withdrawal of Remark*

Hon T.G. BUTLER: I find Hon Phil Pendal's remarks that the Australian Labor Party is the most corrupt party in Australia's history totally offensive.

Hon P.G. Pendal: I withdraw the remark.

*Debate Resumed*

Hon FRED McKENZIE: I did not hear Hon Phil Pendal's remark, otherwise I may have turned a different shade, because I am very proud of the Australian Labor Party; there is nothing wrong with it.

Hon P.G. Pendal: Just the people in it.

Hon FRED McKENZIE: There may be some individuals with whom, from time to time, I disagree. If Mr Pendal does not think we will be back here on top again in a very short space of time, should a change occur, he has another think coming. The party has been around for 100 years and has never had to change its name. That is more than one can say about the Opposition parties. We have seen the Liberal Party, the United Party - the Liberal Party has had more than one name in 100 years. The National Country Party went out of existence and is now the National Party. To me, it is the old National Country Party.

Hon E.J. Charlton: Before that it was called the Country Party. Not only have we changed our name, but also we have been called a lot of other names.

Hon FRED McKENZIE: It has, however, changed its name.

Several members interjected.

The PRESIDENT: Order!

Hon FRED McKENZIE: The Labor Party has not had to change its name and never will. However, it is subject to change; it changes its policies. I do not like some of the changes; I am an old ideologue, a socialist to the core, and proud of it. However, one must be a realist when one is a socialist. I refer, for example, to the Collie power station. I am not afraid to say publicly that I do not like the idea of its being privately owned, but that was the only decision that could have been made. The Labor Party cares for people; it creates employment. I have been sidetracked from the subject of railways again. I can speak on anything. Members of the Opposition do not have to agree with me. I am talking about gas turbines as opposed to coal turbines and the effects they have on people. The decision might have been a political one and so it should be. It is a sensible decision. When I was in China in 1982 I went to a place called Wuhan which had two steel mills.

The DEPUTY PRESIDENT (Hon J.M. Brown): There were five.

Hon FRED McKENZIE: Thank you, Mr Deputy President; you were with me.. One of them was a very modern, high technology German steel mill. It included all the features that one would see anywhere in a modern steel mill. Alongside it was one of the old mills which is typical of China. I could not understand why the Chinese workers were carrying out such arduous tasks. I told the interpreter one day that he could make life so much easier for these people by making their working conditions more attractive and still employ half the number. I am an admirer of new technology in Western countries. The interpreter, who was from the Chinese foreign affairs department, said, "Mr McKenzie, do you have an unemployment problem in Australia? What is your current rate of unemployment?"

Hon D.J. Wordsworth: I hope you said yes.

Hon FRED McKENZIE: Of course I did; it was in the days of a Liberal Government. It was higher than it is now.

Hon Derrick Tomlinson: Was it higher than 23 per cent?

Hon FRED McKENZIE: It was higher for youth unemployed. I think the figure got to about 28 per cent. The Chinese stuck with the old mill when they could have had more modern technology, simply to keep the people employed. He said that if modern technology were introduced, there would not be enough playing fields on which the people could use up their leisure time. At that stage there were more than a billion people in China. It all made sense.

Hon E.J. Charlton: Do you advocate an 80 hour week in Australia?

Hon FRED McKENZIE: I certainly do not. Those people were working a 48 hour week. They worked eight hour days, six days a week. We also visited a commune. People could retire at 55 years of age if they wished.

Hon Derrick Tomlinson: What did they do with their leisure time?

Hon FRED McKENZIE: They did a variety of tasks around the house. One fellow we met looked after his grandchildren while their parents were working in the fields.

Hon T.G. Butler: Mr McKenzie, take no notice of the interjections. Answering them educates them, and why should you bother?

Hon FRED McKENZIE: Because I never give up hope. If these people were not kept busy, what would the Government do with a billion people? They would develop what we suffer from today; that is, boredom, and from boredom comes crime.

Hon E.J. Charlton: Do you endorse the unemployed being given something worthwhile to do instead of sitting around?

Hon FRED McKENZIE: I was a chairman of the Belmont community youth support scheme for 10 years. We attracted people to the scheme; we did not have to drag them in. We took them on picnics to Giddegannup and they were not stealing Hon Eric Charlton's car or my car. Those are the sorts of things we should be doing today. Before SkillShare, CYSS catered for the lower end of the market; for the children who could not cope. They had something to do and somewhere to go. It was a good scheme.

*Sitting suspended from 3.45 to 4.00 pm*

[Questions without notice taken.]

Hon FRED McKENZIE: Prior to the afternoon tea suspension I was speaking about railways, or I was intending to, but I finished up in China. Because of the limitation that I have placed on myself with the time factor I regret to inform members that I will not respond to interjections. I know that you, Mr President, will give me a lot of protection in that way.

The PRESIDENT: You will get protection.

Hon FRED McKENZIE: During the break I had an opportunity to speak to Hon Eric Charlton about a project being established in Moora to utilise straw from grain for the purpose of producing paper pulp. He is very keen to see that this commodity is conveyed by rail, and he indicated that he would be very grateful for any support that I could give him in that direction. I will give Hon Eric Charlton that support, but the difficulty that he will face - as I have faced in the party room on matters of policy - is the economic argument that has swept Australia. It is not peculiar to the railway industry, but applies right throughout all industries. We have lifted tariff barriers, and the best example of that is the substantial tariff reductions in the textile industry. If the railways are not economically viable, freight will be sent by road. That argument is somewhat unfair when it is used. In support of my argument I have obtained a document from the Victoria Council of Social Services on the very fast train. All members would have heard about the VFT that is proposed to run between Melbourne and Sydney. I am not a supporter of that concept, for the very good reason that the existing rail network would, if given the opportunity, do the job far better than a VFT. If members read this document, with its accompanying letter, they would understand why the Victoria Council of Social Services has released it.

Hon Max Evans: If one looks at the air fares, the VFT would not be able to match them.

Hon FRED McKENZIE: That is true, and that is pointed out in this document. The estimated project cost is \$10 billion and members can be sure that is in 1990 dollars, and 80 per cent of the capital would be borrowed overseas. The States have difficulties because of limitations put on them by the Loan Council adhering to Federal Government policy for borrowings, but private consortiums can borrow what they like offshore, and at the end of the day we will be saddled with that debt. To support my argument about railways I will quote from the council's document.

Hon D.J. Wordsworth: Do you agree with the national rail plan?

Hon FRED McKENZIE: It would have benefits. At the time of the States' surrendering their rail systems, at the request of South Australia and Tasmania, I thought that would be a

wonderful thing because it would provide huge capital injections into the States' railway systems so that they would be in a better position to compete for the type of traffic they are best equipped to handle. That did not take place.

Hon P.G. Pendar: South Australia regret their decision now.

Hon FRED McKENZIE: They have been decimated now. I have gone from being a great supporter to being a deadly opponent.

Hon P.G. Pendar: You just about joined the Liberal Party on that.

Hon FRED McKENZIE: Absolutely not. There is absolutely no chance of my being in any other party except the greatest party that this country, and the world, has ever known: the Australian Labor Party. I will not give up trying to change it to my way of thinking. I have not got the numbers at the moment -

Hon Mark Nevill: You have more than me.

Hon FRED McKENZIE: I have a few years left that I can devote to making the party think my way. I must accept how the majority thinks. I have seen people leave the ALP and I have seen them leave the Liberal Party. Those who left the ALP to go to another party have got nowhere; for a while there is a bit of an upsurge in that particular party. Take the Democratic Labor Party for instance; it has disappeared.

Hon P.G. Pendar: It stayed around for a very long time.

Hon FRED McKENZIE: Currently it is the Democrats and the Greens, but eventually they will all come back to the Australian Labor Party. I am not too sure about the Liberal Party because it has changed its name a few times. I could spend an hour, plus any other time this House might give me, on that one subject alone. I did say that I was not going to listen to interjections, but I could not help myself.

In 1978 Hon D.J. Wordsworth was gung ho about deregulation; it was the greatest thing since sliced bread. I was speaking to Hon Eric Charlton, whose knowledge of country areas is very extensive, and it was music to my ears to hear him say that not everyone wants deregulation and that most people do not want it.

Hon D.J. Wordsworth: The farmers wanted it when it was introduced.

Hon FRED McKENZIE: They are paying the penalty now. The member should read the speech I made in 1978 when he was the Minister. I predicted then what would happen to the rail system and it has happened. It is changing as other areas are changing. I will try to explain the problems that railways face. In a document titled "The Very Fast Train: A Look at the Signals", the Victorian Council of Social Services included some very important aspects of the current rail system in support of its case. It was not supporting the railways but was concerned that Government expenditure would be required to service this fast train instead of being used for social services. It stated that huge concessions would be made for the train. The document states -

In the other States the rail system has been deprived of funds because of Federally set limits to their borrowing. This is a policy which could be adjusted in tune with different priorities.

Since 1969, the Federal Government has allocated to the States \$15,039 million for roads and a mere \$583 million for rail.

The document continues with the Federal Labor Government's record, which is abysmal -

Since 1982-3, the deterioration in Federal railway funding has become particularly acute. It dropped in real terms from \$65 million to \$0 for both 1988-9 and 1989-90, while funds for roads increased from \$880 million to \$1333 million.

I have heard members opposite belly-aching about roads and the difficulties they have on the roads. That is a huge increase one way and a reduction another. The document states further -

"Total Federal allocations to the States for rail in the last 21 years only amount to 44% of ONE year's Federal road funding, yet government railways perform 35% of the nation's land freight task in tonnes per kms, slightly more than articulated trucks.

The document refers to articulated trucks as follows -

Heavy freight must also be considered. Current trends have seen the number of six-axle vehicles on improved national highways increase from 10,100 in 1979 to 26,000 in 1986-7.

I do not know what it is now but it is bound to be at least that figure or higher. The document continues -

Quite apart from concerns about Greenhouse gas emissions, this is an inefficient use of fuel, and with annual road maintenance costs of \$32,000 per vehicle, it is an inefficient use of tax-payers' money. Furthermore, trucks travelling at high speeds exacerbate the safety problems of the nation's highways and add significantly to the nation's health bills.

There will be changes and we will not like them. One advantage from the Federal Government's interference in the national road freight industry would be that it would be in a better position to ensure some equity in respect of grants. Currently, every motorist - I have said this before - is subsidising the heavy freight trucks to carry goods that should be carried on rail. In addition, railways pay fuel taxes which are being used on roads. Many people think that railways do not pay an excise on their fuel, but they are wrong. They pay more than they have ever received back by way of grants funding and they have to supply their own tracks. In a nation like Australia with its wide open spaces and long distances, rail is the only way to handle heavy freight.

Hon D.J. Wordsworth: I am a railway supporter, too.

Hon FRED McKENZIE: The member is, but those damned, confounded advisers convinced him that road was the track he should go down. I tried to warn him when he was Minister for Transport not to go down that track. I know things have changed. Thank goodness for the Labor Government in 1983 because we would not now have a suburban railway system. We brought back the Perth to Fremantle line and we are extending the suburban system to the northern suburbs.

It will be a huge task to change to rail. There is a very powerful and large road lobby out there and it will take a lot of courage to change things because the human element will not allow things to happen overnight. As the document stated, the number of trucks on the roads increased from 10 100 in 1979 to 26 000 in 1986-87. The trend has to be reversed delicately. The Federal Government is a little insular and might be brutal. The States can be blamed for allowing the situation to reach the stage it has reached today. However, it is now up to the Federal Government to turn things around. I do not think State Governments will be able to do it because the huge truck lobby is too powerful. We do not want to finish up having the same situation that exists in South Australia where railways operate only on the major routes. That will happen here if we are not careful. The only line used will be the Perth to Kalgoorlie line with everything else being shoved on the roads.

Debate adjourned, on motion by Hon P.H. Lockyer.

## STATE ENERGY COMMISSION AMENDMENT BILL

### *Receipt and First Reading*

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

### *Second Reading*

HON J.M. BERINSON (North Metropolitan - Attorney General) [4.50 pm]: I move -

That the Bill be now read a second time.

This legislation seeks to give the State Energy Commission of Western Australia the power to charge interest on overdue accounts. Members will no doubt be familiar with various department store credit cards, bank cards, and so on, that charge interest if accounts are not paid within the due time. Other public sector bodies such as water authorities and local councils in this State also have power to charge interest on overdue accounts. Interstate energy authorities, for example the Hydro Electricity Commission of Tasmania, charge

interest on unpaid quarterly accounts over \$1 000. Some of SECWA's customers, usually its larger customers, are supplied with gas or electricity under special contract arrangements under which interest is already charged on overdue accounts.

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! There is far too much audible conversation in the House and the Minister is trying to deliver a second reading speech. I ask members to listen.

Hon J.M. BERINSON: The vast majority of SECWA's customers are, however, supplied under standard tariff arrangements set out in the SEC Electricity and Gas Charges By-laws 1978 - the tariff by-laws. There is currently no provision in the tariff by-laws for interest on overdue accounts. The State Energy Commission Act 1979 needs amendment to give power to make such a provision. SECWA has found that most overdue accounts are for small sums and these are usually paid within a fortnight of the due date. However, some of the larger customers supplied under the tariff by-laws delay payments for more than a month. In effect they are taking undue advantage of free credit. This is affecting SECWA's cash flow and in turn its borrowing requirements. It is also unfair on other customers, especially those with large accounts, that do pay promptly. Late paying customers could of course be disconnected or sued for non-payment and interest, but in nearly all cases these are not commercially realistic options.

Power to charge interest under the tariff by-laws for overdue accounts would be a valuable additional mechanism to ensure prompt payment of energy accounts. It is intended that interest be charged on overdue energy accounts in excess of \$1 000 with the interest calculated from the due date. An account of \$1 000 overdue for a month would incur an interest charge of approximately \$12 at current commercial rates. The amount of interest applicable to smaller overdue accounts would be unlikely to recover the administrative costs associated with collection, complaints and inquiries. SECWA has estimated that the financing costs associated with overdue accounts in excess of \$1 000 represent \$951 000 per annum. The ability to charge interest on overdue accounts would ensure that these costs are not borne by the customers who pay by the due date.

I commend the Bill to the House.

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

## RETAIL TRADING HOURS AMENDMENT BILL

### *Assembly's Message*

Message from the Assembly received and read notifying that it had agreed to amendments Nos 5, 6, 7, 8, 9 and 10 insisted upon by the Council and had agreed to alternative amendment No 4 proposed by the Council.

## PUBLIC WORKS AMENDMENT BILL

### *Receipt and First Reading*

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

### *Second Reading*

HON J.M. BERINSON (North Metropolitan - Attorney General) [4.54 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to amend the Public Works Act to provide for the delegation of the powers and duties of the Minister for Works in relation to land and property transactions conducted by the Office of Government Accommodation. The Public Works Act currently provides for the delegation of powers and duties of the Minister for Works to the Ministers responsible for those organisations with a significant workload in Public Works Act land transactions. The organisations covered by the delegation are those reporting to the Minister for Works, the Main Roads Department, the State Energy Commission and the Water Authority of Western Australia. It is desirable that the Minister of the day responsible for the Office of Government Accommodation also be delegated the powers and duties presently

held by the Minister for Works to execute documents relating to land and property transactions entered into by the Office of Government Accommodation, including the lease of space in private buildings, lease options, withdrawal of caveats, and licences for car bays. Delegation will lead to increased efficiency and economy of operation due to the Office of Government Accommodation's substantial lease transactions. The opportunity also has been taken to remove two drafting redundancies from the Act. Firstly, the definition of "Resident Magistrate", which does not appear in the Act other than in that definition, and secondly, section 89, which has been redundant since 1 July 1921.

I commend the Bill to the House.

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

## **VIDEO TAPES CLASSIFICATION AND CONTROL AMENDMENT BILL**

### *Report*

Report of Committee adopted.

## **OFFICIAL CORRUPTION COMMISSION AMENDMENT BILL**

### *Second Reading*

Debate resumed from 20 March.

**HON J.M. BERINSON** (North Metropolitan - Attorney General) [4.56 pm]: I acknowledge at the outset that in presenting this Bill Hon Phillip Pandal has based his approach on the suggestion of the Official Corruption Commission. Given the standing of the commission and its members, that is an important consideration. Nonetheless, there are important considerations to the contrary and the Government, therefore, opposes the Bill, at least at this stage. The main reason is this: From a quite early stage of the commission it was reasonably clear that its governing Act was inadequate. The question is whether that matter should be addressed in an ad hoc or comprehensive way. Interestingly, Hon Phillip Pandal answered that question in favour of a comprehensive approach when he said in his second reading speech, "the time may well have arrived when the whole question of the Official Corruption Commission should be reviewed". So it should; and so it will be. That is not a matter of responding to Hon Phillip Pandal's Bill, or an attempt to sidestep it in some way. The comprehensive review to which Hon Phillip Pandal refers, and which the Government is right on the point of initiating, is, in fact, required by the Act. I refer, firstly, to section 14(1) of the Act which reads -

The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiry of 2 years from its commencement . . .

Secondly, subsection (2) reads -

The Minister shall prepare a report based on the review carried out under subsection (1) and shall as soon as practicable, cause that report to be laid before each House of Parliament.

Hon Max Evans: Has the review commenced?

**Hon J.M. BERINSON:** I am advised that the date of commencement of this Act, as referred to in section 14(1), was 11 August 1989. That means that the review must start as soon as practicable after 11 August 1991, that is, just on three months from now. I am also advised by the Premier, as the Minister responsible for this Act, that invitations for public comment are proposed to be advertised on Saturday, 15 June. That is barely one month away, and to preempt that comprehensive process for the sake of this very short time is not a sensible way to go.

It should be plainly said that shortcomings in the operation of this Act have been perceived not only by the commissioners, but also by other parties quite unrelated to the commission. Especially given the review requirements of the Act, the views of everyone with an interest in the subject should be drawn together for such further action as is then agreed on. The position may be fairly summarised as follows: The present Act is certainly not ideal. If the commission is to be retained, the provisions governing its operations should be reviewed;

and any such review should preferably be comprehensive rather than ad hoc, and section 14 of the Act requires that precisely such a review should be conducted as soon as practicable after 11 August this year. It is currently proposed that the first step in this process should be initiated as early as the fifteenth of next month. Some members may recognise the benefits of waiting on the review, but would not want to vote against the Bill if only to ensure it can be readily revived in the Budget session if the recommendations of the review are thought inadequate. I have asked Hon Fred McKenzie to move the adjournment of this debate after any members who wish to contribute have spoken. In practical terms there is nothing to be lost by following this course and I commend it to the House.

**HON MAX EVANS (North Metropolitan) [5.00 pm]:** I listened with great interest to the comments of the Attorney General, and I am surprised it has taken him so long to respond. In September or October of last year members of the Official Corruption Commission told the Premier, the Leader of the Liberal Party and the Leader of the National Party that they wanted certain amendments made to the legislation to make it more appropriate for its current tasks. Almost 12 months will have elapsed from that date to the time of the proposed review on 11 August 1991. The Official Corruption Commission is a very important body, although it does not work in the open as the Royal Commission does, and it does not get much publicity. However, I understand that many of its findings have been passed to the Royal Commission through the Police Department. It is most unsatisfactory that a body such as this, which is so important in preventing corruption in our society, should be held off for so long when it has asked that simple amendments be made to the legislation under which it operates. Hon Philip Pendar tried to meet the request of the Official Corruption Commission last year and, although his Bill was passed in this House, it was not passed in the other place. Similar amendments, which would make the legislation more effective, are introduced in this Bill.

The Attorney General knows, as do we all, that if the review is commenced on 15 June 1991, it will be virtually impossible to introduce legislation in the spring session before Christmas. For example, the Western Australian Coastal Shipping Commission Act requires a simple amendment involving a guarantee to the Westpac Banking Corporation. It has taken 18 months for that legislation to come before the Parliament, when the amendment could have been drafted in five minutes. Therefore, what will be the situation with more complex legislation, on which opinions will first be sought from the commission and other groups? The commission last year requested that the Act be amended, and I am not sure why this delay has occurred. The commission wants to be in a position, as are most similar bodies, to report to Parliament. It wants to be able to report to Parliament any shortcomings in the system under which it operates. Is the legislation being deliberately delayed because the Government does not want the Official Corruption Commission to have the power to come to Parliament, advise that no action has been taken in certain cases, and that action should be taken? At present it can carry out investigations and invite the police to investigate certain matters. It can make recommendations that action be taken but, if that action is not taken, its hands are tied. A very clear example of that arose with regard to the Burswood Resort Casino inquiry. The police recommended that charges be laid but those charges were not laid. It took a long time to get a copy of the report on this matter, and eventually the information was received through a leaked report. However, the commission cannot leak material, recommending that people be charged and that certain evidence should be obtained, or even clear people whose names have been displayed in the public arena. When people approach the Official Corruption Commission they may advise the media that they have dobbed somebody in, and allegations may be made which subsequently are not substantiated. The person whose name has been smeared has no opportunity to clear his name, and the commission is unable to take any action to do so even though the case may have attracted a lot of publicity. The commission wants the right to report that it has investigated certain matters and, if necessary, that the statements cannot be corroborated.

Two very important factors are involved: Firstly, the need to protect the person whose name has been smeared before the commission and who cannot protect his own name; and, secondly, and more importantly, it is one of the most important bodies in this country and it should have appropriate powers. One cannot help but wonder what is perhaps being covered up, when one listens to the evidence being given before the Royal Commission. Some of those matters have already been investigated by the Official Corruption Commission.



Hon Mark Nevill: How do you know that?

Hon MAX EVANS: I may have sent them to the Official Corruption Commission.

Hon Mark Nevill: That is a good answer.

Hon MAX EVANS: Yes, it is and it is also correct.

Hon Mark Nevill: I know of a person who interviewed everybody down the Terrace and the last person he interviewed was the person against whom the allegations were made. They were totally unsubstantiated, and his reputation was dragged from one end of Perth to the other. He should have been the first person approached.

Hon MAX EVANS: These matters should be clarified, and at the moment the Official Corruption Commission does not have the power to clarify them. Some charges should perhaps already have been laid in connection with matters raised in the Royal Commission. The Official Corruption Commission should be on a similar basis to the Ombudsman and the Auditor General; it was specifically set up by the Parliament of Western Australia and it should report on whether it is capable of doing the job for which it was set up. It told the Premier and the Government last year that it needs help, and the Government has now advised the House that it wants to review the whole operation. We are all aware that the original Act was in place long before the commission was up and running, and certainly allowance was made for a review to be conducted in August 1991.

However, I ask the Attorney General to think seriously about this matter and to look at this important body in perspective. He may query whether amendments to the Official Corruption Commission Act are necessary at the moment, since the Royal Commission is in operation. My answer is that they are necessary. The terms of reference of the Royal Commission clearly identify the matters into which it shall inquire. Schedule 2 of those terms of reference refers to surveillance activities and the adequacy of police investigation into those activities. Many of the activities now coming to light cannot be investigated by the Royal Commission because they are not included within its terms of reference. On the other hand, the Official Corruption Commission can take action on specific matters referred to it. The problem is that the Official Corruption Commission has no teeth, and it should be given the power to report on its activities and to recommend whether action should or should not be taken. The proposed amendments will not injure the innocent parties, it will protect them.

I am disappointed to hear from the Attorney General of the action predicated by the Government, because I believe the required amendments should be made to the legislation. With a nod and a wink those amendments could be made to the Act, the Bill could be proclaimed next week, and the review could still take place on 15 June. I recognise that an additional printing cost would be involved but the expenditure would be infinitesimal. Let us get the amendments through and advertise for people's comments on 15 June, and then it will not be necessary to rush through an amending Bill before Christmas. In any case, I guarantee that such an amending Bill could not be passed by this Parliament before Christmas. If the Government will not agree to that course of action, I hope the Attorney General is able to make a liar out of me in respect of my guarantee and that the amending Bill can be passed before Christmas. In the meantime, I hope we can give the Official Corruption Commission the action it requires by passing the Bill before the House.

#### *Adjournment of Debate*

HON FRED MCKENZIE (East Metropolitan) [5.09 pm]: I move -

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

Question put and a division taken with the following result -

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#### Ayes (13)

Hon J.M. Berinson  
Hon J.M. Brown  
Hon T.G. Butler  
Hon Cheryl Davenport  
Hon Graham Edwards

Hon John Halden  
Hon Kay Hallahan  
Hon Tom Helm  
Hon B.L. Jones  
Hon Garry Kelly

Hon Sam Piantadosi  
Hon Doug Wenn  
Hon Fred McKenzie  
(Teller)

## Noes (14)

Hon J.N. Caldwell  
 Hon George Cash  
 Hon E.J. Charlton  
 Hon Reg Davies  
 Hon Max Evans

Hon Barry House  
 Hon P.H. Lockyer  
 Hon N.F. Moore  
 Hon Muriel Patterson  
 Hon P.G. Pendal

Hon R.G. Pike  
 Hon W.N. Stretch  
 Hon Derrick Tomlinson  
 Hon Margaret McAleer  
 (Teller)

## Pairs

Hon Tom Stephens  
 Hon Bob Thomas  
 Hon Mark Nevill

Hon Peter Foss  
 Hon D.J. Wordsworth  
 Hon Murray Montgomery

Question thus negated.

*Debate Resumed*

**HON P.G. PENDAL** (South Metropolitan) [5.13 pm]: The vote just taken was meant to indicate that the Opposition does not accept the proposition put forward by the Leader of the House in his response when he asked to put the questions contained in this amending Bill on hold for another three, six or nine months. This is not the first occasion on which the Government has skirted the real issue in this Bill or shown its extreme reluctance to have any more powers given to the Official Corruption Commission, notwithstanding the fact that the commission comprises three eminent people from the community and has asked for those additional powers. It is not as though the powers were requested a fortnight ago. Had they been, the argument put today by the Attorney might be that much more valid. However, we are looking back six to nine months or more since the chairman of the commission, John Wickham, QC, wrote not only to the Premier but also to the Leader of the Parliamentary Liberal Party and the Leader of the National Party asking specifically for a commitment from each of them to extend the powers of the commission. We were given short shrift in the previous session of Parliament about that. A Bill was before the House, I think in November or December, and ceased to exist when the Government prorogued Parliament. I suggest that the Government's action on that occasion is being repaid tenfold - as indeed are some of its other actions being repaid in a way it never envisaged - as a result of that prorogation.

We returned here in March this year for a new session and the Opposition said when it introduced this amending Bill that it was serious and would not be fiddled about; it said that the commission wanted extra powers. The Attorney General has acknowledged tonight that those extra powers are embodied in the Bill. There is no reason for the Government to retain the powers of the commission in their present state other than a desire to ensure another line of inquiry is cut off because it might uncover another scandal in this State. The Minister acknowledged that the powers were, and are, inadequate for the task. There was something of an ominous sign in the Minister's remarks when he said "if the commission is to be retained".

**Hon J.M. Berinson:** I think you are reading far too much into that.

**Hon P.G. PENDAL:** Did the Attorney not use the word "if"?

**Hon J.M. Berinson:** Yes, I did. I should have said "assuming".

**Hon P.G. PENDAL:** We on this side are not going to assume anything. I hope the House will vote to confer on the commission the powers it should have had right from the start.

**Hon Max Evans:** Or at least last year.

**Hon P.G. PENDAL:** Yes. This is not the first occasion, I repeat, when public attention has been drawn to the need to give the commission a more serious charter. I am the first to acknowledge, having had a fair amount to do with the original Bill, that it was not long in operation as an Act before inadequacies became obvious. Two years down the track we will not be in a better position were the powers requested by the commission delayed pending the outcome of the review. There is no guarantee from the Attorney about the time that will take under section 14 of the Act. I am not sure, for instance, of the status of the commission once that review procedure gets under way.

**Hon J.M. Berinson:** It is unaffected.

Hon P.G. PENDAL: At least I am reassured on that point. Nonetheless, the Minister would be the first to acknowledge that, with a lot of other matters pressing on the Government now, we are entitled to assume - to use a word that the Attorney has used - that it will not necessarily be at the top of the Government's priority list. For that reason, I believe the Bill currently before the House, which was requested by the commissioners themselves, ought to be passed by the House. What is more, the Government will be put to the test when this Bill goes to the Legislative Assembly. We now have a different ball game entirely in that House as a result of the Geraldton by-election and the defection of a couple of Labor members. One of those members has made a public commitment to track down the sort of misbehaviour which has brought on the whole of Western Australia so much ridicule and contempt. It is not only a question on which we are putting the Government to the test in this House today; I suggest the Government will also be put to the test in another place, equally as rigidly, and I hope for its sake it will not be found wanting when the Bill is finally put to the vote in that place. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

#### *Committee*

The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair; Hon P.G. Pental in charge of the Bill.

**Clauses 1 and 2 put and passed.**

**Clause 3: Commission may report to Parliament -**

Hon J.M. BERINSON: I move -

To delete paragraph (b).

So far as I can see from *Hansard*, Mr Pental did not refer specifically to clause 3(b) in his second reading speech. However, we have a reasonable idea of what he has in mind because he dealt with this aspect of the Bill when he previously introduced it in November 1990 in identical terms. Mr Pental stated then -

Finally, another seemingly cosmetic but in fact far reaching change to the Bill is to substitute the word "or" for the word "and" in section 7(1)(b). That will have the effect of allowing the Official Corruption Commission to report at its discretion to the forthcoming Royal Commission which was announced by the Premier, Dr Lawrence, a week or so ago, and will give the Official Corruption Commission the power to report to other such public officials as the Ombudsman.

I refer first to the comments about the Royal Commission. In view of the early activities of the Royal Commission and our knowledge of its substantial resources and the ready access to it by the public, it really is inconceivable that any matter brought to the attention of the Official Corruption Commission would not also be brought to the attention of the Royal Commission. To that extent the amendment is unnecessary. However, a more substantial question arises from the reference to the Ombudsman. When this matter was first raised the Ombudsman commented on the proposal in the following terms - and I believe they will be known to all members as this letter was tabled at the time the Bill was considered -

I acknowledge receipt of your letter dated 3 December 1990 enclosing a copy of the above Bill and the Second Reading Speech, which contains a reference to the Ombudsman. You have asked for my comments on the Bill.

I note from the Second Reading Speech that clause 3(b) of the Bill, which amends section 7(1)(b), is stated to have certain effects. The first relates to the forthcoming Royal Commission and I do not propose to comment on it.

The second, as I understand it, relates to a power to be given to the Official Corruption Commission to refer (by way of report) matters to public officials such as the Ombudsman for investigation. This is of concern to me and I make the following points -

- . The general jurisdiction of the Parliamentary Commissioner is limited to investigating complaints about defective administration in government departments, local authorities and specified statutory authorities.

Since 1985, the Parliamentary Commissioner has had jurisdiction to investigate complaints about the conduct of members of the police force (which would include allegations of corruption).

Unlike the Official Corruption Commission, the Parliamentary Commissioner has no jurisdiction in respect of allegations of corruption over Members of Parliament or public officers other than police officers.

Procedures are laid down in the Parliamentary Commissioner Act for the handling of police complaints. One requirement imposed by section 14(1a) is that the Commissioner of Police must conduct an initial investigation. It is only when this has been done, and the complainant is dissatisfied with the result, that the Parliamentary Commissioner becomes involved.

At that stage, a preliminary assessment of the way in which the police investigation has been conducted is made and a decision is taken as to whether or not to commence a formal investigation under the Parliamentary Commissioner Act.

Where such an investigation is commenced, the Parliamentary Commissioner Act contains procedures for - the handling of the complaint; the right to be heard; the right to counsel; the making of findings and recommendations; and the power to report to Parliament direct if considered appropriate.

The Official Corruption Commission has no role to play in such investigations nor, in my view, should it.

The effect of the proposal would, by the application of section 7(5) of the Official Corruption Act, require the Parliamentary Commissioner to report back to the Official Corruption Commission. That Commission, by virtue of the amendment referred to in clause 3(a) of the Bill, would then have a right to report to Parliament on limited matters - a right which the Parliamentary Commissioner already has in a much wider form (section 27 of the Parliamentary Commissioner Act).

The proposed amendment, insofar as it affects the Ombudsman, is without precedent and is inconsistent with the Ombudsman's traditional role.

The Official Corruption Commission can and does refer complainants to the Parliamentary Commissioner where appropriate and, in my view, that is where the matter should rest.

I am forwarding a copy of this letter to the President of the Legislative Council and the Speaker of the Legislative Assembly for tabling at the time the Bill is considered by each House.

Yours sincerely

E G FREEMAN

Parliamentary Commissioner for  
Administrative Investigations

I need say no more than that this very limited amendment which I have proposed is based squarely on the strong views advanced by the Ombudsman in the letter from which I have quoted. I believe that takes the argument beyond the ordinary interparty considerations. The Ombudsman raises a serious matter. He is an officer directly responsible to the Parliament, and his comments should be taken seriously. So far as I can see that could be accommodated without any significant detriment to anything else that Hon Phil Pandal is seeking.

Hon P.G. PENDAL: I thank the Attorney General for his comments. It is interesting that the only reference to the possibility of a matter being referred to the Ombudsman is found in the introduction of the Bill which was introduced in another session, and of course the new session has brought with it a new Bill.

Hon J.M. Berinson: But with the same words, which have not been explained.

Hon P.G. PENDAL: If the Attorney General is saying - and I want this part clarified - that giving the Official Corruption Commission the power that we propose in the amendment to

section 7(1b) could put people in breach of the legislation under which the Ombudsman operates, then I am sure the Official Corruption Commission would not put itself in that position. It is not only a clause which gives a reference power to the Ombudsman.

Hon J.M. Berinson: What I read to the House does not go beyond the Ombudsman's complaint that it is without precedent and inconsistent with his traditional role. I do not see any reference to a suggestion by him that it would be illegal, but that is on a quick review.

Hon P.G. PENDAL: It is the Attorney General who has had access to the Ombudsman's letter.

Hon J.M. Berinson: So have you.

Hon P.G. PENDAL: Have we?

Hon J.M. Berinson: Yes. It was tabled in the House in 1990. It is the same one.

Hon P.G. PENDAL: I see the Chairman is smiling because he knows what I am going to say, and that makes me more determined to put the amendment through, or indeed to ignore the Attorney General's request for it to be struck out. He knows that we discussed during the afternoon tea break the Government's intention on the Bill. I do not find it acceptable that he should say we can rely on the document's having been tabled a few months ago among half a truckload of other stuff. I come back to the concern that he expressed. It is not contained in the second reading speech for the Bill which, after all, is what the courts are obliged to turn to in order to determine what the Parliament intended. If it is not competent for the Official Corruption Commission to refer a matter under this provision under the Parliamentary Commissioner Act, it will not be referred under the Parliamentary Commissioner Act. It is important to give the Official Corruption Commission the power to allow other people to receive such a reference.

Hon Max Evans interjected.

Hon P.G. PENDAL: My colleague, Hon Max Evans, has reminded me that there is a provision for references to be made to the Royal Commission. Of course that was referred to by me, if I recall correctly, on the second occasion, if not the first. It is clear to me from the first response of the Leader of the House to the second reading debate that the Government would prefer the Bill as a whole not to proceed. We have given an indication that the Bill which has been drafted and circulated in that form for many months now should go ahead. On the arguments advanced by the Minister today I am not inclined to deviate from that. I therefore ask the Chamber to set aside the fairly spurious argument which the Minister has advanced for us to delete part B of the Bill before us.

Hon MAX EVANS: I ask Hon Phil Pendal to clarify this. At one stage the Official Corruption Commission considered it had limitations on being able to refer matters to the Royal Commission. Perhaps Hon Joe Berinson can clarify whether that has been clarified. The Official Corruption Commission could hand things to the police but not to the Royal Commission directly. Will this mean that the Official Corruption Commission can hand material to the Royal Commission?

HON P.G. PENDAL: Mr Evans is correct. My understanding is that no power has been conferred on the Official Corruption Commission which would permit it to go beyond the terms of the current Act. The current Act means that it is a body all dressed up with nowhere to go. One of the big weaknesses is that the commission cannot come back to the Parliament and say an investigation is being frustrated. Secondly, it cannot come back to the Parliament and say that Hon Joe Berinson was maligned in a newspaper report a few weeks ago, the matter has been investigated and there is no evidence to support the allegation.

Hon J.M. Berinson: Now you are reflecting my interest.

Hon P.G. PENDAL: I thought that might appeal to the Attorney General.

Hon George Cash: It is his warped sense of humour.

Hon P.G. PENDAL: Those are not my words. The grounds on which the Opposition sought to support the commission are firstly, to give the commission the power to say to the Parliament that someone is frustrating its investigations; and secondly, that it seeks to give to the Official Corruption Commission the power to say, "We have investigated the sort of complaint about which Hon Mark Nevill interjected, the matter has been investigated and the

person has been badly treated. We want the Parliament to know that, and hopefully as a result publicity will follow."

To come to Hon Max Evans' query, we wanted the commission to have another very important power - a power which it requested and which will give it the opportunity to take the action in respect of the Royal Commission or any other body to which that sort of reference may be made. Mr Evans is quite right there. The Ombudsman is clearly in no fear of his position. The Official Corruption Commission may be able to refer things to the Ombudsman, but if the Attorney General is saying the Ombudsman will use the contents of that letter or that argument to say, "We cannot receive them," so be it. That does not take away from the contents of the Bill. It certainly does not take away from the objectives of the Opposition. I would ask the Chamber to adhere to the Bill in its present form.

**Amendment put and negatived.**

**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 P.G. Pendal, and transmitted to the Assembly.

### **CHILDREN'S COURT OF WESTERN AUSTRALIA AMENDMENT BILL (No 2)**

#### *Second Reading*

Debate resumed from 8 May.

**HON DERRICK TOMLINSON** (East Metropolitan) [5.39 pm]: When my remarks were discontinued last evening, I was developing the argument about the tension between the public interest and the individual interest, which is central to the provisions of proposed new section 36A of the Children's Court of Western Australia Act (No 2) and which is also at the heart of the public debate which ensued from the publication of names of juvenile offenders contrary to the provisions of sections 35 and 36 of the Act. The private interest is illustrated in the preference of the courts for penalties imposed upon juvenile offenders which emphasise rehabilitation, rather than punishment which emphasises deterrence. I indicated that the provisions of confidentiality in sections 35 and 36 of the Act are an extension of the public protection of those private interests, and the argument in that public protection of private interests is that to optimise the opportunities for a juvenile offender to be rehabilitated, the identity of that person must be protected.

There are two poles to this argument. On one hand is the proposition that if the identity of a juvenile offender were publicised, the societal stigma which followed from his or her being labelled a criminal would operate counter to the preferred intention of rehabilitation of that individual. The other pole is a consequence of that argument, which is expressed in terms of a self-fulfilling prophecy; namely, that if we were to label young people they would tend to behave according to the labels they were given. Therefore, if were to label a young person a criminal, there would be a strong probability that his or her behaviour would conform to criminality; so to minimise the chances that the individuals will be moulded into criminal habits, the protection of the identity of the individual is enshrined in the Act.

Hence in these public institutions - the preference of the courts for particular forms of penalties for juvenile offenders and the institutionalised protection of the identity of juvenile offenders - there is a public protection of the individual interests of the child. That is at odds with the public interest which, again, is addressed in this proposed amendment, and the public interest is in the protection of law and order. To illustrate the tension between the public interest and the private interest, I refer to three instances between August 1989 and March 1991 in which, contrary to the then existing provisions of the Children's Court of Western Australia Act (No 2), the identity of juveniles was publicised.

**Hon Graham Edwards:** That is in dispute - and in dispute, I might say, by one of your very eminent colleagues who sits just to your left.

Hon DERRICK TOMLINSON: Let us follow the dispute, because I think it is an important dispute, and it is important that we have this Bill before us to resolve that dispute. Because it is not merely a matter of legal disputation but also a matter of public concern, it is important that we look at these public tensions. The first incident involved the release by the Police Department of the name of an individual who was labelled the "Porsche Kid" after the make of vehicle that he had a predilection to purloin. We were told in a *Daily News* article of 10 August 1989 these things: First of all, the name of the 16 year old person was given; then we were told that since 1 July - which, bearing in mind that this is the *Daily News* of 10 August 1989, is a period of not more than about six weeks -

... police estimate he has stolen about 30 luxury vehicles worth \$1 million.

We were told not only the name of the individual, but also that "police estimate he has stolen". We then ask: Where is the principle of the assumption of innocence? There is no assumption of innocence in this statement; there is an assumption of guilt. Having revealed to the public through this Press article that the young offender had stolen vehicles, it was also revealed that -

Police believe (the individual) steals cars from Perth's ritzy suburbs and uses them to carry out up to five burglaries a night.

Again, where is the presumption of innocence? I suppose it is not an accusation that he has done this but a belief the police have that he not only steals vehicles but also uses them to carry out up to five burglaries a night. The article went on to say -

He keeps each car for four or five days and after each "job" hides it or just abandons it.

If it is still there the next day he will use it for another series of crimes.

So he is labelled as a recurring or an habitual criminal. We are then told that this 16 year old lad, the "Porsche Kid", -

can make thousands of dollars from his crimes, but he does not splash out on expensive clothes or food.

Police say he needs the money to pay for places to sleep and eat.

He obviously had rather expensive tastes if he had to make thousands of dollars from his crimes simply to pay for the places where he slept and ate.

All of this is very interesting: We have the name of the individual; we are told that he steals cars - up to \$1 million-worth over six weeks; that he uses those vehicles in breaking and entering; and that he has made thousands of dollars from his crimes. All of these quite positive statements are made. I am reading from a Press statement, so there may have been a degree of Press licence in this and not necessarily the information that the police released to the Press. The interesting point is that the police are unable to run the young offender to the ground. The Press story says they now have set up a special task force in a bid to capture him. He has not been caught. If he has not been caught, one assumes neither has he been charged. If he has not been charged, how can we assume his guilt? We then ask, and this is probably one of the points of contention, if he has not been caught and not charged, are the police in contravention of sections 35 and 36 of the Children's Court of Western Australia Act. I remind members that sections 35 and 36 of that Act simply state that a person shall not publish a report of any proceedings of the court containing the particulars, etc. In this instance, that is not in contravention of the Act at all. However, there was a considerable public controversy provoked by this revelation. The following morning, 11 August 1989, in *The West Australian* the Youth Legal Service made a statement that the police had made a dangerous legal move by naming a juvenile car thief. The article reads -

Co-ordinator Shawn Boyle said there was a probability police had broken the law by identifying a juvenile with outstanding warrants.

The contention was whether what the police had done was lawful or unlawful; however, public interest is the matter which is at point here. The public interest was expressed previously by the police in these terms -

... they are so worried someone may be killed or injured in a high-speed chase that yesterday they took the unusual step of asking the media to publish his name and picture.

We have reached the nub of the tension between protecting the identity of the juvenile offender and protecting the public interest. The police are charged not only with maintaining and preserving law and order but also with apprehending and bringing offenders to justice. However, their job is made difficult for the simple reason that they are compelled to act within the law. They cannot take unlawful measures to apprehend an offender, nor can they take unlawful measures to protect law and order. However, the people against whom they are contesting work entirely outside the law; their activities are entirely unlawful. Even though in this instance there was public conjecture and public debate - at times, highly emotive public debate and conjecture - about the possibility that the police had broken the law, the public sympathy was probably more likely in favour of the Police Department. The public interest, in this instance, in the maintenance of law and order, in the bringing of an offender to justice, outweighed the private interest of protecting the identity of that individual. However, the doubt in the case of the "Porsche Kid" was whether the police in fact had acted unlawfully. I propose that given that there had been no apprehension and no charges laid, and he had not appeared before the Children's Court at that time, the police were not operating outside the provisions of sections 35 and 36 of the Children's Court of Western Australia Act.

The next incident involved public debate to the point where *The West Australian* of 12 July 1990 in the editorial argued the need for a revision of the law -

As the Children's Court Act stands, naming juvenile offenders is banned. But that provision presents the police with a dilemma when their duty also is to protect lives and property.

That is the very dilemma illustrated in the case of the "Porsche Kid". The editorial concluded -

But where there is a clash between their interests and those of public safety, the latter should be paramount.

The reference to "their" is the interests of the young offenders.

The individual concerned in this incident had been sentenced for being one of a gang which had threatened a woman with rape and murder. The young person was sentenced to a period of detention and was serving that at Longmore. The details of the reason he chose to escape from Longmore themselves depend upon the point of view of the teller. Again, the police argued that in this instance it was necessary in the public interest to release the name of the individual. The story, again in the *Daily News*, was under the headline "Police name violent boy". Not only did the newspaper publish his name but also he was labelled a violent boy. Indeed, the crime for which he was convicted did involve violence and was exceedingly offensive to the public. Therefore, when he escaped from Longmore he was seen by the police to be a possible danger to the public. So, in order to protect the public interest and to apprehend him and return him to custody as quickly as possible, they released his name in order to get some public assistance. However, that was the police side of the story. It is rather interesting that when the public controversy arose we got a different picture of the young offender. His grandmother described him as a gentle, sweet boy. I am not surprised at that.

Hon B.L. Jones: You probably were once.

Hon DERRICK TOMLINSON: That is not a probability, I was! It was a long time ago. My grandmother, bless her soul, has been dead for many years. She regarded me as a gentle, sweet boy. I am sure that Hon Tom Butler's grandmother regarded him as a gentle, sweet boy. I can almost hear her now, saying, "He is just a little thing, but he is my tiny dumpling." No doubt she regarded him as a gentle, sweet boy.

[Pursuant to Standing Orders, debate adjourned.]

#### ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [6.00 pm]: I move -  
That the House do now adjourn.



*Adjournment Debate - Capobianco, Dean*

**HON DOUG WENN** (South West) [6.01 pm]: I shall take only a few minutes of the House's time to express my admiration for a young Western Australian fellow who is quickly becoming one of the best athletes in Australia. On Tuesday he is heading overseas to compete in Europe as a professional runner and in general athletics. This fellow's name is Dean Capobianco, and I have mentioned him in this House before. On Tuesday of this week Mel Moffat wrote in *The West Australian* that Dean was heading overseas to compete in Europe, and that he has been invited to a training camp in El Paso, Texas. He is proving himself to be one of Western Australia's fastest runners and one of the world's best competitors. He is coming up through the ranks and it is expected that he will soon be ranked tenth in the world. I convey my best wishes to Dean on behalf of not only my family, but also all in Western Australia who take an interest in running. In addition, I thank the Capobianco family for an invitation to his 21st birthday party on Saturday, when he reaches what is a milestone in any person's life. I wish him well in his future as he heads to Europe.

Members: Hear, hear!

*Adjournment Debate - Toodyay Race Club - Licence Restoration Appeal*

**HON MARGARET McALEER** (Agricultural) [6.02 pm]: The Toodyay Race Club finds itself in an unfortunate situation, and, because of that, I hope members will support my appeal to the Chairman and committee members of the Western Australian Turf Club to restore the registration of this race club at least until Hon Jim Brown, the member for Avon in another place, and I have met with the Chairman of WATC and accompanied a deputation from the Toodyay Race Club and from the Toodyay Shire Council to see the Minister for Racing and Gaming - these arrangements are partly in place.

The situation has two causes: The first, and the most important, is the financial difficulties in which the racing industry finds itself. The Government has limited the amount of money it is prepared to provide to support the industry - it is not providing an open cheque - which means that some rationalisation is required. The second cause is that last year the York, Northam and Toodyay race tracks were affected by the locust plague and were in bad shape during summer. These tracks have had a slow recovery and the racing season should begin this month.

On 22 March the Western Australian Thoroughbred Racing Industry Council had a meeting at which it discussed the Avon Valley race tracks and the damage caused by the locust plague. The decision was unanimous that the Beverley and York Race Clubs should amalgamate and the Toodyay and Northam Race Clubs should amalgamate. The Beverley and Toodyay race tracks would close and the races would take place at York and Northam. Toodyay was not to race on its track until 1 August, on that date the amalgamation was to be completed.

Also on 22 March an invitation was issued to Mr Bradley, the Chairman of the Toodyay Race Club, to attend a meeting on 27 March at which the WATRIC decision was made known to him. The minutes of that meeting indicate that it was made abundantly clear to Mr Bradley that the club had two options: The club was either to amalgamate with Northam to become the Toodyay-Northam Race Club, or the Toodyay Race Club would have no further involvement in the racing industry. That was the first knowledge the Toodyay Race Club had of the decision made by WATRIC and subsequently ratified by the Western Australian Turf Club. However, no discussion took place with the Toodyay Race Club. The chairman of the club and one of his committee members were simply given the decision and asked to implement it.

On 9 April a special general meeting of the Toodyay Race Club was held which was attended by its 80 members, and this meeting unanimously rejected the call to amalgamate with Northam. The club decided that nothing was to be gained from racing at Northam and that it would lose its identity as a club. It was resolved to try to make the WA Turf Club change its decision. I was present at that meeting and I made an offer, which was accepted, to take a deputation to see the Minister for Racing and Gaming as part of the effort to try to reverse the decision.

On 19 April I faxed a letter to the Minister asking her to receive a deputation. On 22 April the Toodyay Race Club wrote to the WATC, which recorded the decision of the special

general meeting that the club would not amalgamate with the Northam Race Club and its opinion that the club had been dealt with unfairly. The club also disputed the opinion that the race track was no longer fit for racing and asked the WATC to inspect the track and provide racing dates in June. On 26 April, WATRIC rejected the arguments of the race club and recommended that the Toodyay Race Club be deregistered - of course, this was unknown to the club.

On 30 April, as I had received no reply from the Minister except an acknowledgment of receipt of the letter, I put a question on notice to the Minister reminding her of the deputation. She answered saying she would meet the deputation. She then wrote a letter stating that before she received the deputation we should meet with the Chairman of the WA Turf Club and advising that she had already written to the Chairman to facilitate this meeting. I contacted the chairman and he indicated that, although he was happy to meet with members of Parliament, he felt that no good purpose could be served by meeting the deputation. It was subsequently decided that members of Parliament would meet with the chairman and that the deputation would meet with the Minister at a later stage. On 7 May, the same day that I contacted the chairman, Mr Peters, Mr Hill who is the Chief Executive Officer of the Western Australian Turf Club responded to a letter which I had written requesting an outline of the circumstances and reasons for the decision regarding Toodyay. The reasons he gave were that it was for rationalisation of the industry and that the overall interests of racing would be best served. Mr Hill did not mention to me then, nor did Mr Peters when I made contact on 7 May, that the Turf Club had made the decision to revoke the registration of Toodyay altogether. On 8 May the Chief Executive Officer, Mr Hill, wrote to the Toodyay Race Club advising that its registration had been revoked and that it could no longer receive any industry moneys and could no longer race in the sense of being able to offer stakes for races. They could have picnic races, but no money would be able to change hands.

As matters stand, we are still to meet with the Chairman of the Western Australia Turf Club; we are still waiting on the Minister, and I feel that the Turf Club has been very precipitous in its action in deregistering the club. No matter how much they may feel that their minds are irrevocably made up, I appeal to the Chairman and members of the Western Australian Turf Club to restore that licence to Toodyay until such time as we have had the opportunity to make representations on its behalf.

Hon E.J. Charlton: It is the fastest growing area in the State.

Question put and passed.

*House adjourned at 6.12 pm*

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**QUESTIONS ON NOTICE**

**WASTE DISPOSAL - YIRRIGAN WASTE DISPOSAL SITE**

*Leachate Plume - Premature Closure*

84. Hon REG DAVIES to the Minister for Education representing the Minister for Health:

When did the appropriate authority know the location and direction of leachate plume to justify the premature closure of the Yirrigan waste disposal site when it still had another eight year life span?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

The Stirling City Council and the operators of the Yirrigan site have been asked by the Health Department to prepare a management plan for the future use of the site in view of the known existence of the pollution plume and the continued urban encroachment on the tip. A decision about the future operation of the tip will be made after this management plan is assessed by the Government.

**METROPOLITAN HEAVY INDUSTRY SITES STUDY - REPORT RELEASE**

*Shire of Gingin*

177. Hon MARGARET McALEER to Hon Tom Stephens representing the Minister for State Development:

In the light of an undertaking given to the Gingin Shire Council that the metropolitan heavy industry site study and report would be available to the electors of the shire on 27 February 1991 -

- (1) Would the Minister explain why that study and report is not now to be released until the third week in April?
- (2) Is the Minister aware that -
  - (a) during the period of the study and up to the present moment, all coastal developments which affect the release of residential land in the townsites of Seabird and Ledge Point and residential land adjacent to Seabird townsite has been halted until the study has been released; and
  - (b) development of the marina and townsite facilities of Ledge Point have been impeded as was the proposed development of land south of the Moore River adjoining Guilderton?
- (3) Is the Minister also aware that the rock lobster fishermen are particularly anxious to know the result of the study as their livelihoods are affected?
- (4) Will the Minister consider releasing the study and report immediately so that people in the Shire of Gingin can be aware of its implications?

Hon TOM STEPHENS replied:

The Minister for State Development has provided the following reply -

- (1) In accordance with the importance the Government places on this decision, Cabinet has referred the report to a special ministerial group for a recommendation. The ministerial group will consider this report in relation to other regional studies prior to making a recommendation to Cabinet for its consideration.
- (2) The Shire of Gingin has recently advised that all coastal development was put on hold until completion of the study. The shire has been advised of the current status of the report.

- (3) I am aware of local community interest, including the fishermen, in the draft study report.
- (4) Refer to (1).

**WESTERN AUSTRALIAN MINT - PAYMENTS**  
*Australian Labor Party - Burke, Premier Brian*

192. Hon MAX EVANS to Hon Tom Stephens representing the Minister for State Development:

- (1) In respect of the Western Australian Mint, previously the Perth Mint, could the Minister advise for the years 1986, 1987, 1988, 1989 and 1990 any amounts paid to -
  - (a) the ALP;
  - (b) Premier Brian Burke; or
  - (c) any advertising accounts of the ALP?
- (2) If such payments were made, would the Minister advise the date of and reason for the payments?

Hon TOM STEPHENS replied:

The Minister for State Development has provided the following reply -

- (1) I am advised by the Western Australian Mint that it has made no payments to these entities on its own account. The Mint maintains metals accounts on behalf of a large number of corporate entities and individuals and from time to time account holders instruct the Mint to sell metal in their accounts and to pay the proceeds to them or to third parties, but obviously transactions conducted by the Mint's clients are confidential.
- (2) Not applicable.

**WESTERN AUSTRALIAN BUSINESS MIGRATION INVESTMENT TRUST**  
*Operations*

237. Hon MAX EVANS to Hon Tom Stephens representing the Minister for State Development:

- (1) Is the Western Australian Business Migration Investment Trust established by the Western Australian Development Corporation still operating?
- (2) If the answer is no -
  - (a) when did it cease operations;
  - (b) what happened to the funds; and
  - (c) are balance sheets available for the previous year ends and to the final date?
- (3) If yes to (1), are annual reports available?
- (4) If so, for what dates and from whom may they be obtained?

Hon TOM STEPHENS replied:

The Minister for State Development has provided the following reply -

- (1) Yes. However, the trust, which was established under the WA Exim Corporation and not the Western Australian Development Corporation, is no longer being marketed and it is expected to be wound up on 31 December 1991, by which time all investors will have been paid out.
- (2) Not applicable.
- (3)-(4) Audited annual reports have been produced since the trust's inception. For the years 1988-89 and 1989-90, these reports are available from the Department of State Development.

**WESTERN AUSTRALIAN INVESTMENT ADVISORY SERVICE LTD**  
*Operations*

238. Hon MAX EVANS to Hon Tom Stephens representing the Minister for State Development:

- (1) Is the Western Australian Investment Advisory Service Ltd, established by the Western Australian Development Corporation, still operating?
- (2) If the answer is yes, are annual reports available and from whom?
- (3) If no to (1), have final accounts been prepared and to what date and from whom can they be obtained?

Hon TOM STEPHENS replied:

The Minister for State Development has provided the following reply -

- (1) Western Australian Investment Advisory Services Ltd, established by the WA Exim Corporation and not the Western Australian Development Corporation, is still operating as part of the State's business migration program. The company is expected to be wound up on 31 December 1991 when the Western Australian Business Migration Investment Trust ceases operations.

(2)-(3)

Audited annual reports have been produced since the company's inception. For the years 1988-89 and 1989-90, these reports are available from the Department of State Development.

**RESIDENTIAL TENANCIES ACT - AMENDMENT**  
*Lease Renewal Fee*

280. Hon N.F. MOORE to Hon John Halden representing the Minister for Consumer Affairs:

- (1) Is it proposed to amend the Residential Tenancies Act this parliamentary session to allow agents to charge a renewal fee on leases?
- (2) If not, why not?
- (3) If so, when will the legislation be introduced?

Hon JOHN HALDEN replied:

- (1) No.
- (2) In October 1990, Cabinet decided not to amend the Residential Tenancies Act following consideration of all relevant factors, including the concerns of industry. The Residential Tenancy Act is due for statutory review in October 1991. Submissions on the functioning of the first two years of operation of the Act will be invited from tenants, agents, and landlords.
- (3) Not applicable.

**METROPOLITAN HEAVY INDUSTRY SITES STUDY - REPORT RELEASE**

283. Hon GEORGE CASH to Hon Tom Stephens representing the Minister for State Development:

- (1) Has the report on the Metropolitan Heavy Industry Sites Study been completed?
- (2) If so, will the Minister table a copy of the report?
- (3) If not, why not?

Hon TOM STEPHENS replied:

The Minister for State Development has provided the following reply -

- (1) Yes.
- (2) Yes, when it is publicly released.
- (3) Not applicable.

**WASTE DISPOSAL - LEVY INCREASE PROPOSAL**

315. Hon GEORGE CASH to the Minister for Education representing the Minister for Health:

- (1) Is the Government considering an additional financial impost or other levy on waste dumping?
- (2) If the answer is yes, will the Treasurer provide details?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) No specific proposal is currently being considered by Government.
- (2) Not applicable.

**SWAN BREWERY SITE - OWNERSHIP HISTORY***Total Development Costs*

330. Hon MAX EVANS to the Minister for Education representing the Minister for Construction:

- (1) In respect of the Western Australian Development Corporation, would the Minister advise the history of ownership of the Swan Brewery site since owned by the Swan Brewery Co Ltd including details of -
  - (a) the owners;
  - (b) date of each sale; and
  - (c) respective sale prices?
- (2) What are the details of the total development costs of the site to date with regard to -
  - (a) architects' fees;
  - (b) other consultants' fees;
  - (c) WADC fees;
  - (d) sewerage costs;
  - (e) road costs;
  - (f) lighting costs;
  - (g) water supply;
  - (h) building repairs;
  - (i) demolition costs; and
  - (j) any other costs?
- (3) What are the present monthly charges of the building company, leasing commitments, unions and others while no work is being carried out?
- (4) What is the estimated cost to complete the total redevelopment of the site, including car park?

Hon KAY HALLAHAN replied:

The Minister for Construction has provided the following reply -

- (1) The Swan Brewery site was transferred from -  
 Swan Brewery Co Ltd to Comp Pty Ltd on 3 July 1981, for \$4 000 000;  
 Comp Pty Ltd to Bond Corporation on 22 December 1981, on which stamp duty of \$131 975 - and other land - was paid which calculates to a consideration of \$3 446 800;  
 Bond Corporation to Marchap Pty Ltd on 6 January 1983 for \$4 876 000;  
 Marchap Pty Ltd to the Crown on 12 September 1985, for \$5 000 000.

- (2) Costs to 30 April 1991 are as follows -
- (a) \$981 674.
  - (b) \$1 510 362.
  - (c) Nil.
  - (d) \$25 507.
  - (e) \$214 251 - Road detour for tunnel use - costs met by Landcorp.  
\$933 159 - Main Roads Department work on Mounts Bay Road involving the realignment, widening and installation of a median barrier between the Narrows interchange and the Old Brewery site.
  - (f) \$33 235 - Cost of lighting on Mounts Bay Road for the Old Brewery project - work carried out by State Energy Commission which will be costed to Main Roads Department.
  - (g) \$34 920.
  - (h) \$2 430 464.
  - (i) \$450 481.
  - (j) \$1 464 052 - Tunnel works.  
\$446 125 - Project management fees.  
\$828 692 - Disbursements.
- (3) The total average monthly holding cost is now reduced to approximately \$37 500.
- (4) As announced on 25 November 1990 by the Premier, the modified plans for the restoration of the extant buildings are estimated at \$7.5 million. This figure allows for an on-grade, 70-bay car park.

**LAND - AVON LOCATION 29014**  
*Industrial Lands Development Authority Sale*

358. Hon BARRY HOUSE to the Minister for Education representing the Minister for Lands:

- (1) Why was Avon Location 29014, formerly "C" Class Reserve 30364, being an uncleared bush block, sold to the Industrial Lands Development Authority for \$260 000 before a Public Environmental Review (PER) was conducted to ascertain the suitability or otherwise of the block for development?
- (2) Who authorised the transaction?
- (3) When is the PER due to be completed and its findings available to the Government and the public?
- (4) How was this block, Avon Location 29014/Reserve 30364 chosen given that the Industrial Lands Development Authority has admitted that it didn't realise that the block is a headwater of the Wooroloo Brook?
- (5) Have any developers been approached by, or on behalf of, the Industrial Lands Development Authority to develop this bush site?
- (6) Have developers already been engaged, and if so, at what cost?

Hon KAY HALLAHAN replied:

The Minister for Lands has provided the following reply -

- (1) The land was sold to the authority in accordance with the program to rationalise the ownership and management of Crown land, following ILDA's expression of interest in it as a possible industrial site.
- (2) Cabinet.
- (3) It is currently expected that the PER will be completed and submitted to the Government by the end of May 1991, and its findings released for public information and comment shortly thereafter.

(4) The PER will identify any constraints affecting the land.

(5)-(6)

No.

#### ROCKINGHAM VESSEL - CAREENING BAY LOCATION

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

- (1) Are museum authorities aware of the precise location of the vessel *Rockingham* in Careening Bay?
- (2) Have any attempts been made to raise this 1818 ship which was so closely related to the foundation of the West Australian Colony?

Hon KAY HALLAHAN replied:

- (1) The location of the remains of the *Rockingham* is unknown at this time despite numerous searches. Materials from the wreck were salvaged in the 1830s. There are historic references to the sighting of ribs, anchors and steering gear in the mid-19th century, but the site is believed to be covered with sand at present. Other buried wrecks in the area have been found during dredging operations and the *Rockingham* is presumed to lie close to the shore.
- (2) No.

#### BUSES - SCHOOL BUSES

##### *4.5 Mile Radius Ruling*

380. Hon MURIEL PATTERSON to the Minister for Education:

- (1) Are school bus services to be extended to students inside a 4.5 mile radius from their appropriate school?
- (2) If the answer is no, does this ruling apply to both Government schools and private schools?
- (3) If school bus services are extended to students outside this radius of 4.5 kilometres, why is it that some students are classified as complimentary students because they prefer one school to another?

Hon KAY HALLAHAN replied:

- (1) The Ministry of Education has no plans to extend school bus services to students living within 4.5 kilometres of their nearest appropriate school.
- (2) Yes.
- (3) Complementary students are those who normally live within 4.5 kilometres from their nearest appropriate school and travel by school bus when there are seats available on the existing service passing through their locality. However, in the event that a student living more than 4.5 kilometres from the nearest appropriate school chooses to attend another school beyond that point, then the student assumes complementary status for the portion of the travel beyond the appropriate school.

#### SWAN BREWERY SITE - FINANCIAL ADMINISTRATION AND AUDIT ACT

##### *Ministerial Information Prevention*

381. Hon REG DAVIES to the Leader of the House representing the Minister assisting the Treasurer:

In respect of the Financial Administration and Audit Act, are there any agreements by a Government department on statutory authority including Western Australian Development Corporation or LandCorp, concerning the proposed old Swan Brewery development which prevent a Minister from providing Parliament with information on any of its operations?

Hon J.M. BERINSON replied:

The Minister assisting the Treasurer has provided the following reply -

In relation to the Old Swan Brewery conservation there are no agreements by



any Government department or statutory authority in respect of the Financial Administration and Audit Act which prevents a Minister from providing Parliament with information on any of its operations.

**LOCAL GOVERNMENT - ELECTORAL BOUNDARIES**  
*Changes Request*

394. Hon P.H. LOCKYER to the Minister for Education representing the Minister for Local Government:

- (1) How many local authorities have been requested to alter their electoral boundaries?
- (2) What are the names of those authorities?
- (3) How many have agreed?
- (4) How many have refused?
- (5) Which authorities have yet to reply?

Hon KAY HALLAHAN replied:

The Minister for Local Government has provided the following reply -

- (1)-(2) All local governments have been requested to review their electoral systems.
- (3) Several councils have agreed to carry out a review. Five have lodged a formal submission.
- (4)-(5) Responses are still coming in. All councils were given several months to consider the matter.

**PASTORAL INDUSTRY - MURCHISON, PILBARA, GOLDFIELDS PASTORAL LEASES**

*Old Gazetted Townsite Leases*

401. Hon P.H. LOCKYER to the Minister for Education representing the Minister for Lands:

- (1) How many pastoral leases in the Murchison, Pilbara or Goldfields have special leases of old gazetted townsites separate from their pastoral leases?
- (2) Is it correct that recent rises in charges have resulted in these leases being increased from approximately \$50 per annum to \$750 per annum?
- (3) If so, what is the reason for this steep rise?

Hon KAY HALLAHAN replied:

The Minister for Lands has provided the following reply -

- (1) A number of special leases exist, mostly over reserves, which are used in conjunction with pastoral lease activities. Records for such leases are not separately maintained and therefore the information sought is not readily available.
- (2)-(3) Substantial rent increases for special leases have recently occurred, for the following reasons. First, many rentals were initially set at a nominal figure and have not been reviewed for many years. Secondly, Government policy is to base rentals on values supplied by the Valuer General. These values apply Statewide and are not specifically related to pastoral areas. The impact of these rental increases on pastoral lessees is acknowledged and the Department of Land Administration is presently examining ways of lessening this impact.

# QUESTIONS WITHOUT NOTICE

## ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF GOVERNMENT

### *Legal Representation - Government Assistance*

189. Hon GEORGE CASH to the Leader of the House representing the Premier:

Has the Leader of the House obtained information in respect of financial assistance that has been requested and granted by the Government in connection with the current Royal Commission?

Hon J.M. BERINSON replied:

The Premier has provided me with information in the form of a letter to Hon George Cash, which has not yet been posted. As this matter has been raised in question time, it is appropriate to adapt it to the response. The advice received in this matter is as follows -

The following information is provided in respect of your Question Without Notice concerning financial assistance for legal representation before the Royal Commission:

A number of enquiries have been received from individuals as to their eligibility for financial assistance in the event they are called before the Royal Commission. As these enquiries were made privately, it is not appropriate to reveal these requests unless a decision is made to provide financial assistance.

Assistance has been approved for the following:

Hon B Burke  
Hon P Dowding  
Hon D C Parker  
J B Horgan  
A J Lloyd  
K J Edwards  
M Naylor  
Hon P A Beggs  
Hon J Grill

Each application has been considered in accordance with guidelines tabled in the Legislative Council on 10 July 1990. (Tabled Paper No. 382).

The actual amount of assistance cannot be determined until a later stage of the proceedings, however, fee schedules have been approved in accordance with professional charging practices and following assessment by the Solicitor General.

CONNELL, MR LAURIE - WALSH, MR J.P.

### *Argyle Diamond Mine Royalty Payment Negotiations - Government Payment*

190. Hon MAX EVANS to the Leader of the House representing the Treasurer:

Will the Treasurer advise the fee paid by the Government or any statutory authority to L.R. Connell, L.R. Connell and Associates, L.R. Connell and Partners or Rothwells Ltd, in respect of the role of L.R. Connell and J.P. Walsh as financial advisers to the Government, in negotiating the \$50 million prepaid royalty by the Argyle diamond joint venturers to the Government?

Hon J.M. BERINSON replied:

The Treasurer has provided the following reply to that question from Hon Max Evans, of which advance notice was given -

This matter is currently being investigated by the Treasury and, as soon as the Treasurer is informed and provided with a complete answer, the member will be advised.

EDUCATION MINISTRY - TREASURY  
*Budget \$5 Million Repayment*

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

- (1) How does the Minister justify the decision to return \$5 million to Treasury from the Ministry of Education budget when it is clear to everybody that many State schools are desperately in need of funds for maintenance and upgrading?
- (2) What "poor management practices" in the Ministry of Education were stamped out, which enabled the savings to be made?

Hon KAY HALLAHAN replied:

(1)-(2)

The amount quoted by the honourable member is not accurate; an amount of \$3.7 million was involved. As we are approaching the end of the financial year, I asked my chief executive officers whether it was possible to look at the management of their finances to the end of the financial year and effect some savings. That has been possible, and I pay tribute to the people involved. Many people will be aware that in the Public Service momentum gathers towards the end of the financial year and money allocated for that financial year is spent, not necessarily on items with highest priority. A number of factors were involved in the Ministry of Education situation. It has a budget of about \$963.5 million and it was anticipated that the budget would be overrun by almost \$10 million, which I asked my staff to try to pull back. The savings effected have been possible because enrolment figures were less than anticipated, and by a reduction in expenditure on various contingencies, including State Energy Commission charges, which is a major item. The savings effected in a number of areas have reduced the overexpenditure of the budget allocation to about \$6 million.

Hon N.F. Moore: What are the poor management practices which had been stamped out and which enabled the savings to be achieved?

Hon KAY HALLAHAN: I did not refer to poor management practices. I asked my CEOs to look at this aspect and the Ministry of Education was able to reduce its overrun on budget. I pay tribute to the people who want to manage their responsibilities well on behalf of the community of Western Australia by effecting savings and not overrunning their budget by the anticipated \$10 million. That is a good outcome.

ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF  
GOVERNMENT - DONATIONS

*Australian Labor Party-Burke, Mr Brian - Ministerial Awareness*

192. Hon R.G. PIKE to the Minister for Police:

- (1) Was the Minister aware, either directly or indirectly, of all or any or some of the details of the donations to the Labor Party and/or to Mr Burke, as revealed in the recent evidence given to the Royal Commission?
- (2) If so, how did he become aware of that information; for example, was he informed at a Cabinet meeting or elsewhere?

Hon GRAHAM EDWARDS replied:

(1)-(2)

I invite the member to put that question on notice so that I can give it proper consideration.

I have become aware of donations through one source or another, either through material that has become available to the Royal Commission, or from matters that have been raised in the media. I want to make sure of the details. Just as I became aware of the massive blue in the Stirling division of the Liberal Party and the fight about the funds and the hidden donations -

The PRESIDENT: Order! The Minister cannot ask the member to put the question on notice and then proceed to endeavour to answer it. More particularly, he cannot bring debatable matter into the answer he is not going to provide. I ask the Minister not to do that.

Hon GRAHAM EDWARDS: Rather than invite the member to put the question on notice, I advise that I became aware of those donations via the media.

**ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF  
GOVERNMENT - DONATIONS**

*Australian Labor Party-Burke, Mr Brian - Ministerial Awareness*

193. Hon R.G. PIKE to the Minister for Education:

- (1) Was the Minister aware, either directly or indirectly, of all or any or some of the details of the donations to the Labor Party and/or to Mr Burke, as revealed in the recent evidence given to the Royal Commission?
- (2) If so, how did she become aware of that information; for example, was she informed at a Cabinet meeting or elsewhere?

Hon KAY HALLAHAN replied:

The information that has come via the Royal Commission is material that I have heard about, first off, in the media.

**ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF  
GOVERNMENT - DONATIONS**

*Australian Labor Party-Burke, Mr Brian - Ministerial Awareness*

194. Hon R.G. PIKE to the Attorney General:

- (1) Was the Attorney General aware, either directly or indirectly, of all or any or some of the details of the donations to the Labor Party and/or to Mr Burke, as revealed in recent evidence given to the Royal Commission?
- (2) If so, how did he become aware of the information; for example, was he informed in a Cabinet meeting or elsewhere?

Hon J.M. BERINSON replied:

(1)-(2)

Hon Bob Pike will not be surprised to know that my answer to this question will reflect the same considerations as apply to the two previous Ministers who have responded to it.

Hon D.J. Wordsworth interjected.

Hon J.M. BERINSON: No, but I am prepared to learn about it. I think that it was well known and a matter of public and publicised knowledge that substantial financial support was being attracted, either directly or indirectly, for Labor Party purposes through the Curtin Foundation, and the members of that were well known. I was not personally aware, so far as I can recall, of any specific donation by any specific donor. As it happens, I was not involved in fundraising activities, just as I have not been in any of my 20 years of parliamentary experience. I found that job just too hard. Nonetheless, it was clear that substantial donations were being received, if only from the extent of our ability to mount campaigns. Beyond that, I am unable to provide detail.

**AUSTRALIAN SECURITIES COMMISSION - EXTRACTS**

*Accuracy Guarantee - Law Society "Alert" Publication*

195. Hon PETER FOSS to the Attorney General:

I refer the Attorney General to my question to him about the Law Society alert and the notation on Australian Securities Commission searches. Could he inform the House of the resolution of the matter?

Hon J.M. BERINSON replied:

I thank Hon Peter Foss not only for some prior notice of the question but also

for some prior notice of the answer. It has been helpful to have some of the printed material which he has made available to me.

I think I am right in saying that it was on either Wednesday or Thursday of last week that we had the official opening of the Australian Securities Commission office in Perth, and I took that opportunity to raise Hon Peter Foss' question with both Mr Tony Harnell, Chairman of the ASC, and Mr Murray Allen, the regional director. They informed me that by that stage they had felt in a position to change the form of notice which Hon Peter Foss originally drew to attention - namely, one warning users of the system of their inability to rely on it - to a different caution in the following form -

This computer produced extract contains information derived from the ASC database either from documents lodged with the ASC and processed as at the stated date of the extract, or from records supplied by previous state and/or territory systems.

Please advise the A.S.C. promptly of any error or omission which you may find, so that we can correct it.

My memory is that the ASC was reasonably confident, or perhaps more than reasonably confident, that it could assure the accuracy of any entries into the system after its takeover date of 1 January. Their concern was with the very substantial process required to introduce into their system the accumulated information of the various State corporate affairs departments. The chairman of the commission did not feel able to set a firm timetable for the completion of that pretty mammoth task, but my understanding is that he hopes, and even expects, that it will be completed by the end of this year.

#### SCHOOLS - SCHOOL RENEWAL PROGRAM

##### *Maintenance Funds Assurance*

196. Hon REG DAVIES to the Minister for Education:

I refer the Minister to an article in *The West Australian* yesterday headed "School program angers unions". Will the Minister assure the House that the Ministry of Education has the necessary funds to maintain current standards of service provision in Western Australian schools?

Hon KAY HALLAHAN replied:

Yes.

#### CORONIAL INQUIRIES - LEGISLATION AMENDMENT

##### *Witness' Right Against Self-incrimination*

197. Hon DERRICK TOMLINSON to the Minister representing the Minister for Justice:

Some notice of this question was given, since the matter falls within the jurisdiction of the Minister for Justice.

Given the serious concern expressed by Commissioner Elliott Johnston, QC, that five police officers directly involved in the incident which resulted in the death of John Peter Pat did not give evidence before the coronial inquest even though each was summonsed to attend the inquest and testify, and given Commissioner Johnston's complete disagreement with the practice followed in coronial inquiries that if a witness proposes to decline to answer on the ground of self-incrimination the witness is simply not called, will the Government amend relevant Statutes and regulations relating to coronial inquests so that it will be obligatory for material witnesses to attend and give evidence?

Hon J.M. BERINSON replied:

I thank Hon Derrick Tomlinson for some notice of this question. The Minister for Justice has advised as follows -

- (i) The law as it stands does provide for the matters which the commissioner is seeking, with the provision for the right to refuse on the ground of self-incrimination.

- (ii) The right against self-incrimination has a very long history in the English criminal law system, and in the light of that history is a right which should not be dispensed with without full consideration and public consultation.
- (iii) The Coroners Act has been the subject of a report and that report, together with the findings of the inquiry, is now being considered with a view to amending legislation being introduced in the next session.

#### TAFE - EARLY CHILDHOOD STUDIES

##### *Country Areas - Student Enrolment Requirement*

198. Hon J.N. CALDWELL to the Minister for Education:

I refer to the two year technical and further education tertiary course for the associate diploma of early childhood studies. What is the minimum number of students required to initiate such a course in country areas?

Hon KAY HALLAHAN replied:

I suggest the member put his question on notice and I will have the information provided to him.

#### FIRE BRIGADE - INTERNAL INQUIRY

##### *Charges*

199. Hon GEORGE CASH to the Minister for Emergency Services:

Some notice of this question has been given. I refer to previous questions I have asked in respect of the Western Australian Fire Brigades Board's internal inquiry concerning allegations of maladministration and possible misuse of Government funds, and ask the Minister -

- (1) Were any charges laid in respect of these matters?
- (2) If so, what was the outcome of the hearings?

Hon GRAHAM EDWARDS replied:

I thank the member for notice of this question, the answer to which is as follows -

- (1) Yes.
- (2) The investigation has been completed. As a result of the investigating officer's report the following disciplinary action has been taken: One officer has resigned; three officers have been charged, two were found guilty and one was found not guilty; three officers received letters requesting reimbursement, which has been paid; and one officer was admonished. The amount involved was approximately \$4 000, all of which has been recovered.

I take this opportunity to respond to a previous question about whether I would be prepared to table the investigating officer's report. I quote from a letter I have received from the Fire Brigades Board, addressed to me, as follows -

#### BOARD INQUIRY

In response to your memorandum of 24th April 1991, in which you sought the Board's views on the request to make the results of the Board's inquiry into instances of alleged misuse of travel allowances public.

I discussed the matter with the Board on Monday, 29 April 1991 and advise that it is the Board's view that as this is an internal disciplinary matter which is being handled by the Board under the provisions of the Fire Brigades Act Regulation 139, it is not appropriate to make the results public.

The letter is signed by the Executive Chairman of the Fire Brigades Board. I intend to accept the board's advice in relation to this matter.

**TAFE - EARLY CHILDHOOD STUDIES**  
*Country Areas*

200. Hon J.N. CALDWELL to the Minister for Education:

Supplementary to my previous question, to which the Minister did not know the answer, perhaps she could throw some light on this matter.

- (1) Will it be possible to start a technical and further education course concerning early childhood studies at any time of the year in country areas?
- (2) Do these courses have a cut off time during the year?

Hon KAY HALLAHAN replied:

(1)-(2)

Most of the courses have curriculum content to be completed, and I would have thought that time and staffing arrangements would apply. However, attempts are made by TAFE to be flexible, although I am not sure that it can be as flexible as the honourable member's question implies would be desirable. If the member puts both questions on notice I shall get the information he requires. The member may have concerns about a particular area, and a reference to that may be useful so we can refer to it in the information provided.

**CORONIAL INQUIRIES - PRISON OFFICERS**  
*Attendance and Evidence Instruction*

201. Hon DERRICK TOMLINSON to the Minister for Corrective Services:

In his report on the inquiry into the death of Robert Joseph Walker, Commissioner Wyvill observed that the coroner's inquiry was frustrated by the fact that three prison officers who were directly involved in the incident in which Walker died did not give evidence. Will the Minister instruct his department that prison officers have a duty to attend at, and give full evidence to, coronial inquiries?

Hon J.M. BERINSON replied:

The Act does not provide the department with the authority to impose a requirement on officers attending a coronial inquiry. Any amendments to the important rights, to which the Minister for Justice referred in an answer I conveyed to the House earlier, would best be addressed through the Coroners Act rather than through the administration of the Department of Corrective Services.

**SCHOOLS - GIRRAWHEEN SENIOR HIGH SCHOOL**  
*Fluorescent Light Tubes*

202. Hon REG DAVIES to the Minister for Education:

- (1) Is the Minister aware that teachers at the Girrawheen Senior High School have been teaching in classrooms in which more than half of the fluorescent lights have fused or become inoperative because of the Ministry's limitation on maintenance?
- (2) Is that the standard of maintenance to which the Minister referred in reply to my previous question?

Hon KAY HALLAHAN replied:

(1)-(2)

I was not aware that teachers at the Girrawheen Senior High School were teaching with the alleged 50 per cent of fluorescent tubes in service. However, if members have particular concerns that additional lighting is required, I am happy to follow that up.

Hon Reg Davies: We are just asking for ordinary maintenance.

Hon P.G. Pandal: Just make the application out in triplicate.

Hon Reg Davies: They also need extra teachers.

Hon KAY HALLAHAN: A great deal has been said about globes. It would not be an effective way to deal with the matter to have the Building Management Authority trotting out to change one fluorescent tube or one globe at a time. Surely nobody would agree with that, yet some members of Parliament have put that argument to me. When a significant number of tubes or globes are out, they will be attended to. We are very lucky in this country to have a great deal of natural light, and the design of most schools means that classrooms have very good natural light. If situations exist in which that is not the case, please bring it to my attention and it will be remedied.

#### UNEMPLOYMENT - ANNUAL LEAVE LOADING ABOLITION

203. Hon P.G. PENDAL to the Minister for Employment and Training:

As the Minister presides over the worst unemployment situation in Western Australia since the Great Depression - that is, a current rate of 11 per cent - is she prepared, in consultation with the Premier, to urgently consider legislating to abolish the 17.5 per cent leave loading for all employees under State awards as a means of easing charges to employers and to stimulate job creation?

Hon KAY HALLAHAN replied:

As the question of industrial relations comes within the responsibility of one of my colleagues, I certainly will not be legislating in that way. However, that does not mean that the Government is not concerned about the level of unemployment. It is at a significant level and it is certainly causing concern to the Government. The Government is approaching this problem on two different levels: Firstly, it is providing assistance on a personal basis through 31 very effective projects by which people can be assisted in approaching employers. Interestingly enough, a number of employers are not advertising vacant positions and one of the reasons is that they when they do they are inundated with applications and it becomes a difficult management exercise to handle. It appears that many employers are hiring people who are recommended to them. It seems that people who are going through our Joblink, SkillsShare, Jobtrain and other projects are doing well in obtaining jobs - 80 per cent of these people are finding work because of the linkages these schemes provide to local employers. Also, these schemes are providing a greatly increased range of training opportunities; that is most important because, as the economy recovers, we do not want to be inhibited by a work force which lacks skills and preparation.

Hon P.G. Pendal: It is all cosmetic.

Hon KAY HALLAHAN: No, it is not! Mr Pendal must be quite uninformed to say that. I am not trying to make light of the situation; I am explaining reality.

Hon P.G. Pendal: It is 11 per cent.

Hon KAY HALLAHAN: Secondly, we are trying to stimulate the economy, and certainly the housing package, which is aimed at the bottom end of the market, is creating jobs. This month in Western Australia an additional 6 400 jobs have been created. Some early signs of optimism are evident in the community as interest rates are coming down and we are drawing more people into our work force. Queensland and Western Australia are the two States with growing populations.

Hon P.G. Pendal: Growing unemployment.

Hon KAY HALLAHAN: Growth in population creates problems with jobs, housing, education and the provision of all services.

Hon Graham Edwards: Mr Pendal, you are the only person in this State who enjoys the unemployment statistics.

Hon P.G. Pendal: One more person is unemployed today.



Hon Graham Edwards: Cheap shot. He had your measure.

Hon KAY HALLAHAN: Another significant initiative of the State Government was the decision to build the coal fired power station, which will result in a reduction in power costs in this State. This will provide an opportunity to broaden our economic base by attracting new manufacturers, and thus create more jobs. Nobody would deny that this State has a narrow economic base. We are dependent on international prices for our commodities, both in mining and agriculture, and we must do something about that. Despite what we are doing at a State level we are, nevertheless, seriously hampered by Federal Government policies and I will be making a very strong claim to it for assistance to deal with the situation of so many Western Australians being unemployed.

**SCHOOLS - FLUORESCENT LIGHT TUBES**  
*Replacement Policy*

204. Hon MAX EVANS to the Minister for Education

In respect of the comment about fluorescent tubes being replaced by the Building Management Authority, are there any work practices which preclude a school teacher from replacing a fluorescent tube, or must it be replaced by the BMA?

Hon KAY HALLAHAN replied:

It is quite clear that it would not be possible, as I understand it, for teachers to do the sort of work that Hon Max Evans has referred to.

Hon Max Evans: Why? I do it at home.

Hon KAY HALLAHAN: In the workplace roles have been worked out for various occupations and people are rewarded on the basis of the agreements that are entered into for the work they do.

Hon P.G. Pendal: Whether they can change a light bulb.

Hon KAY HALLAHAN: I do not believe that Hon Max Evans would find it acceptable if teachers were carrying out the maintenance around school buildings.

Hon Max Evans: I just mentioned a fluorescent tube.

Hon KAY HALLAHAN: Does Hon Max Evans want it broadened to gardening or painting? I do not object to the question if it is seriously put. Flexibility is needed and we are working on that at the moment. It is not a good arrangement to have to call out the BMA for jobs of that minor maintenance nature.

Hon Max Evans: That is all I wanted to know.

Hon KAY HALLAHAN: That certainly is a matter that is being taken in hand and being worked on, and I do not disagree with the member.

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