Legislative Council

Thursday, 14 November 1991

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

PROROGATION OF PARLIAMENT BILL

Ruling by the President

THE PRESIDENT: Honourable members, you will recall that I was asked a week or so ago to rule on the Prorogation of Parliament Bill. When this Bill was last considered by the House, the Attorney General asked for a ruling on two matters -

1. whether the Bill required to be passed with an absolute majority on the second and third readings; and
2. whether, in addition to the absolute majority requirement, a referendum is required before the Bill is presented to the Governor for the Royal assent.

These questions have been raised because of the condition expressed in section 2(3) of the Constitution Act 1889 that any Bill passed by the two Houses and presented to the Governor for the Royal assent is subject to section 73 of that Act. Section 73 is a manner and form provision, and I am obliged to consider whether, because of the first proviso to section 73(1) or (2)(e) or both, the Bill requires to be passed with an absolute majority. The Bill raises questions of interpretation which require very careful analysis, and it seems to me that on each question my ruling could go either way on the basis of advice I have received. I have decided to adopt a cautious approach, not because I am convinced that an opposite ruling would be wrong, but because of the ramifications if, further down the track, should this Bill be enacted, a court takes a view contrary to mine with the result that legislation validating several Acts is required. I should make it clear that the validity of Acts of this Parliament is open to challenge on section 73 grounds, and sufficient judicial authority exists in Australia to show that Acts passed in contravention of manner and form provisions will be held invalid.

This issue is particularly acute in relation to this Bill. Were it to be invalidated on section 73 grounds, any subsequent Act passed in accordance with its provisions would automatically suffer a similar fate. Under the first proviso to section 73(1), absolute majorities are required for a Bill "by which any change in the constitution of the Legislative Council or of the Legislative Assembly shall be effected . . ." The Bill says nothing about the constitution of either House, unless it be that "constitution" has a wider meaning. More precisely, does it include "powers of either House", because there is no doubt that this Bill increases those powers to the extent that a resolution of either House may override the effects of prorogation. The usual meaning of "constitution", when applied to an institution, brings with it the idea of identification or identity: What is it about a body or group which distinguishes it from any other? How is it made up? What is it set up to do? How is it enabled to achieve its objects? Two conflicting arguments have been put. The first says that the context requires "constitution" to be read as extending to include functions, powers, rights, and procedures. The contrary view is that it should be restricted to status or identity, and that functions and so forth are separate. Support for both arguments can be found. As to whether the Bill is caught by section 73(2)(e), honourable members may understand the difficulties if I give an illustration of some of the issues I have to consider.

Issue 1 - Extent of the power of prorogation under section 3:

There is agreement that the Governor's power to prorogue Parliament is conferred by section 3 of the Constitution; that is, the power is statutory and not, as is the case in the United Kingdom, an exercise of the prerogative powers of the Crown. It is also agreed that the effects of prorogation are the same, whatever the source of power. At this point agreement falls apart. The disagreement hinges on the meaning of the words in section 73(2)(e) - "in any way affects" certain sections of the Act, in this case sections 2, 3 and 4. One view is that the Bill, by enlarging the powers of each House to override the effects of prorogation, of necessity affects the power given by section 3. Cause and effect are inextricably woven into section 3, with the result that any attempt to interfere with the

effects of prorogation automatically affects that section. The contrary view is that the Bill in no way affects the power given by section 3. Parliament may still be prorogued when it suits the Government of the day but either House may make provision for the ongoing conduct of its business when prorogation occurs. In other words, section 3 does no more than confer a power that could be conferred, for example, by Letters Patent or Royal Instructions. The effects result by operation of the common law, and the Bill modifies the common law without interfering with the exercise of the statutory power to prorogue.

Issue 2 - Effect of the Bill on the necessity to pass legislation in one session:

Because prorogation not only terminates a session but kills off all business before either House, an Act may only result from a Bill being passed by both Houses in the same session. The restoration of a Bill in the succeeding session does not cut across this principle, because it can be said that the message from the originating House requesting the other to restore and proceed with the Bill meets the implied requirement that both Houses must agree to its passage in the same session. If the Bill is restored in the House of origin, restoration in that House and its subsequent passage in the other also meets the requirements of passage by both Houses in the same session. The fact that restoration permits passage of a Bill sometime after the session in which it was first introduced is a procedural device that does not offend against the principle, because the procedure ensures that the consent of both Houses is obtained, in the same session, to enactment. The Bill changes this by enabling a House to keep a Bill alive between sessions and pass it without the other House's consent being obtained in the subsequent session. As such, the Bill affects section 2(3) of the Constitution Act.

The contrary view denies the necessity for a Bill to pass both Houses in one and the same session, otherwise the restoration procedure itself could not be used. If a Bill lapses because of prorogation in the non-originating House, is there any need, apart from current procedural arrangements which are not contained in joint rules, for that House to wait for the originating House to request restoration? If a Bill were restored and passed without the "request and consent" of the originating House and thereafter assented to, could the resulting Act be challenged on the ground that the consent of both Houses was not given in the same session? If the second House amends the Bill after restoration, it must be returned to the originating House anyway, and if that House agrees to the amendments, with or without making further amendments itself, would that be "consent" in terms of the stated principle? Alternatively, if the restoration procedure is valid - and there is strong judicial support for its validity - why would a similar procedure intended to ensure consent to passage by both Houses in the session following a carrying forward of the legislation be invalid? In each case, procedural rules are applied to ensure compliance with the principle.

Section 2(3) merely ensures that a Bill is not an Act unless it receives the Governor's assent. If internal parliamentary procedure permits final passage to occur in a later session from that when the legislation was first introduced, subsection (3) is in no way affected by those arrangements. The reference in the subsection to section 73 reinforces the manner and form requirements that apply to certain types of Bill. There are other issues raised in relation to section 73 by this Bill. I do not propose to discuss all of them; they simply illustrate the complexity of the questions I have had to consider. In the event, I prefer not to rule on whether the Bill affects the constitution of either House. No harm is done by leaving this question open, because I rule that to avoid any question of validity of legislation, including this Bill, being raised before the courts, section 73(2)(e) of the Constitution Act applies and it will be necessary for the Bill to pass the second and third readings with an absolute majority, and, if passed by the Assembly, be put to a referendum before the Governor is asked to give his assent.

SELECT COMMITTEE OF PRIVILEGE - PIANTADOSI, HON SAM

Report Tabling

Hon Garry Kelly presented the report of the Select Committee of Privilege appointed following a complaint by Hon Sam Piantadosi, and moved -

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

Question put and passed. [See paper No 875.]

MOTION - STANDING ORDERS SUSPENSION

Bills

HON J.M. BERINSON (North Metropolitan - Leader of the House) [2.45 pm]: I move without notice -

> That for the remainder of this session Standing Orders be suspended so far as will enable any Bill to pass through any or all stages at one sitting.

As members will know, this is a standard motion which has been brought before the House towards the end of each session over a long period. We all live in hope that we will one day reach a stage where we can avoid the buildup of business at the end of sessions, but that is with us again this year. Especially given the need to expedite the processing of legislation which is amended in this House, it is most important that we adopt this year the procedures which have been used effectively in previous years.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [2.49 pm]: The Opposition supports this motion. As the Leader of the House has suggested, in recent years it has become traditional towards the end of each session that this motion be moved and carried by the House. However, in negotiations between Hon Joe Berinson, Hon Eric Charlton and me, the Leader of the House indicated there were a number of financial Bills he wanted dealt with as a matter of priority. I notice some of those Bills are still given fairly low priority on the Notice Paper; indeed, the Appropriation (Consolidated Revenue Fund) Bill is listed at No 17. As there is a clear understanding between the Government and the Opposition that the House shall rise at 6.00 pm on 5 December, I urge the Leader of the House, if he wants those financial Bills to be processed prior to that date, to have them brought forward on the Notice Paper. We must bear in mind that a loan Bill, a land tax revenue Bill, a payroll tax Bill and perhaps other Bills of a financial nature still have not arrived in this House and obviously will not now arrive until probably the week after the recess. I support the motion.

Question put and passed.

ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF GOVERNMENT BILL

Receipt and First Reading

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

Second Reading

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [2.53 pm]: I move -

> That the Bill be now read a second time.

The purpose of this Bill is to achieve one fundamental objective: To correct what is regarded as a serious error of omission in the citation issued by the Governor, on the advice of the Government, for the Royal Commission of Inquiry into the Commercial Activities of Government and Other Matters.

To explain more particularly, it will be noted in the terms of reference of the Royal Commission, as published in the Western Australian *Government Gazette* of Tuesday, 8 January 1991 - No 4 special - that although section (1) on page 37 requires the Royal Commission, in general terms, to inquire and report, in subsections (1) and (2) at pages 37 and 38 it specifically has to inquire only in respect of whether there has been -

(a) corruption;

(b) illegal conduct; or

(c) improper conduct

by any person or corporation . . .

Under schedules 1 and 2 it specifically has to report only whether -

(d) any matter should be referred to an appropriate authority with a view to the institution of criminal proceedings; or

(e) changes in the law of the State, or in administrative or decision making procedures, are necessary or desirable in the public interest.

In other words, the brief to the Royal Commissioners is silent on the need for them to report findings of corruption, illegal conduct or improper conduct, notwithstanding the requirement for them to inquire into same.

I believe that the Government, all members of this House and, indeed, the majority of Western Australians support the need for the Royal Commission to be unfettered in its ability to report fully its investigations and findings. If that is the case, this Bill is introduced to support those intrinsic and fundamental intentions by correcting an obvious oversight in the drafting of the terms of reference.

It may, of course, for some obscure or obtuse reason, be argued that because of the competence and integrity of the Royal Commissioners it should be unnecessary formally to cause the commission to report improper conduct and the like, because that would be reported as a matter of course. That may well be true, and it should be understood that this Bill is not intended in any way to reflect on the commissioners or to presuppose any intentions. It will remove any doubt or possibility of legal or public challenge to the Royal Commission that may inhibit its reporting of findings on the basis that that reporting was outside its terms of reference because it was not commissioned so to report. One can take an example from the occurrences in Tasmania, where Opposition Leader Robin Gray challenged at law the Royal Commission which was inquiring into the allegation of attempted bribery of a member of Parliament in respect of its ability to report on specific matters.

Particularly indicative examples of the need to be precise in the instruction or brief of the terms of reference of an inquiry are chronicled repeatedly in the "Report of Inspector on a Special Investigation into Rothwells Ltd", by Mr McCusker, QC. McCusker states at page 4 of his report that -

> From time to time it was suggested to me, by or on behalf of a witness, that a particular line of questioning was beyond my terms of reference . . .

He states more starkly at page 22 that -

> In the public mind there may have been built up a perception that the investigation was into "W.A. Inc" - a term of elastic and uncertain definition, but which is generally understood to embrace a wide range of matters involving the Government, and extending well beyond the terms of my reference. At every opportunity I have tried to dispel that misconception, by directing attention to my terms of reference which, wide as they are, are nevertheless limited to the affairs of Rothwells, the causes of its failure and the possible commission of offences with respect to the business of Rothwells, going as far as issuing a press release to that effect in October 1989 which went unpublished, and was largely ignored. Throughout the inquiry, I have been surprised at the refusal of some members of the media to consider, or even read, my terms of reference, and instead to persist in fanning an expectation that the inquiry is to report on matters which are self-evidently outside my terms of reference.

The Opposition believes that the existing terms of reference of the Royal Commission, if not flawed, are severely restricted in their ability to allow the reporting of findings, particularly of political corruption and improper conduct. On that basis, and even if in technical terms the premise on which this Bill is introduced is ill-founded, such reason should not be sufficient to stop its passage - if, of course, the Government is genuine in its desire to be open and to allow a full reporting of WA Inc matters.

Debate adjourned, on motion by Hon Fred McKenzie.

CRIMINAL CODE AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon Derrick Tomlinson, and read a first time.

Second Reading

HON DERRICK TOMLINSON (East Metropolitan) [2.58 pm]: I move -

That the Bill be now read a second time.

This Bill has a single function: To enable victims of crime to present their evidence to a sentencing judge before a penalty is decided. Its purpose is to help restore confidence in our criminal justice system. It answers a growing community concern, justified or otherwise, that offenders are the focus of court processes and that those who are offended against, those who suffer loss or injury as a direct consequence of crimes perpetrated against them or their property, have no place therein.

A reading of section 656, or indeed the whole of Chapter LXV of the Criminal Code, might serve to confirm that view. At several points reference is made to the "offender" or "a person convicted of an offence", but no reference at all is made to the person offended against or affected by an offence. It describes how a court might deal with an offender, inform itself of the circumstances of a case, or have regard to a circumstance of aggravation, but it is silent on how a court might deal with or have regard for the circumstances of a victim. In order to allay such conceptions that the processes of the criminal justice system ignore victims of crime, or misconceptions, if indeed those notions are not founded in fact, it is necessary that they be revised to confirm at law the right of aggrieved citizens to be heard before a court. The fundamental principle to be entertained is that in the judicial processes it is not only the interests and welfare of offenders which must be protected but also the interests and welfare of those who are offended against which must be protected. Otherwise victims of crime will continue to be seen as anonymous and irrelevant at law.

At some time in the period 335-322 BC Aristotle wrote his treatise, *Politics*. In it he described the ideal State. It was one, he argued, which had a certain amount of territory and a certain number of citizens; it must produce all that it requires and its population must be large enough to enable true constitutional government. Its system of justice depended upon its citizens being known each to the other. Aristotle said -

> . . . in order to decide lawsuits and distribute offices according to merit, the citizens must know one another's characters; otherwise they will inevitably go astray in their elective and judicial functions. When the population is too large lawsuits will be determined and offices distributed haphazardly, which they clearly should not be . . . Clearly, then, the best limit of population is the largest number requisite for self-sufficiency and which can be taken in a single view . . .

It would be difficult to argue on those criteria that ours is an ideal State, but the notion that lawsuits are most effectively determined when all the members of a State know one another's character is interesting to pursue.

I think in his references to "lawsuits" Aristotle was considering what we would categorise as civil law; that is, those actions in which citizens who have competing interests in benefits or property resort to the adjudication of law courts for the apportionment of their respective interests. For such adjudication to be fair and just, competing parties must have equal rights to present themselves and their arguments, and the adjudicator must be required to hear and understand the protagonists and their competing depositions. At least, that is how civil law suits might be decided in Aristotle's ideal State. However, a similar principle might also apply in modern criminal law. As they now operate in our State, criminal courts have two protagonists: The Crown and the defence. The Crown is the prosecutor and, notionally, if not in fact, represents the interests of all citizens, including those who have suffered direct loss or injury as a consequence of crime.

In order that it might be seen to be fair, the Crown is required to be a disinterested participant and its case must rely on facts, or evidence which can be substantiated in fact. Likewise, the defence must argue fact since guilt can be decided only on facts or evidence based in fact. However, when guilt is decided, and before sentence is determined, the defence can use arguments of mitigating circumstance or the good character of the offender to persuade the sentencing judge that a minimum penalty is justified. At the same time, the court may seek other information to help it decide the proper sentence. This is provided for in section 656 of the Criminal Code, which states -

> Before passing sentence or otherwise disposing of the case according to law, the court may inform itself in such manner as it thinks fit in order to decide upon the proper sentence to be passed, order to be made, or other disposition of the case.

In short, the court is required to know the facts of the case, but it may, if it wishes, seek to

know more before passing sentence. Frequently, it seeks to know the character of the guilty party. In effect, it seeks to know what Aristotle advanced as essential to the orderly determination of lawsuits.

Knowing the character and circumstances of the offender is however, only one half, of what Aristotle might have argued if our courts operated in his ideal State. They would be required to know and understand the character and circumstances of all parties to the case. Certainly, they would be required to know and understand the character of the victims of the crime for which sentence is to be determined. Hence, just as the offender would have the right for circumstances and character to be known to the court, so too would the victim. Ours is not an ideal State, and neither are ours ideal courts, but the principle of justice embodied in that ideal State can still apply.

On Tuesday, 20 August a Rally for Justice gathered outside this Parliament and called upon the Parliament to legislate changes to the State's laws. Among the six propositions petitioned was one that it be mandatory to offer to victims - including families and close friends - opportunity to make victim impact statements, whether defendants plead guilty or not. That petition advances a principle which has found recent favour in other Australian jurisdictions. A recent issue of *Trends and Issues No 33 "Victim Impact Statements"* published by the Australian Institute of Criminology reported that the historical evolution of the penal system has resulted in a criminal justice process in which victims play only a secondary role. It described the role of the victim in court proceedings in an adversary legal system, such as ours, as -

> . . . a passive one, that of an observer or, at best, a witness. As a witness, the victim has to remain outside the court until summoned to testify. During the brief time in court, the victim/witness is limited to answering questions from the prosecutor or the defence attorney. Victims have no formally recognised role in the trial of their offender, and no mechanism to voice their concerns and feelings regarding the crime and its impact on them.

Recent changed awareness of the status of victims has focused on their reintegration into the criminal justice system. Various reform committees have considered the concept of victim impact statements. Only one State, however, South Australia, has integrated written impact statement by victims into the criminal justice process.

Hon J.M. Berinson: Are you aware of that being done by legislation or as a request proposed under the victims charter?

Hon DERRICK TOMLINSON: I think South Australia uses both. It has a victim charter and it is legislated into the judicial process.

Recently in Western Australia the Premier announced Cabinet's approval of a charter of victims' rights. It includes the opportunity for written victim impact statements to be presented to courts at the time of sentencing. The Bill I have presented to the House goes beyond that proposal: It affords the opportunity, if it is their wish, for victims to be heard by a sentencing judge when he is deciding sentence. Alternatively, victims may have another person make a statement on their behalf, or they may present a written statement.

This Bill was derived from one drafted by a participant in the Rally for Justice. It has the support of the rally organisers and I also believe it has the support of members from both sides of the Parliament. It seeks to afford to persons who have suffered loss or injury as a consequence of a crime or other offence the opportunity to present themselves or their written statements to a sentencing judge before sentence is decided. It does not seek to have the sentencing judge consider the character of the victim as well as that of the offender when determining sentence, but it does seek to have him consider the effect of the crime upon the victim. It does not seek to change current penalties in the Criminal Code, but it does seek to establish the victim as a factor affecting what is an appropriate sentence. The Bill relies upon fundamental principles of fairness and only serves to give to victims of crime confidence that the courts will, if that is their wish, hear and consider them.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Fred McKenzie.

CRIMINAL LAW AMENDMENT BILL

Third Reading

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

MEDICAL AMENDMENT BILL

Second Reading

Debate resumed from 7 November.

HON BARRY HOUSE (South West) [3.11 pm]: The Opposition supports the Medical Amendment Bill. This Bill is in the Parliament to overcome an injustice which occurred when the Act was amended in 1979. That amendment provided for doctors holding limited registration at that time to obtain full registration without the need to obtain further qualifications or to sit further exams. However, the amendment contained an oversight in that the cut off date did not take into account an agreement between the mental health department and one practitioner who was given the understanding that full registration would be granted once she had completed five years' practise, which commenced shortly after the 1979 amendment. This amendment will give effect to this agreement by extending the period to within six months of when the 1979 amendment came into operation.

The Bill raises a couple of questions. Firstly, why has the Government gone to such an extraordinary length to amend this legislation for the sake of one general practitioner? This issue was covered in a Bill which was before the House last year, but debate on it did not proceed. My recollection is that last year's Bill also dealt with an issue related to the slaughter of possums for dinner tables, or something like that.

Secondly, what will be the reaction of the Medical Board and the Government if other practitioners currently working in limited areas around the State - because they qualified outside Western Australia, their qualifications are not recognised in this State - see this Bill as a precedent and request further amendments to the Act to cater for their circumstances? I am sure many medical practitioners around the State feel aggrieved because they cannot obtain full registration. I do not want to predict a wave of applications, but many medical practitioners may see this Bill as a precedent and may use it to pursue their cases.

HON J.N. CALDWELL (Agricultural) [3.14 pm]: The National Party supports the Medical Amendment Bill. The Bill is the result of an oversight in an amendment made to the Act in 1979. That amendment did not take into account an agreement between the mental health department and a practitioner who was given the understanding that full registration would be granted once she had completed five years' practise under auxiliary registration. This Bill will enable the Medical Board to review the status of those practitioners affected by the 1979 amendment to the Act.

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.15 pm]: I thank members opposite who supported the Medical Amendment Bill. Frankly I am not aware of the background of the provision in the Bill that was before the Parliament last year to which Hon Barry House referred.

Hon Barry House's more substantial question related to the possibility of other practitioners who are not registered in this State seeing the present Bill as a precedent for their purposes. Both the Bill and the second reading speech make it very clear that this Bill seeks to rectify the position of one person only; it does not provide a precedent because, so far as I am aware, there is no other person in precisely the position of the person covered by the present legislation. As the Minister for Health pointed out in another place, the very distinctive feature of this case is that the doctor involved had a written guarantee from the Health Department that her registration would be covered to the extent of her being registered for all purposes. In other words, this Bill does not go to the general question of local qualification but is intended solely to ensure that a guarantee by the Health Department is honoured. Further questions require much wider consideration and consultation and I note from the comments of the Minister for Health in the Legislative Assembly that that is proceeding.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

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

The PRESIDENT: Order! I draw the attention of members, particularly Hon E.J. Charlton, to Standing Order No 79; perhaps it will jog their memory.

QUEEN ELIZABETH II MEDICAL CENTRE AMENDMENT BILL

Second Reading

Debate resumed from 7 November.

HON BARRY HOUSE (South West) [3.20 pm]: I rise to indicate the Opposition's support for this Bill the purpose of which is to insert a new subsection in the parent Act to expand the definition of medical centre. That expansion of definition will allow the Queen Elizabeth II Medical Centre Trust to implement facilities to enable the coroner to exercise his jurisdiction under the Coroners Act. The Queen Elizabeth II Medical Centre Trust administers the Queen Elizabeth II Medical Centre reserve.

This Bill arises as a result of a proposal to relocate the Coroner's Court and support services to the Queen Elizabeth II Medical Centre site in Hollywood. At present the coroner's department is disjointed leading to many problems for the coroner. The Coroner's Court is presently situated in St George's Terrace while support services are provided by several departments located in different areas. For instance, the Crown Law Department is located in St George's Terrace; the Police Department in Rokeby Road, Subiaco; and the Health Department, whose service includes the State Health Laboratories and the mortuary and ancillary staff, at the Queen Elizabeth II Medical Centre. The problems associated with that situation are varied. For instance, the physical separation of all the facilities from the Coroner's Court presents difficulties for the coroner and his staff. Car parking in the centre of the city for people attending the Coroner's Court is difficult to find and presents many difficulties for those appearing at the court. It also creates problems for funeral directors who have to pick up documents at the court in St George's Terrace and then retrieve bodies from the mortuary in Subiaco. This arrangement also presents difficulties for bereaved relatives who are required to carry out identifications. Those people often attend the State mortuary directly at the Queen Elizabeth II Medical Centre instead of appearing at the coronial inquiry section. This arrangement also presents problems for the staff, exacerbating the already trying situation people face under those circumstances.

This is a logical, rational and progressive proposal for the Coroner's Court and its support services to be located at the Queen Elizabeth II Medical Centre which will overcome many of the problems I have just outlined. This Bill is before the Parliament because of a legal technicality which means that the Act must be amended, which this legislation will do. I commend the Bill to the House.

HON J.N. CALDWELL (Agricultural) [3.24 pm]: The National Party supports the Queen Elizabeth II Medical Centre Amendment Bill and what has been said by Hon Barry House about it. This legislation will undoubtedly save traumatic happenings for bereaved relatives who under this legislation will be required to attend at only one place to identify a corpse, which is what this Bill is all about. That is a trying time for the relatives of the deceased people and this is a rational thing to do. It is a pity this was not done a long time ago.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

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

FINANCIAL INSTITUTIONS DUTY AMENDMENT BILL

Second Reading

Debate resumed from 5 November.

HON MAX EVANS (North Metropolitan) [3.27 pm]: The Liberal Party supports the Bill.

Hon J.N. Caldwell: As does the National Party.

Hon MAX EVANS: A Bill called the Gold Banking Corporation Bill was before this place some years ago as a result of which the Government thought it would make a lot of money. However, from that legislation it made nothing like the amount of money that it has made from the financial institutions duty which has brought in $500 million since this Government came to office and introduced the tax. It has risen from $30 million in the first year to $130 million last year and is imposed on bank transactions. This is a bonanza the like of which the Government has never seen previously, and one that is still rising. This Bill seeks to iron out some anomalies in the Act. Three amendments were moved by the Opposition in the other place, one seeking the period for refunds to go from two or three years and another seeking to increase the number of days an institution has to refund duty to depositors or others from 35 to 90. A third amendment was not agreed to by the Government. In his second reading speech the Minister said -

> The Bill also updates certain definitions which have become outdated or redundant, and provides for all exemptions to be specified by regulation. Under the current provisions the commissioner is obliged to refund any overpayment of financial institutions duty no matter how long the period over which the overpayment occurred. That unlimited liability is most undesirable in a tax system, especially one that is based on self-assessment as is the case with FID. Without any limitation, there could never be any certainty of the revenue available, as what might be a minor mistake of law or fact could place an obligation on the commissioner to make a refund going back many years and amounting to many millions of dollars.

That is absolutely amazing. A mistake of $1 million when referring to an amount of $120 million would not be major; but the way I read the second reading speech, it talks as though the Government will be refunding about half of the collections for one year, which might throw the whole Budget out of kilter. I said to the Attorney General earlier that some of his second reading speeches leave me speechless. They do not relate to the facts. The second reading speech says "to make a refund going back many years and amounting to millions of dollars". I would like to hold up the debate for another week or two, in order to get examples of the largest refund the Government has had, and the 10 largest refunds it has had, and how it can expect to lose that much. I reckon the Government would not have refunded more than $50 000 in any one case, and I would like to find out how it has taken off. It is mind boggling. Financial institutions duty concerns tiny bits of money. There might be the odd $2 000 or $5 000 on some big transactions, and I cannot see how that could be refunded in any case; but to talk about one person paying millions of dollars into revenue -

Hon J.M. Berinson: It is not one person, it could relate to a whole series of transactions.

Hon MAX EVANS: We have had financial institutions duty for eight years now, and that is why I said I would like to hold up the debate for another couple of weeks so that the Attorney General could provide me with a list of the 100 largest refunds the Government has made, just to back up the statement in the second reading speech. If the amounts are between $10 000 and $400 000, or the $900 000 we have had, perhaps millions of dollars will be involved, but at the moment I cannot believe it. What are people to think about the sensational stories being brought into *Hansard*? They might think we are crooks, rogues and vagabonds who may rip the system off if we require refunds of mistakes. It might be a system of self-assessment, but if a mistake is made a refund will be required. The Attorney General is lucky that time is running out and that it is nearly Christmas. The Christmas spirit will prevail and we will not adjourn the debate and ask him to give us a list of the refunds, although he should do that in order to back up the statements in the second reading speech.

Hon J.M. Berinson: Considering that this is a speech in support of the Bill, I wonder what we could expect from you otherwise.

Hon MAX EVANS: Yes, the Attorney General is lucky that the Christmas spirit is around. There are only seven working days to Christmas, or six and a half, provided that we do not sit too late on some nights.

I know this Bill has come from the other place, but I ask the Attorney General to keep to the facts when he makes speeches like this. Even he would know that something like this is not relevant. The original legislation was very hurtful. It is costing many people a great deal of money. Fortunately the Attorney General pays financial institutions duty just as everybody else does, so we are quite happy about that. We are sorting out the anomalies in respect of these refunds, but I am concerned that we are not able to go back even further. The reason given is that the Government does not want to risk having to make very large refunds. A couple of years ago the Western Australian Chamber of Commerce and Industry received a rate notice from the Perth City Council. When we checked it we noticed that the measurements given for the floor space were wrong. We had 30 days in which to appeal, and we did so. We wrote that up in our magazine and found a couple of other people who were in the same position. However, under the legislation once the 30 day period expires one has had it. Even though there might be an innocent mistake there is no right of appeal. Sometimes I worry about measures which have no limitations. With income tax one can go back much further than one can with this legislation. However, I do not believe that many refunds will be necessary, and that is why I will not ask the Attorney General to substantiate his reference to millions of dollars in his second reading speech.

We support the Bill as the amendments we desired were passed, and we look forward to the legislation's promulgation and the refunds being brought out.

Question put and passed.

Bill read a second time.

Committee and Report

Bill passed through Committee without debate, reported without amendment, and the report adopted.

Third Reading

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

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Report on 1991-92 Budget Estimates Tabling

HON E.J. CHARLTON (Agricultural) [3.35 pm] - by leave: I am directed to present the report on the 1991-92 Budget Estimates by the Standing Committee on Estimates and Financial Operations. I move -

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

I advise the House that this is a report of the deliberations of the expanded Estimates and Financial Operations Committee on the recent Budget. The report shows some departure from the previous year as it contains more information, and I recommend that members take note of it.

Question put and passed.

[See paper No 876.]

STAMP AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 26 September.

HON PETER FOSS (East Metropolitan) [3.37 pm]: The Stamp Amendment Bill (No 2) as it presently stands has led to a certain amount of contention. The Bill was originally brought in to deal with the consequences of a case known as the Nischu Pty Ltd case, which was recently before the Full Court of the Supreme Court of Western Australia. The second reading speech indicates to the House that the intent of this Bill is not in fact to change the law but to dispose of a small aberration that appears to have entered the understanding of the law through the Nischu case. As soon as the Bill was distributed to members of the public it

caused considerable concern because it was felt that, rather than doing as the second reading speech indicated, it was in fact changing the law considerably.

The point at issue is this: Although the Nischu case dealt with a particular case - which is that of the transfer of company shares where a substantial part of the assets is of things which are subject to ad valorem duty - it was felt that it had application to any form of valuation of mining land. If one transfers land to another person duty is payable on the value of that land. At the same time, one may transfer to the person purchasing the land information concerning that land. Under the ordinary principles of valuation of land, when one is determining the value of land one is deemed to know all information that is relevant in order to determine the value of that land. A mining tenement is probably the most relevant example. If one has a piece of land which has been staked out as a mining tenement and one conducts research and drills the site, the value of that land may vary depending on what is found on it. If it is discovered that the land is thick with valuable minerals which are recoverable in a highly economic form, the amount people are prepared to pay for the tenement will rise considerably. On the other hand, if intensive exploration is conducted on the tenement and nothing is found, the value of that tenement - or what people are prepared to pay for it - will drop. Information about land can seriously affect the value of the land irrespective of the value of the information itself. It has always been a matter of distinguishing between these two aspects: The value of the land, and the value of the information. The land is an object of sale and the information is a separate object of sale.

I offer a more commonplace example which is not an exact one but one with which members will be more commonly aware. When people sell a house containing chattels such as curtains, carpets, light shades and other such things, these are movable items. When selling a house the value of the land includes the fixtures attached, such as the building and the things permanently attached to the building. The chattels are part of the same purchase contract, but they can be separately sold. In the contract of sale we makes a distinction for stamp duty purposes between the amount paid for the land and the building and the amount paid for the chattels. However, it may be that the inclusion of the chattels will mean that the purchaser will enjoy the land more, and it may be that if the chattels cannot be placed in a building by the new owner the chattels will not be enjoyed by the purchaser. However, that does not prevent the land and the chattels each having their own value.

Similarly, the mining information and mining tenement land have separate values notwithstanding that the value of the land may very well vary because of the state of knowledge of the purchaser. The standard principle of valuation under the Stamp Act has always been that in valuing land it is assumed that the purchaser has full knowledge of all information relating to the land which would affect its value. That has never been a matter of contention.

However, the concern expressed about this amendment is that it does not state only that it is assumed that the purchaser knows the information which affects the land's value, but also that, "It is assumed that a hypothetical purchaser would on purchasing the land acquire a permanent right of access to, and use of, all information relating to the land." That is the case whether or not the person wants to sell the information, or whether or not it is owned to sell. However, one is deemed to provide use and permanent access to that information.

It might be said that there is no express statement in the Bill that the value of the information is added to the land, but unfortunately, due to the statements made in the Nischu case, that could very well be the consequence. That is because of a distinction the court made between information which one might write into the value of the land and the information treated separately in the way the chattels are treated. In fact, it was argued, "It was not as though the information was an incident of the ownership of the land." The situation could arise in which one buys the land and as a matter of law all the information relating to that land goes with the land as a permanent right of ownership. That could then be seen to be an incident of the ownership of the land rather than as in the nature of a fixture. This caused concerns among many people, particularly those in the mining industry.

Sitting suspended from 3.45 to 4.00 pm

Hon PETER FOSS: The concern that was expressed as a result of the Stamp Amendment Bill (No 2) was that it would mean that, irrespective of whether the person owned the information or had disposed of it to somebody else, or was not selling it, all information

would be included as part of the valuation of the land. The ramifications do not stop there. The other ramification which was seen to arise from the decision of Mr Commissioner Zelestis in the Supreme Court was the way in which one assessed the value of that information - by looking at the cost of recreating it. In addition, one looked at the cost of not having it until such time as one did recreate it. That involves a fairly solid lump of money. Because the information one obtained could indicate that the land was worth nothing it would be a little harsh if one added several million dollars that one spent to find out that the value of the land was worth nothing. Even if one found out it was worth something, if one added to the land the value of recreating the information and assessed the cost of the delay in recreating it - in other words, the effect on one's cash flow - that could also involve a very large amount bearing no relationship to the value of that information. We must bear in mind also that one may not acquire that information. One may have that value added, but still have the delay of recreating that information. The possibilities of what might occur from this were stupendous. The difference of view in another place about the meaning of this Bill led to a certain amount of acrimonious exchange about whether the second reading speech accurately represented what the Bill was about.

I am pleased to say that in this House, as I think one would hope would be the situation, a more positive approach has been adopted. I give credit for that to Hon John Halden, who initiated the discussions when he saw the proposed amendments. As a result of those discussions we were able to speak to Mr Jeremy Packington, the junior counsel on the Nischu case for the Crown and to senior Parliamentary Counsel, Mr Greg Calcutt, and officers of the State Taxation Department. The concerns then became quite clear.

The concern that the revenue had was for the method of valuation of the land. We all agree that the land should be valued on its own by a number of processes. It is also important to note that one values the land, not the information. The process used by one of the members of the Full Court was to take the combined value of the land and the information and work out the value of the land by subtracting from that combined value the cost of recreating the information and the cost to the company, in this case, of its being without the information for the time it would take to recreate it. The revenue considered it to be an improper method of valuation and one not justified by prior cases. That, of course, led to a very small value being put on the land in the same way that the people arguing the opposite point would have said it would have led to a very high value on the land if one added the value of the information calculated in that manner. The people on both sides of the Nischu case said that the cost of recreating the information and of being without it was irrelevant. One must value that land as land with the benefit of that information. One does not make artificial calculations by deducting the cost of that information. The value of that information should be determined in another matter. It is very much dependent on various other matters and it may have nothing to do with the cost of recreating it, especially in the case I gave of where the information says the land is not worth anything whatsoever. In that case, one would not even bother to recreate the information.

It appeared that we all wished to have the same result; that is, to be able to disregard the cost of recreating the information and being without that information; one valued the land on the basis that one knew that information. Once that was arrived at in principle we discussed a proposed amendment and it was able to be agreed quite sensibly.

The Bill deals not only with cases like the Nischu case - that is, with mining tenements - but also with any form of freehold land or Crown lease land. It does not deal only with the land information that is in the possession of the owner, but all the information related to that land. All of that was deemed to virtually pass with the land. What would happen if a farmer had freehold land over which was also a mining tenement and information existed about that mining tenement? If this legislation as it stands were applied to the farmer selling only the farming land and not the mining tenement, and the information remained in the ownership of the holder of that tenement, what would be the value of what was conveyed? The information is totally irrelevant to a person merely selling the farming land in which there is no right conferred with respect to the mining tenement over that land. That anomaly would have arisen because, although one is selling only farming land, one would assume one was acquiring a permanent right of access to and use of all information relating to the land. If we then took the Nischu case a little further and said the value of the information is the cost of recreating it, we could have some alarming states of affairs. For example, in the case of an

ordinary house, all information relating to the land would be deemed to be passed. It could include the plan that is kept in the Titles Office or the plans that the Surveyor General drew up; or perhaps someone speculated on whether he should build some architectural monstrosity on the land which the owner did not know about - the buyer would be deemed to be acquiring a permanent right of access to and use of all of that information. If we took the Nischu case on what is the value of all that information, assuming that that were to become an incident of the sale of that land, we would look at the cost of recreating it. Therefore, the possibilities were quite horrific.

Once that had been discussed everyone thought there was another way of doing it. That has been the result. The wording that was discussed at that meeting has been put in place by Parliamentary Counsel, and Hon John Halden will be moving an amendment in the terms of that new wording. I referred the draft wording to people advising me because I do not purport to be a tax lawyer or to even understand the tax legislation. I am pleased to say that I got a reply from one of Perth's leading solicitors in this field, Mr Barry Johnston, who said -

> Dear Peter,
>
> Thank you for your fax. I agree the wording and compliment the draftsman of the Clauses attached to that fax. At last, I can now understand the proposed legislation.

It is somewhat gratifying to know that the result of the discussions that took place in the House of Review have led to the revenue being satisfied with the amendment and to the public being satisfied with the amendment, and with everybody agreeing that we have succeeded in drafting an amendment which establishes what everybody thought the law was prior to the issue. With only one other party to come to the same understanding - the Supreme Court - I hope that as a result of the second reading debate we have at least indicated what we think the situation is, that the wording will make that quite clear and that we will have a result which is satisfactory to the revenue and to the public of Western Australia, and which is in accord with what we understand the law to be. I commend the Bill to the House.

Debate adjourned, on motion by Hon Max Evans.

EAST PERTH REDEVELOPMENT BILL

Committee

Resumed from 12 November. The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Kay Hallahan (Minister for Education) in charge of the Bill.

Clause 19: Powers -

Progress was reported on the clause after the following amendment had been moved -

> Page 11, after line 8 - To insert the following new subclause -
>
> (4) Notwithstanding the provisions of subsection (6), any power conferred by subsection (2)(b) is only exercisable after a period of 60 days has elapsed since formal application for approval has been made to the Minister.

Hon KAY HALLAHAN: I am concerned about this amendment because it is rather complicated in the way it relates to other planning law which has other timelines. It is an unfortunate amendment to pursue and I ask the Opposition to reconsider its commitment to it. I am not sure what the Opposition's logic is for this amendment. The difficulty is that this amendment has to relate to other planning law and there would be some legal complexity surrounding it if it were passed. I ask the Committee to oppose the amendment.

Hon GEORGE CASH: I made clear to the Committee when we previously discussed this clause the reason for the proposed amendment. This is one of the difficulties that arises when the passage of a Bill in the Committee stage is interrupted; however, if that is how the Government chooses to run the business of this place, it must research the arguments put forward at previous sittings. Those arguments were clear and concise, but the Minister continually tells us when we seek to amend legislation that those amendments will have legal implications and, sometimes, complications. That is beginning to wear thin as far as I am concerned. The Minister has had a number of weeks in which to consider these amendments. I have had the opportunity to consult, if only briefly, with her advisers on this matter and I have made the position of the Opposition as clear as I can.

I urge the Committee to support the amendment not only for the reasons stated, but also because it is not acceptable for the Minister to suggest that the amendment will create some difficulties when the wording of that amendment is very clear and precise. The amendment deals with subdivision, amalgamation, improvement, development and alteration of land in the prescribed area.

Hon KAY HALLAHAN: I do not continually come to this Chamber asserting that amendments will legally complicate matters unless I have received advice to that effect. In those circumstances I feel obliged to convey that advice to the Committee. If that irritates Opposition members because they are not similarly informed and they do not want to behave in a responsible manner, but prefer to denigrate people, that is a different matter.

Hon George Cash: Our advice is quite the opposite.

Hon KAY HALLAHAN: Then it is questionable.

Hon George Cash: In your opinion.

Hon KAY HALLAHAN: I will make that clear as debate proceeds. It is important to approach this legislation in a very serious and responsible way. I made clear the concerns expressed about the amendments, and the complexity was absolutely demonstrated when the Leader of the Opposition said that the amendment referred to subdivisions and four or five other functions to do with planning. I had thought the 60 day period referred to subdivisions only but if it refers to other areas that makes it a very complicated matter. For that reason I ask the Committee to vote against the amendment.

Division

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I case my vote with the Noes.

Division resulted as follows -

Ayes (14)

Hon J.N. Caldwell	Hon Barry House	Hon R.G. Pike
Hon George Cash	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon E.J. Charlton	Hon N.F. Moore	Hon D.J. Wordsworth
Hon Max Evans	Hon Muriel Patterson	Hon Margaret McAleer
Hon Peter Foss	Hon P.G. Pendal	*(Teller)*

Noes (15)

Hon J.M. Berinson	Hon Kay Hallahan	Hon Tom Stephens
Hon J.M. Brown	Hon Tom Helm	Hon Bob Thomas
Hon T.G. Butler	Hon B.L. Jones	Hon Fred McKenzie
Hon Cheryl Davenport	Hon Garry Kelly	*(Teller)*
Hon Reg Davies	Hon Mark Nevill	
Hon John Halden	Hon Sam Piantadosi	

Pairs

Hon W.N. Stretch	Hon Graham Edwards
Hon Murray Montgomery	Hon Doug Wenn

Amendment thus negatived.

Hon P.G. PENDAL: I move -

Page 11, after line 8 - To insert a new subclause (4) as follows -

> In performing its functions the Authority shall have regard to and shall seek to enhance and preserve the colonial heritage and significance of the redevelopment area and its adjacent areas and in particular its powers of expenditure shall extend to the East Perth Cemetery as if it were within the redevelopment area.

We perhaps have a once in a lifetime's chance to do something about a small part of Perth, in which resides some of the important colonial heritage. I am aware, of course, that the East Perth Cemetery, which regrettably is in a state of neglect and disrepair, is not formally within the boundaries for the proposed East Perth Redevelopment Authority, but I remind the Committee that the cemetery abuts the border of the proposed redevelopment area. By virtue of some careful amendment, the Opposition is suggesting that the authority should be cognisant of the proximity of the East Perth Cemetery and have power to spend money in that area as though it were within the redevelopment area. The important words are "as if it were within the redevelopment area". It is not a question of our moving to change the boundaries. In fact, when it was suggested even by the Government that we should change the boundaries, I took the view that to do something on the run, when the Bill had reached an advanced stage in this Chamber, would be an invitation to legislate badly. However, the Government has openly signified its desire to see the boundaries changed; therefore, with that in mind, the Government has already established the ground rules with its preparedness to change the boundaries, even if at this late stage the Committee were not so prepared. I suggest, therefore, from that point of view, that the Committee has no difficulty in recognising that we should pay special heed to this piece of early colonial Perth as if it were part of the official boundaries.

It is important to understand also that we are not listing this matter as a requirement for the authority. We are doing no more than to say that the authority shall have regard to and shall seek to enhance and preserve the colonial heritage and significance of the redevelopment area. That will, firstly, get the authority to recognise that immediately adjacent to the redevelopment area is an important area. Secondly, it will give the authority the power, should it want to do so, to set aside money for restorative purposes. The amendment does not state that the authority must do that as part of its powers, but it brings together a number of circumstances to present the authority with a unique opportunity. It does no more or less than that. The East Perth Cemetery is unique because it contains, for example, the remains of the only colonial Governor who was buried on Western Australian soil. That alone is a reason for us to pay some attention to the cemetery. Members may have forgotten since the second reading stage just what a state of disrepair the cemetery is in. Things are now so bad at that important part of our heritage estate that the Department of Conservation and Land Management, which has now taken control of the cemetery, has had to put up an ugly and high cyclone wire fence, and the place is now locked up for much of the week because of its disrepair and because it is the target of vandals. So if ever - if members will excuse the pun - an historic occasion was presented to us to do the right thing in this part of East Perth, the Bill before the Committee provides us with that opportunity.

It has been clear until now that the current Government - and I might say in fairness also previous Governments - has not seen fit to spend much money on restorative work. I do not suggest, and neither does the amendment, that unlimited amounts of money must be devoted to restoration or maintenance. However, I am saying that in the course of the life of the East Perth Redevelopment Authority it will be handling projects worth, I would imagine, hundreds of millions of dollars. It is quite likely that when an authority in the public sector or a corporation in the private sector are involved in redevelopment schemes of that magnitude, they will find occasion when modest amounts of money can be set aside for the sort of thing about which I am talking. Therefore, I am talking about raising the level of awareness of the heritage of that part of the city. One example that may come readily to mind and have appeal to the Government and the Minister is the Bunbury foreshore, where a renewal program has been instigated by the present Government, much to its credit, which has had the effect of producing modest amounts of money to clean up, beautify and, in some cases, restore parts of the foreshore. It seems to me that we are confronted with a similar excellent opportunity.

Hon KAY HALLAHAN: I oppose this amendment. It is not this Bill that will oblige the East Perth Redevelopment Authority to consider matters of a heritage nature because this legislation is subordinate to the Heritage Act of Western Australia, and the authority will now be required by that Act to consider all heritage matters, so the authority will have no choice about the work that it will have to do. While I have no difficulty with the sentiments expressed by Hon Phil Pendal, there is no need in principle for this amendment. I must say also that his proposed amendment introduces the new terminology of "colonial heritage". I

am not sure whether colonial heritage is in some way different in Hon Phil Pendal's mind from other heritage, but the East Perth Cemetery will be assessed on a heritage basis under the Heritage of Western Australia Act regardless of whether it has colonial heritage or some other heritage value.

The question of changing the boundaries came to mind following indications from members of the Opposition about particular areas of concern in East Perth. The member referred to the East Perth Cemetery, and I think Hon Peter Foss referred to the Perth Girls' High School and the Bronte Street precinct. It was after hearing those comments, and after giving the matter further consideration, that the boundaries of the redevelopment area were again examined. Later in the debate I will suggest to members that we look at the boundaries with a view to amending schedule 1.

Debate has also touched on the question of expenditure on areas adjacent to the redevelopment area. To clarify the situation I have asked the Parliamentary Counsel to look at this question, and I foreshadow an amendment in this regard which I have placed on the Notice Paper. Should the Committee decide not to amend the boundaries, that amendment will become very significant. We will always have boundaries with adjacent areas to the redevelopment site, and this could lead to the planting of trees of a similar species on both sides of a road, with one side in the redevelopment area and the other in the area adjacent. That expenditure could take place -

Hon P.G. Pendal: That could happen in every local authority in Australia.

Hon KAY HALLAHAN: This is not a local authority.

Hon P.G. Pendal: It is similar.

Hon KAY HALLAHAN: This provision allows for expenditure on adjacent areas, and that was just an example. There may be more significant expenditure.

Hon P.G. Pendal: Please give them to us, but not that one.

Hon KAY HALLAHAN: I am sorry if the member does not like the example I gave. An allocation was provided in the budget of the Department of Planning and Urban Development for the initial work, including the drawing up of sympathetic landscape plans and heritage reports on the area around the East Perth Cemetery. I would have thought that Hon Phil Pendal would be heartened to hear about that expenditure. Regardless of the expenditure, all heritage matters will need to be assessed under the Heritage of Western Australia Act. This legislation is subordinate to that Act. I urge members to oppose the amendment, and remind them of my foreshadowed amendment to schedule 1.

Hon PETER FOSS: I am a little surprised by the Government's opposition to the amendment, especially that opposition from the former Minister for Heritage who was very much involved in ensuring that we had some heritage legislation. I think the Minister misunderstands both this legislation and the heritage legislation. The heritage legislation has the capacity to come in and effect heritage land. It was extended a little by an amendment moved by the Opposition to give the concept of a heritage precinct. However, generally speaking it deals only with a heritage place. It is like a spotlight that comes on and shows that a piece of land is of cultural heritage significance. It works not like the Australian heritage Act, which requires that once there has been a registration all Governmental authorities should heed the registration. It imposes certain conditions on the usage of the land; it works far more on the individual piece of land than on the people. The reason for the Commonwealth legislation working in that way is that the Commonwealth has no power on heritage - only on Commonwealth instrumentalities. That is the only way it can work. The Western Australian heritage legislation does not work in that way. We must have heritage registration and it must affect a piece of land. Therefore, it is not correct to say that the authority is bound by the heritage legislation. Certainly its land is bound by the heritage legislation to the extent it has registered heritage places. I agree it has the ability to impinge on it, but it does not impinge by affecting the conscience of an individual. It impinges by preventing or requiring certain things to be done by order. It requires intervention by the Heritage Council and the Minister before the Heritage Act of Western Australia really bites.

The East Perth Redevelopment Bill sets up an authority but stops at the boundaries. One of the criticisms we had of the legislation is that there are problems with making boundaries - and there always are - because in many ways we are dealing with an artificial cut-off point,

and people do not live that way; communities are not formed that way; precincts do not occur that way; they merge into the areas adjacent. We should try to imagine walls along the boundaries set for the area; actions taken inside those walls will impinge on things outside the walls, notwithstanding that there is a wall between the two areas. As an example, if we had a large development in the East Perth redevelopment area there would necessarily be commercial pressure on the Bronte Street area. If we have a major shift in emphasis in residential and commercial areas, and all those other things at East Perth, it must as a matter of human behaviour have some effect on, say, Bronte Street. I believe it will also have an effect on the old Perth Girls' School. The area that it will most clearly have an effect on will be the East Perth cemetery - and Hon Phillip Pendal is concerned about this. It is not just a matter of a minor cultural heritage significance but of one of the more important areas of cultural significance in Western Australia. When we consider what cultural heritage means, the East Perth cemetery comes in under all the possible headings under which we can find cultural significance. Therefore, even though we are doing things inside those imaginary walls it will impinge on what happens outside those walls.

The Heritage of Western Australia Act cannot dictate to the East Perth Redevelopment Authority what it should do inside the East Perth area so far as it affects things outside. It is just not in the concept of the Heritage of Western Australia Act. If we were to do something on a non-cultural heritage piece of land within that area and affected the amenity of the East Perth cemetery, the heritage Act could not possibly dictate to the authority what it should or should not do. The Heritage of Western Australia Act could not under those circumstances effect any change. I admit it would be different for a place of cultural heritage significance within the East Perth redevelopment area; we could find the East Perth Redevelopment Authority subject to the authority of the Heritage Council, but not when it does things that affect the East Perth cemetery, because the East Perth cemetery is outside the area. Being a statutory authority its functions are limited. We should return to clause 18 which we have just passed to see what the powers are all about. This clause states that -

> The Authority may do all the things that are necessary or are convenient to be done for or in connection with the performance of its functions.

In considering the powers one must consider the functions. Clause 18 outlines the functions which are "to plan, undertake, promote and coordinate the redevelopment of land in the redevelopment area". Therefore, the functions of the authority stop at an imaginary line; that line cannot be crossed. Not only is the authority not required to think about the East Perth Cemetery, but also it is arguable that it is not allowed to think about it. That is of concern to Hon Phil Pendal. Therefore, his amendment states that in performing its functions the authority -

> . . . shall have regard to and shall seek to enhance and preserve the colonial heritage and significance of the redevelopment area and its adjacent areas . . .

The amendment requires the authority, in the execution of its powers and functions, to have regard for the adjacent areas. It is a matter of perspective. It is not saying that we are putting the East Perth Cemetery within the development area -

Hon P.G. Pendal: Or being prescriptive.

Hon PETER FOSS: No; it is a matter of bearing the perspective in mind. It is saying that the authority must keep this in mind and must have regard for this area. If it acts without doing so, it does so without thinking the matter through properly. It is telling the authority not to forget about the colonial heritage in the area not only where it shall do its work, but also adjacent areas over the boundary. The amendment then refers to the powers of expenditure of moneys in the East Perth Cemetery as though it were within the redevelopment area. I am not sure whether I agree with the Minister's proosed extension in this same clause, but I will wait to hear what the Minister has to say on it. The Minister refers to study and work to be conducted within the East Perth Cemetery, and I do not believe that should be done. Money can be spent because it is for the benefit of the overall system; however, I do not know whether we should be exercising the powers of the authority outside of its boundaries. The East Perth Redevelopment Authority will have a great deal of statutory power, and the only power to expend money outside of the boundary is within the East Perth Cemetery.

Members should consider two matters: One is perspective, and the second is power. One may have regard - in fact one is required to do so - for this aspect. It is possible to spend money by putting those aspects together. I cannot see why the Government would have a problem with that. The Minister appears to have mistaken the effects of the Heritage of Western Australia Act, and if she can refer me to the section which will require this regard for the cemetery to apply, I would be pleased; I have looked at the Act and I cannot find it. The clause is consistent with Hon Phil Pendal's amendment. I will make my judgment on whether these two amendments should stand together, but they are not inconsistent. This amendment is important and one which the Government should consider.

Hon P.G. PENDAL: Hon Peter Foss correctly picked up the nuances of this amendment. The Minister had some concerns with the word "colonial". If she wishes, I would not be unhappy about the deletion of that word; however, I hasten to add that it does not complicate things by its inclusion. This is one of the most misunderstood terms around. I have heard people say that they live in a colonial home which was built in 1910. By definition that cannot be the case; Western Australia was a colony from 1829 until 1901, and that was the colonial period. By using the word in this respect it was intended to underpin the proximity the East Perth Cemetery has to the colonial period. I have not checked this, but I believe the earliest recorded burial in that cemetery was in the vicinity of 1830, and it is not possible to find anything more colonial than that! Therefore, the word was carefully chosen for its precise definition. Few parts of Western Australia could validly be described as colonial.

Hon Bob Thomas: Albany.

Hon P.G. PENDAL: Indeed, Albany is a genuine colonial town.

Hon Tom Stephens: The Legislative Council!

Hon P.G. PENDAL: Albany was settled in 1826, and Bunbury was settled in 1836. These are colonial towns. The Roundhouse in Fremantle is a genuine colonial building, as is the old Treasury building in St George's Terrace. These examples are authentic parts of colonial heritage. If we use that term to describe the value of the old Treasury building, it is a descriptive term telling us the era to which it belongs. It creates no difficulties. However, for the purpose of winning Government support I would be amenable if the Minister wanted to move to delete the word "colonial" from my amendment. I will not move to do that because it is a word which is descriptive and covers my meaning. However, my amendment does not stand or fall on the use of that word. That was the only thing approaching a valid argument made by the Minister against my amendment. I do not see that the amendment has any difficulty and I tend to agree with my colleague that it is not incompatible with this and further clauses.

A new argument which is valid in this debate is that the clause will give the East Perth Redevelopment Authority the chance to act, albeit in a minor way, in the role of the benefactor. It will be able to do more than lob up a marina, a concrete building or a steel structure which many people would regard as not enhancing the metropolitan area. This will give the authority an extra dimension, in that we are asking it to be aware - using the words of my opening remarks - of its next door neighbour and the significance of its actions upon its neighbours. If any member is concerned about the extent to which I might desire funding to be allocated, I offer an example of what I envisage. If in the years ahead things are going well for the East Perth Redevelopment Authority and it is making money - and if so it will be the first Government venture to do so -

Hon Kay Hallahan: That is not true.

Hon P.G. PENDAL: - and in the chance that the Government does something properly for a change, it might take $10 000, $25 000 or $50 000 each year or every couple of years to conduct the fundamental maintenance and restorative work to which I referred earlier. I am not suggesting in any way that we set aside $50 million a year for this purpose - that would be absurd. Apart from any monetary consideration, if we are to have an East Perth Redevelopment Authority the authority might provide some sort of sponsorship for, say, the friends of the colonial cemetery; just as in South Perth we are trying to create a friends of the mill society, and in other parts of the State people band together in order to put their time, energy and tender loving care into various local heritage monuments. It is not a prescriptive thing but it would be an invitation to the authority to get a few more people on the site who,

if they had some extra time, could involve themselves in some of the work that is desperately needed to be done. This amendment is not asking for something unrealistic; it is not a big deal. The Government should not be hemming itself in. This is a perfectly reasonable and sensible request which would be welcomed by people comprising the Heritage Council of Western Australia. They have a big enough job on their hands already trying to cope and they would welcome the opportunity that another Government agency may have as part of its powers the recognition and awareness that something nearby should be the subject of its sympathy. It goes no further than that.

Hon KAY HALLAHAN: The staff who are likely to be associated with this redevelopment project - should we establish this authority, and we all seem to be stating a commitment to do that - have obtained an allocation through the budget of the Department of Planning and Urban Development and have expended money on sympathetic landscape plans for the area around the cemetery; so they are well aware of the importance of the East Perth Cemetery to our history and to the ongoing richness of our culture. We have heard two of the most pedantic members of the House make the most extraordinary speeches. We heard about attitudes and nuances and we had them move away from the necessity for such good intent to be in legislation. From the comments made by members opposite I take it that the Opposition will not support the extension of the boundaries of the redevelopment area so that the very things the members want to see the redevelopment authority responsible for will not occur.

I have circulated a revised boundary which will be considered when we discuss schedule 1. That was drawn up because certain members of the Opposition had indicated that they would support that. However, from their speeches today I understand it will not receive their support. I am sure that Hon Peter Foss appreciates that the Heritage Council can examine an area and that the Heritage of Western Australia Act has mechanisms which can protect an area such as a precinct if that were assessed to be important from a heritage point of view. The Heritage Council does have a lot of work to do, but it is mainly in assessment, not in refurbishment, protection and enhancement. I thought all members understood that, but the arguments of members opposite were rather confused because of the concept expressed that boundaries were not necessary. I cannot imagine that we could come to this Chamber with a Bill of this nature and not delineate the boundaries. We would have questions like the one we heard from Hon George Cash about the nature of the redevelopment and whether the boundaries would somehow include the City of Stirling. It is necessary to clearly delineate boundaries. I am foreshadowing an amendment that would allow boundaries to be interfaced with neighbouring land. It illustrates that we accept the need for some sympathy of that concept and a capacity to improve some of those areas. We have heard a very persuasive argument from members opposite on this amendment, but what the Government is proposing is straightforward legally and in terms of implementation. I am concerned that complications arising out of the amendment put forward by the Opposition will add nothing except a warm, inner glow for Hon Phillip Pendal and maybe Hon Peter Foss, and do nothing practical.

There was a question that maybe something planned for the development area could impact negatively on surrounding areas such as the East Perth Cemetery. This Bill does not minimise the requirements for public consultation with regard to the plans that will be drawn up. All the proposals about what development should occur within these boundaries will be open for public comment just as with any other plan. There will be very great opportunity for people to assess whether what is proposed for the area adjacent to the East Perth Cemetery will impact negatively. In my view members opposite have become somewhat confused. Maybe they have genuine concerns, but it is a problem which cannot be put into some nice warm, complicating legal language. Hon Phil Pendal made a useless, but warm sort of comment about the East Perth Redevelopment Authority being the benefactor of surrounding areas not within its boundary. This practice could go on forever if the money were available. I do not know what that means and I am sure the member does not know either, but if the authority is not legally empowered to spend money, it will cause real concerns. I am surprised at the vagueness of the argument the Opposition has advanced. There are very good reasons not to support the Opposition's amendment to this clause.

Hon P.G. PENDAL: I will deal with the Minister's last point first. The reason for the amendment is to remove any doubt about the legality of the authority spending money in this way. The amendment reads -

In performing its functions the Authority shall have regard to and shall seek to enhance and preserve the colonial heritage and -

The word "and" should be deleted. To continue -

- significance of the redevelopment area and its adjacent areas and in particular its powers of expenditure shall extend to the East Perth Cemetery as if it were within the redevelopment area.

The CHAIRMAN: Order! I have already read out the member's amendment and now he is saying that the word "and" should be deleted. Is the member asking for the word to be deleted?

Hon P.G. PENDAL: No, not at this stage, but I may do. It is a valid point and I will come back to it later. It is the first time I have noticed the error.

The Minister raised some doubt about whether it would be legal for the East Perth Redevelopment Authority to spend money on a neighbouring property. I advise her that I am removing that doubt in the amendment I have moved because it states, "its powers of expenditure shall extend to the East Perth Cemetery as if it were in the redevelopment area". I hope I have put paid to any doubt that the Minister has about the authority having that power. The authority will have the powers we give it. If we were to throw out the Bill there would be no authority.

Hon Kay Hallahan: You are not of a mind to extend the boundaries of the authority?

Hon P.G. PENDAL: No.

Hon Kay Hallahan: That clarifies one point.

Hon P.G. PENDAL: There may be an argument for extending the boundaries and I listened to that argument last Tuesday evening. However, the aim of my amendment, which was drawn up several weeks ago, is not to achieve an expanded area. There is already enough argument among some people about whether the authority should have any powers at all given that we already have the Perth City Council, the Department of Planning and Urban Development and other Government departments and we are now creating another layer of bureaucracy to do what those authorities are already doing. My amendment is not to canvass the idea of whether the authority should be a larger or smaller body. I am prepared to vote for the concept of the East Perth Redevelopment Authority. After all, my colleagues and I supported the second reading of the Bill.

The point is that the East Perth Cemetery is next to the redevelopment area and without extending the authority's boundaries we would like the authority to spend money on the cemetery if it sees a need for it. It is not bound to do that.

I accept the point made by the Minister that the Heritage Council of Western Australia has been established and that it could move in on the East Perth Cemetery if it wanted to. The Heritage Council has such a huge backlog that it will be 10 years before it can involve itself in this redevelopment proposal. The Minister is shaking her head, but I ask members how many places of cultural heritage significance have been entered in the register which we created one year ago.

Hon N.F. Moore: None.

Hon P.G. PENDAL: Hon Norman Moore is almost right; there is one only and that is because it was registered last Friday. The member has probably not received the news release in the mail.

Hon N.F. Moore: Or the glossy brochure.

Hon P.G. PENDAL: I can assure the member there will be one on the way.

Last Friday at the decommissioning of the Fremantle Prison, which the Leader of the House attended, the Minister for Heritage announced that the Fremantle Prison, on his instruction, was the first building to be entered into the heritage register. I saw Hon Joe Berinson glow with pride.

Hon Kay Hallahan: What did you do while Hon Joe Berinson glowed?

Hon P.G. PENDAL: I glowed too. Last Friday, one year after the Heritage Act was

proclaimed, the first entry was made in the heritage register. There are about 2 000 buildings which could be entered into that register and it will be the year 9600 before the council gets around to the East Perth redevelopment.

Hon E.J. Charlton: They could be back in Government by then.

Hon Kay Hallahan: We will not have left.

Hon P.G. PENDAL: That is an exaggeration of the first order!

The backlog of the Heritage Council is so great that by the time it gets around to the East Perth Cemetery I suggest that it might have disappeared through vandalism because that is a big problem.

This has been a reasonable debate and there is no need for the Minister to say that Hon Phillip Pendal will get a warm inner glow by giving East Perth better treatment. This Bill is not about that; it is about legislating when we get a chance to legislate. Governments call the tune on legislation and Oppositions might get a nose in for five per cent of the action and this is a case where the Opposition is supporting the Bill. The Minister is carrying on as though we are opposing it. If it is so hard to get acceptable and simple amendments passed, one may think seriously about whether we need the Bill. It is not right for the Minister to say that somehow my amendment will result in some calamity in East Perth.

Hon Peter Foss: I have not used that language.

Hon P.G. PENDAL: It is unnecessary for the Minister to talk about warm inner glows as though the Opposition's only motivation for seeking to improve Government legislation is an internal effervescence of some indeterminate type. I appeal to the Committee to support the amendment, which stands on its own merits, and which would give the East Perth Redevelopment Authority some extra dimension other than that which the Government has set for it.

Hon PETER FOSS: I agree with Hon Phillip Pendal. It is unfortunate that the Minister accuses us of pedantry and various other insulting things because I have been trying to make clear to the Minister that I see the amendment as a positive step. I have adopted a positive approach and I complimented the Minister on her record in heritage matters. I was pleased to hear her reference to the power relating to heritage precincts which resulted from an amendment I sponsored when the Bill passed through this Chamber. That provision is contained within the legislation because the legislative opportunity, to which Hon Phillip Pendal referred, was available. I had hoped that the Minister would regard this amendment as an important and positive one.

One of the points made by the Minister indicates a misunderstanding of the legislative power of statutory authorities, particularly authorities such as this. An authority may operate in two ways: Firstly, as a person by spending money and doing things on its own land with its own money. A statutory person can be created and given powers to do what any ordinary person can do. Secondly, it may act as a statutory authority, and that goes further. It then has statutory powers to influence compulsorily other people. We must make a broad distinction between its two aspects as a statutory person and as a statutory authority. The essential point of this amendment is that it will not expand the statutory authority powers of the East Perth Redevelopment Authority beyond its boundaries. It provides for the authority to act like an ordinary person and have regard for and spend money on things happening outside its area, but it does not permit the authority to use compulsory processes outside its area. That is a big distinction and it is one of the reasons that the Opposition has indicated it is not prepared to consider an extension of the boundaries within which the authority will operate. The Opposition may think an extension is not a bad idea as far as planning is concerned - in principle it is probably a good idea - but if the statutory powers of the authority were extended it could use compulsory processes within the total area and other people would be affected by it. The Opposition is not prepared to extend the schedule because it will allow the authority to exercise compulsory powers outside the area. If it is planned to extend that statutory authority, the people who may be affected by the extension of powers must first be heard.

The Minister's foreshadowed amendment is not adequate to deal with this because it allows the authority to not only carry out a study - which any person could do - but also to undertake work on land that is adjacent. My concern about the authority's undertaking work, rather

than spending money, is that it may allow the authority to extend its compulsory powers outside the area, which will result in de facto extending its powers. The proposed amendment extends the personal powers of the authority but not its compulsory powers outside the redevelopment area. I understand that the reason the Minister thought of her amendment to clause 19 was that Hon Phillip Pendal's amendment drew attention to the fact that in many ways the powers of the authority will cease at the boundaries of the area. In fact, the Minister should be grateful to Hon Phillip Pendal for drawing her attention to that aspect. We part ways at that point because the Minister has gone a step further by proposing to allow the authority to step over the boundary and possibly exercise its statutory compulsory powers. The Opposition does not want to vest the authority with those powers outside the boundaries of its area. Inside the boundaries it can make laws and compel people to do certain things but outside it has no authority. The Minister should look more closely at this amendment in order to understand it better. The differences between this amendment and the other proposal are quite fundamental, and I hope the Minister will support this amendment.

Hon KAY HALLAHAN: I have carefully considered the arguments in support of the amendment moved by Hon Phillip Pendal and I still believe that the amendment should be opposed. I ask the Committee to oppose it.

Hon P.G. PENDAL: I will do no more than appeal to the Committee - members of the Liberal Party and National Party and Hon Reg Davies - to support the amendment for all the reasons to which I have referred, and because it will add another special dimension to the role of the authority without in any way being onerous.

Division

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows -

Ayes (14)

Hon J.N. Caldwell	Hon Peter Foss	Hon R.G. Pike
Hon George Cash	Hon Barry House	Hon Derrick Tomlinson
Hon E.J. Charlton	Hon P.H. Lockyer	Hon D.J. Wordsworth
Hon Reg Davies	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon P.G. Pendal	*(Teller)*

Noes (13)

Hon J.M. Berinson	Hon Kay Hallahan	Hon Sam Piantadosi
Hon J.M. Brown	Hon Tom Helm	Hon Tom Stephens
Hon T.G. Butler	Hon B.L. Jones	Hon Fred McKenzie
Hon Cheryl Davenport	Hon Garry Kelly	*(Teller)*
Hon John Halden	Hon Mark Nevill	

Pairs

Hon W.N. Stretch	Hon Graham Edwards
Hon Muriel Patterson	Hon Doug Wenn
Hon Murray Montgomery	Hon Bob Thomas

Amendment thus passed.

Hon KAY HALLAHAN: I move -

Page 11, after line 8 - To insert a new subclause as follows -

> Notwithstanding anything in this section or in section 18, the Authority may carry out any study or undertake any work on land that is adjacent to the redevelopment area if the study or work is, in its opinion, directly related to the improvement of the redevelopment area or the functions of the Authority.

We have canvassed the arguments in favour of this amendment previously. It may well be that some areas abutting the redevelopment area should be included in studies of the legal boundaries of the area, or that work should be undertaken on them. Hon Peter Foss indicated his concern about that happening. However, it depends on what one sees as "work". I referred to the planting of trees and was chastised about that. However, in my view that is a reasonable description of work undertaken. It is important that this amendment is not ambiguous. I urge the Committee to support my amendment.

Hon GEORGE CASH: This is a substantial amendment which would allow the authority to conduct studies and undertake works outside the defined area of the redevelopment outlined in the Minister's second reading speech. If we are to make such a substantial change to the Bill to allow the authority to do work and instigate studies, or undertake any work - and not just specific work - outside the defined area the Minister should pay the Chamber the courtesy of at least giving some examples of the type of work anticipated and the reasons for the need for this amendment. If the Minister cannot substantiate why there should be a substantial change to the original legislation the amendment should not be supported.

Hon KAY HALLAHAN: I understand the concern of the Leader of the Opposition but believe he is becoming a little too excited about the content of this amendment. It does refer to "land that is adjacent to the redevelopment area" and to "directly related to the improvement of the redevelopment area", so it is not a means to allow at a later date the authority to expand like an octopus with its tentacles going wildly beyond its areas. An interface will occur between the areas around the boundary and the defined area. During an earlier debate two Opposition members spoke and although they did not use the word "environment" conjured up a notion of environment. They mentioned a sharp boundary and how nuances needed to be applied in relation to boundaries. I believe they were right to some extent. My criticism of their approach was that matters needed to be more sharply defined and that the term "adjacent to" meant "immediately abutting".

Hon George Cash: Does it mean "abutting" or "immediate to"?

Hon KAY HALLAHAN: I understand it means "adjacent to". This Bill was drafted after the parliamentary draftsman asked questions about the matter and I am confident of the draftsman's ability to select terminology which is not ambiguous and which means what it says. I understand the concern of the Leader of the Opposition but can assure him that no intent exists - and I suspect no desire - for the authority to go further than it must go; firstly, because it will have enough to do inside its boundaries; and secondly, because it will not want to spend more money than that required to implement a good interface with adjacent properties. That may result in work as simple as planting trees in some areas. In other areas it may involve paving or some other aesthetic work or interfacing factor. This clause would allow that to happen without any legal challenge being mounted.

Hon GEORGE CASH: The Minister says the work could be as simple as planting trees, but the amendment is drawn in wide terms and multi-million dollar expenditures could be made on land adjacent to the redevelopment area. I am sure the Minister concedes that the authority is given power to carry out any study, undertaking or work - and not specific work, but any work - at any cost on the land adjacent to the redevelopment area. I hope the Committee puts aside any notion that we are merely talking about the planting of trees here.

The other question that needs to be addressed is the meaning of the words "adjacent to" in the context of the amendment. I want to know precisely what is the Minister's understanding of those words before I proceed any further with the amendment.

Hon KAY HALLAHAN: My understanding of the words "adjacent to" is "abutting". I think it is now on record what is my understanding as the Minister handling the Bill, but I would have thought that even more significant and important than that was the drafting by Parliamentary Counsel. In respect of any expenditure that may be expected in addition to planting trees, paving and those sorts of cosmetic measures, there could be a linking up with services on the land adjacent to the redevelopment area. There will have to be hook up points, and this amendment will allow that to occur with no ambiguity. This is an important amendment, and I suggest that members support it.

Hon GEORGE CASH: I do not interpret the words "adjacent to" as meaning "abutting", particularly when it comes to defining the location of land. It is wrong to say that "adjacent

to" carries the same meaning as "abutting". I again ask the Minister what is her understanding of the words "adjacent to" because it is important that the Committee understand clearly what is the Government's intention in respect of this amendment.

Hon KAY HALLAHAN: We have reached the point where I have moved an amendment which will not lead to abuse. I guess that is the concern that the member is expressing. We do not want a statutory authority to step over the mark or to carry out work that we did not intend it to undertake. However, that concern is overstated in this instance.

Hon GEORGE CASH: We have still not heard from the Minister about the precise meaning of the words "adjacent to". If the Minister is arguing that the words "adjacent to" carry the same meaning as the word "abutting", I foreshadow that I shall move an amendment to delete the words "adjacent to" and substitute the word "abutting" so that there will be a clear understanding of what we are talking about.

Hon TOM STEPHENS: It may help the Leader of the Opposition if I quote *The Macquarie Concise Dictionary* definition of the word "abut", which is "to be adjacent to". The definition of the word "adjacent" includes the word "adjoining".

Hon Derrick Tomlinson: Perhaps you should read the entire definition for the words "abut" and "adjacent".

Hon J.M. Berinson: It will not change the fact that it has the meaning that is referred to.

Hon Derrick Tomlinson: No, but let us not be too selective.

Hon TOM STEPHENS: The definition of the word "abut" is -

> to be adjacent to (oft. fol. by *on*, *upon*, or *against*): *this piece of land abuts upon a street.*

It then refers to the old French meanings and the like, but I do not think that is where the Leader of the Opposition wants to go.

The word "adjacent" has a number of meanings, but it includes the word "adjoining". If the Minister says that "abut" and "adjacent" are the same, that is the end of it; however, to be fair, the definition includes the additional meanings of "lying near, close, or contiguous". If the Minister is specifically excluding those meanings from the use of the word "adjacent", by her exclusion of that in the Committee debate she is delivering the meaning that the Leader of the Opposition seeks. The words "adjacent" and "abut" are synonymous for the purpose of this legislation.

Hon GEORGE CASH: The assistance lent by Hon Tom Stephens has only led to more confusion about the meaning of the words. There is a distinct difference between the meaning of the words "abut" and "adjacent" when they are used in relation to the location of land. In fact, I would argue that the words "adjacent to" when related to land can mean "in the near vicinity, immediate to, in the immediate area", and also, as Hon Tom Stephens has said, "lying near". Therefore, we have a fairly good selection of meanings.

Hon Tom Stephens: The Minister has excluded those meanings.

Hon GEORGE CASH: The Minister has expressed an opinion in respect of her understanding of the words. I want a clear legal definition of the words so that if the matter were challenged in a court, we could rely on that clear legal understanding and not on a Minister who, off the top of her head, has just decided that she wants the words to have a particular meaning.

If the Minister wants to rely, as does Hon Tom Stephens, on a belief that the words "adjacent to" are the same as the word "abutting", we can solve the problem by deleting the words "adjacent to" and substituting the word "abutting". If that is the Government's real intention, let us make that absolutely clear.

Hon KAY HALLAHAN: It has not been made clear to me whether the Opposition supports this amendment, but in the interests of obtaining a correct legal definition of the words that are now before us, we should report progress.

Progress

Progress reported and leave given to sit again, on motion by Hon Kay Hallahan (Minister for Education).

ACTS AMENDMENT (REPRESENTATION) BILL

Receipt

Bill received from the Assembly.

First Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [5.50 pm]: I move -

That the Bill be now read a first time.

Division

Question put and a division taken with the following result -

Ayes (12)		
Hon J.M. Berinson	Hon Kay Hallahan	Hon Tom Stephens
Hon J.M. Brown	Hon Tom Helm	Hon Fred McKenzie
Hon Cheryl Davenport	Hon B.L. Jones	*(Teller)*
Hon Reg Davies	Hon Garry Kelly	
Hon John Halden	Hon Sam Piantadosi	

Noes (11)		
Hon J.N. Caldwell	Hon Barry House	Hon Derrick Tomlinson
Hon George Cash	Hon N.F. Moore	Hon D.J. Wordsworth
Hon E.J. Charlton	Hon P.G. Pendal	Hon Margaret McAleer
Hon Peter Foss	Hon W.N. Stretch	*(Teller)*

Pairs	
Hon Graham Edwards	Hon R.G. Pike
Hon Doug Wenn	Hon Murray Montgomery
Hon Bob Thomas	Hon Muriel Patterson
Hon Mark Nevill	Hon P.H. Lockyer
Hon T.G. Butler	Hon Max Evans

Question thus passed.

Bill read a first time.

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [5.52 pm]: I move -

That the Bill be now read a second time.

The essence of democracy is that elections must be free, fair and periodic so that there is absolute confidence that the will of the people is faithfully represented in Parliament. The bedrock of the system is the right of each citizen to cast one vote. Each vote represents the view of an elector about who should represent him or her in Parliament. The view of each elector is equally important - a principle with deep roots that grants every citizen an equal right to defend or promote his or her freedom and interest. It does not make sense, either logically or ethically, to establish the right of a person to a vote and then diminish the value of that vote in relation to the votes cast by others. Removal of this malpractice is the subject of the Bill before the House.

In 1987 Parliament approved the Acts Amendment (Electoral Reform) Act. Passage of that Bill added an important step to the history of electoral reform in Western Australia comparable in magnitude to the reforms achieved in 1947 and 1964. The significant structural reforms that were enacted in 1987 included the establishment of the independent Western Australian Electoral Commission; four year terms for all members of both Houses; making electoral distribution commissioners responsible for the drawing of electoral boundaries with the exception of the boundary of the metropolitan area; electing members of the Legislative Council by proportional representation from regions; and removing gross imbalances of vote weighting such as 8:1 from Assembly enrolments and 11:1 from Council enrolments. Those intolerable ratios of 8:1 and 11:1 were brought about by fewer than 1 000

electors in the two districts of Gascoyne and Murchison-Eyre, the boundaries of which had been determined by the previous Government.

While the removal of the gross imbalances was an achievement, an overview which compares the average enrolments of metropolitan districts with country districts shows that the 1987 reforms hardly changed the overall vote weighting of 1.9:1 in the Assembly. There was a slight reduction in vote weighting in the Legislative Council from 3:1 to 2.8:1. The fact that enrolment imbalances among our parliamentary electorates are the worst of any Australian State is a situation that our Parliament should reform. While each person is limited to one vote in choosing a member of Parliament, vote weighting means that 22 000 voters in one area elect two members to represent them, but 22 000 voters somewhere else elect only one member. Instead of this vote weighting and inequality of representation, this Bill seeks to give all electors a comparable level of influence in Parliament.

A paper providing a background and summary of the Bill was forwarded to members on 10 June 1991. At each of the past three elections the Australian Labor Party has included in its successful election policy the creation of a fair electoral system. In the 1989 campaign the promise was headed "Protection of voters' interests - undemocratic imbalances in enrolments will finally come to an end". The Acts Amendment (Representation) Bill proposes a politically neutral system which will achieve that objective. While a parliamentary majority could be found for the significant reforms of the 1987 Acts Amendment (Electoral Reform) Act, agreement could not be reached on the removal of vote weighting.

For this reason the Bill before us now is straightforward. It has two main objectives: Firstly, it proposes that all boundaries will be drawn by the electoral distribution commissioners. In 1987, Parliament selected the metropolitan region scheme boundary as the boundary of the metropolitan area for electoral purposes. While the guidance of that particular boundary is preserved, the Bill also gives the commissioners discretion to depart from it as they see fit when deciding what should be included in the three metropolitan regions.

Secondly, the Bill proposes a system which will bring an end to vote weighting. In each Legislative Assembly district the electoral distribution commissioners will set the enrolment at a redistribution within a margin of allowance from 10 per cent above to 10 per cent below the State average district enrolment. On 29 March 1991, the State enrolment was 977 222, which means the average district enrolment was 17 144. Based on that enrolment, commissioners would be able to create districts containing between 15 430 and 18 858 electors, giving due consideration to the unchanged list of matters in the Act. The range of enrolments available to the commissioners and the different enrolments of the districts will mean the enrolment adjustment required for each district will be different. On average, though, commissioners will be required to add approximately 5 800 electors to the enrolment of districts in the country and subtract approximately 3 900 electors from the enrolment of districts in the metropolitan area.

The different structure of representation in the Legislative Council requires a different approach to ensure balanced enrolments per member. In place of the existing law which prescribes the number of members of the Legislative Council to be elected from each region, the Bill proposes greater discretion for the electoral distribution commissioners. A table is proposed which sets out a relationship between the number of members of the Legislative Council to be elected from a region and the number of districts that region may contain. The proposed table does two things. The number of MLCs in a region must be an uneven number from three to nine, and a fair balance is set among all the regions in the number of districts and, therefore, electors per member of the Legislative Council. Uneven numbers are necessary to guarantee that a party or group winning a majority of the votes will win a majority of the seats, a principle which is already applied to the representation of regions in this House.

Understanding of the proposals in this Bill is facilitated by reference to three tables. Permission was granted to the Minister for Parliamentary and Electoral Reform on 11 June for the incorporation of these three tables in *Hansard*, and members will find them at pages 3045 and 3046. Table I is taken directly from the Bill and sets out the proposed relationship between the number of MLCs to be returned by a region and the number of districts the commissioners may include in that region. Table II shows the present structure of

representation in Parliament. Table III draws on the proposals in the Bill to suggest one possible structure that could be created by the electoral distribution commissioners.

Comparisons between existing enrolments and those that would be created by a redistribution under the proposal clearly illustrate the need for reform. On 28 March 1991 the district with the highest enrolment was 36.2 per cent above the State average while the lowest was 50.2 per cent below it. Plus or minus 10 per cent is the proposed margin for enrolments in districts. Enrolments per member in the Legislative Council regions range from the highest at 47.8 per cent above the State average to the lowest at 55.9 per cent below it. Variations in enrolments per member among the regions are limited by the proposed table of relationships between the number of MLCs and districts in each region. It would not be possible for the enrolment per MLC in a region to be more than 18.1 per cent above the average or less than 16.6 per cent below it.

Members will notice that the Bill proposes the preservation of the existing structure of Assembly districts grouped into six broadly defined Council regions. Greater discretion is proposed for the electoral distribution commissioners who will draw upon the flexibility built into the table in deciding on the composition of Legislative Council regions. Under electoral redistributions in other States the aim of setting an equitable enrolment for each member of Parliament is the general rule; for example, in New South Wales, South Australia, the Tasmanian Assembly, Victoria, the Australian Capital Territory and the Northern Territory.

A redistribution of boundaries in Queensland is due to be completed on 30 November following recommendations for reform made by the Electoral and Administrative Review Commission. Eighty-four out of the 89 districts will have an enrolment within plus or minus 10 per cent of the State average. Not one district in Western Australia has an enrolment within the accepted plus or minus 10 per cent tolerance.

The proposal for approximately equal enrolments per member of Parliament is the system more likely to be politically neutral than a system in which enrolments are out of balance. Comparable systems in South Australia, New South Wales, Tasmania and the House of Representatives have enabled changes in voter opinion to be reflected in changes of Government. Both Liberal and Labor Governments in those jurisdictions have maintained the principle. Confidence that election results will be fair is essential for democracy, and in Western Australia this is especially relevant for Legislative Council elections. It is doubtful whether Parliament can be an accurate representation of the views of all Western Australians while vote weighting exists. The passing by Parliament of the Acts Amendment (Representation) Bill will ensure that the 1993 election, the first in our second century of responsible government, will establish a new, more democratic standard of representation of the people in this Parliament.

Mr President, I seek leave to table the tables referred to in this speech, headed Appendix A Acts Amendment (Representation) Bill 1991.

Leave granted. [See paper No 877.]

Hon J.M. BERINSON: I also take the opportunity to advise the House that I intend to bring this Bill on as the first Order of the Day with a view to its being debated to completion on the day that the House resumes; namely, Tuesday, 26 November 1991. Because this is a Bill requiring an absolute majority it represents one of those occasions when pairs are not provided.

Hon George Cash: An absolute majority or a constitutional majority?

Hon J.M. BERINSON: It is the same thing. I thought, given that special consideration, that I should provide the maximum notice to all members of the timetable which I propose. I commend the Bill to the House.

Debate adjourned, on motion by Hon E.J. Charlton.

ADJOURNMENT OF THE HOUSE - SPECIAL

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

That the House at its rising adjourn until Tuesday, 26 November 1991.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [6.02 pm]: I move -

That the House do now adjourn.

Adjournment Debate - Bowen, Bernard - Retirement

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [6.03 pm]: I ask the House not to adjourn until it considers the retirement of Mr Bernard K. Bowen, who is presently the Executive Director of the Fisheries Department in Western Australia. Members will be aware that today marks the retirement of Mr Bowen after 40 years of enthusiastic service to this State. On behalf of the Opposition I record our appreciation for the tremendous work Mr Bowen has done for Western Australia, particularly the very significant achievements he has been instrumental in causing in the development and promotion of our fishing industry.

Members who know Mr Bowen will be surprised to learn that he was born on 6 October 1930. I say "surprised" because members who know Mr Bowen will acknowledge that he appears still to be a relatively young man. He was educated at Wesley College and graduated as a Bachelor of Science from the University of Western Australia in 1951; he later completed a full Zoology degree. He was married to Esme Irving on 21 May 1955 and has four daughters. After completing his university studies Mr Bowen joined the Department of Fisheries and Wildlife in November 1951, carrying out statistical analysis. In 1956 he established the research expertise in the department and became its first research officer. In 1961 he was appointed senior research officer, a post he held until 1968 when, on the retirement of Mr A.J. Fraser, he was appointed director of the department, a position he has held for the past 23 years.

Prior to his being appointed director of the department Mr Bowen undertook several courses, including attending a fish culture course in Bogar, Indonesia, in 1955. In 1959 he spent a month in New Zealand studying various aspects of the fishery in that country. In 1966 Mr Bowen undertook a 10 week course at the Australian Administrative Staff College at Mt Macedon, Victoria. From July to November 1967 he spent four and a half months touring Japan, the United States of America, including Hawaii, Canada, Britain, Norway, West Germany, France, Italy and South Africa. During this time he inspected fishing ports, markets, canning and reduction plants, administrative offices and scientific and technological laboratories. During this period, while in Europe he attended international technical meetings on fisheries in Hamburg and Bergen.

Western Australia is widely reputed to have the best managed rock lobster industry in Australia, if not the world, and its reputation is due to the enthusiastic, dedicated hard work and continuing interest of Mr Bowen. He enjoys the respect of all who have come into contact with him, with departmental staff holding him in high esteem and the people working in the fishing industry also having very high regard for his professional abilities. I am aware that former Ministers of the Crown, and in particular the former Minister for Fisheries, Hon Gordon Masters, and the present Minister, Hon Gordon Hill, hold Mr Bowen in the highest respect and acknowledge his expertise in managing the Western Australian fishing industry.

Mr Bowen saw his position as fisheries manager as having strong responsibility for ensuring that good research was undertaken to know the effect of fishing, having a good law enforcement system and a good communications system, and ensuring the staff of the department had clear objectives to ensure the department was able to reach the level of development that it did. He also believed that the department was there to provide a service to industry, and that in providing that service it was required to cooperate closely with the fishing industry. Mr Bowen is Chairman of the Western Fisheries Research Committee, a member of the standing committee on fisheries, and Chairman of the Fishing Industry Research and Development Council, which was established in 1987 by the Commonwealth Government. A prolific writer, he has written numerous papers and reports concerning the management of the rock lobster fishery, the pearling industry, the scallop fishery and the snapper fishery, as well as fishery management at the Houtman Abrolhos and generally along the coast of Western Australia. Mr Bowen is a keen sportsman who enjoys tennis and squash, and he is a member of the Royal Society of Western Australia.

On behalf of all Liberal members of the Legislative Council I take this opportunity of wishing Mr Bowen and his family a long, happy and healthy retirement.

HON J.M. BERINSON (North Metropolitan - Leader of the House) [6.10 pm]: I will take a moment to associate Government members with the good wishes which have been expressed by the Leader of the Opposition. I have not personally had occasion through my own portfolios to have a close connection with Mr Bowen but I think that anyone who has been in Government anywhere has had reason to appreciate the contribution which he has made through his very long service to the State.

Question put and passed.

House adjourned at 6.10 pm

QUESTIONS ON NOTICE

BOUNCERS, DOORMEN - LEGISLATION
Task Force

826. Hon GEORGE CASH to the Minister for Police:

(1) Did the then Minister for Police in 1987 or 1988 establish a task force to consider amendments to various Acts of Parliament or the drafting of a specific Act to provide for the licensing and control of persons employed as doormen, or crowd control officers, and for other related purposes?

(2) If so, when was the task force established and who were the members of the task force?

(3) When did the task force report to the Minister?

(4) What is the current status of the suggested initiatives of the task force?

(5) Is it intended to introduce legislation into this session of Parliament to require the licensing and control of persons employed as doormen, or crowd control officers and other related activities carried out by inquiry agents, investigators and loss adjusters?

Hon GRAHAM EDWARDS replied:

(1) Yes.

(2) October 1988.
Representatives of -

Security Agents Institute of WA
Master Locksmiths
Australian Hotels and Cabaret Association
Chartered Institute of Loss Adjusters
Australian Institute of Loss Adjusters
Chubb Australia
Private Investigators Association
Legal Services - Police Department
Commercial Agents Squad - Police Department
Security Agents.

(3)-(4)
Because of the complexities involved and the number of issues yet to be addressed continuing research and assessment of other State legislation is ongoing. The Minister is continuously updated on all the progress towards the review.

(5) No.

LIQUID PETROLEUM GAS - REFILLING OF CYLINDERS
Trade Measurement Laws Amendment

1080. Hon P.G. PENDAL to Hon John Halden representing the Minister for Consumer Affairs:

With reference to the Minister's correspondence to me dated 27 September 1991 regarding a suggested amendment to the trade measurement laws and the refilling of liquid petroleum gas cylinders, and in view of the approaching Christmas holiday season with its great demand by holiday makers for LPG gas, could the Minister urgently implement that amendment prior to the holiday season commencement?

Hon JOHN HALDEN replied:

All States and Territories are moving towards the introduction of uniform trade measurement legislation. Changes to the legislation need to be considered by the Standing Committee on Trade Measurement (SCTM) and approved uniformly by the Ministers responsible for consumer affairs. There

is considerable benefit to trade and industry in maintaining a uniform trade measurement infrastructure. The suggested amendment of the Uniform Trade Measurement Bill regarding the refilling of liquid petroleum gas cylinders will be considered by SCTM later this month. In view of the need for uniformity and because legislative change is required, it would not be possible to make changes before the holiday season commences.

MOTORCYCLES - K CLASS AND L CLASS LICENCES

1087. Hon GEORGE CASH to the Minister for Police:

(1) What criteria must be met for a person to be issued with K class and L class motor cycle riders' licences?

(2) Is there any provision for discretion to be used in extenuating circumstances to enable a reduction in the required 12 month period between the issue of a K class licence and application for a L class licence?

Hon GRAHAM EDWARDS replied:

(1) For class L - original licence -

Minimum age 17 years
Standard written test (24 out of 30 correct)
Motorcycle written test (12 out of 15 correct)
Eyesight test
Riding test.

Class K additions are only required to complete and pass a practical riding test.

(2) Yes.

BUILDING MANAGEMENT AUTHORITY - PREMIER'S RESIDENCE
Additions, Alterations or Improvements

1090. Hon N.F. MOORE to the Minister for Education representing the Minister for Construction:

(1) Has the Building Management Authority carried out any additions, alterations or improvements to the residence of the Premier, Dr Lawrence?

(2) If so -

(a) what work was undertaken;

(b) when was the work carried out; and

(c) against which area of Government was the cost of the work debited?

Hon KAY HALLAHAN replied:

The Minister for Construction has provided the following reply -

(1) Security work in accordance with Government policy and advice from the protective services unit of the Police Department was effected to the Premier's residence.

(2) (a) Minor improvements to provide security to the residence, doors, windows and external areas.

(b) October 1990.

(c) The cost was debited to the Ministry of the Premier and Cabinet.

FITZROY CROSSING - RESIDENTIAL AND INDUSTRIAL BLOCKS

1109. Hon N.F. MOORE to the Minister for Education representing the Minister for Lands:

(1) Have any residential and industrial blocks recently been made available in Fitzroy Crossing?

(2) If so, how many?

(3) What is the price of these blocks?

Hon KAY HALLAHAN replied:

The Minister for Lands has provided the following reply -

(1) Yes.

(2) 26 residential lots, of which one has been sold; six light industrial lots.

(3) Residential prices range between $33 400 and $69 100. Light industrial prices range between $60 000 and $97 000.

ANSETT WA - GOVERNMENT DISCOUNT

1123. Hon N.F. MOORE to the Attorney General representing the Treasurer:

(1) Does Ansett WA provide a discount to the State Government when airline tickets are purchased for Government employees?

(2) If so, what is the rate of the discount?

Hon J.M. BERINSON replied:

The Treasurer has provided the following reply -

(1) Yes.

(2) The Government reservations contract allows for a three per cent rebate on all domestic travel.

POLICE - HALLS CREEK
Ministerial Visit

1133. Hon N.F. MOORE to the Minister for Police:

(1) Is the Minister intending to visit Halls Creek in the near future?

(2) If so, when will he visit and what is the purpose of the visit?

(3) Will the Minister be visiting in his capacity as Minister for Sport and Recreation?

(4) If not, why not?

Hon GRAHAM EDWARDS replied:

(1)-(4)

I am currently looking at a proposed itinerary encompassing parts of the Kimberley and Pilbara region.

POLICE - MANPOWER
Karratha, Dampier, Roebourne, Wickham

1150. Hon P.H. LOCKYER to the Minister for Police:

(1) How many police officers are stationed at -

(a) Karratha;

(b) Dampier;

(c) Roebourne; and

(d) Wickham?

(2) What number of officers are engaged in traffic duties?

(3) How many patrol cars are stationed at these stations?

Hon GRAHAM EDWARDS replied:

(1) (a) 22;

(b) Five;

(c) 10;

(d) Three.

(2) Ten officers at Karratha are specifically engaged in traffic duties. The 30 general duties officers at Karratha, Dampier, Roebourne and Wickham perform random traffic duties during their shift periods.

(3) (a) Six at Karratha traffic office;

(b)-(d) Nil.

POLICE - CENTRAL DESERT COMMUNITY PATROLS

1151. Hon P.H. LOCKYER to the Minister for Police:

(1) How often do the police patrol the central desert communities?

(2) Which communities are visited?

(3) How many of these visits are by road?

(4) How many use an aircraft?

Hon GRAHAM EDWARDS replied:

(1) Laverton police commence patrols approximately every 14 days; Marble Bar police patrol the Kiwirrkurra community bimonthly.

(2) Laverton patrol visits Cosmo Newberry, Warburton, Wanarn, Warakurna, Tjukurla, Wingellina, Blackstone, Jamieson and Tjirrkarli. Linton Bore community is visited approximately bimonthly. Visitation to Kiwirrkurra is restricted to Marble Bar police.

(3) All, except on three occasions when police airwing was utilised to visit Kiwirrkurra.

(4) Refer to (3).

LOCAL GOVERNMENT - WARD BOUNDARY CHANGES
Cockburn City Council

1164. Hon P.H. LOCKYER to the Minister for Education representing the Minister for Local Government:

(1) Has the Minister requested the Cockburn City Council to alter its ward boundaries?

(2) How many wards does this council have?

(3) What are those wards?

(4) What number of electors are in each ward?

(5) How many councillors represent these wards?

Hon KAY HALLAHAN replied:

The Minister for Local Government has provided the following reply -

(1) Yes.

(2) Five.

(3) West, North, Coastal, South and East.

(4) On the consolidated roll in May 1990 -

West - 13 465; North - 8 891; Coastal - 6 475;
South - 4 197; East - 4 967.

(5) The number of current councillors per ward is -

West - four; North - three; Coastal - three; South - two; East - two.

CONSOLIDATED REVENUE FUND - ESTIMATED REVENUE, TREASURY
Business Undertakings, Profits and Surpluses

1176. Hon MAX EVANS to the Attorney General representing the Treasurer:

Can the Minister advise the Estimated Revenue - Treasury (CRF page 17) details of -

(a) business undertakings, profits and surpluses 1990-91, $120 681 000; and

(b) business undertakings, profits and surpluses 1991-92, $141 667 000?

Hon J.M. BERINSON replied:

The Treasurer has provided the following reply -

	Receipts 1990-91 $	Estimate 1991-92 $
Rural and Industries Bank	20 411 342	-
Statutory Levies -		
SEC	42 486 565	64 615 000
WAWA	11 921 970	17 540 000
Fremantle Port Authority	1 066 440	1 549 000
Bunbury Water Board	104 234	115 000
Busselton Water Board	36 421	43 000
SGIC - Contribution in lieu of tax	260 648	1 100 000
GoldCorp	26 410 680	-
Joondalup Development Corporation	3 500 000	25 000 000
LandBank of WA	454 500	455 000
Bunbury Port Authority	-	250 000
WA Exim Corporation	1 028 125	1 000 000
WADC - Contribution in lieu of tax	2 522 583	30 000 000
WADC - Special Dividend	10 477 417	-
TOTAL	120 680 925	141 667 000

RURAL ADJUSTMENT AND FINANCE CORPORATION - BOARD APPOINTMENT

New Three Year Term

1200. Hon MARGARET McALEER to the Attorney General representing the Treasurer:

With reference to the Treasurer's answer on 6 November 1991 to my question on notice 1074 concerning farmer representatives on the board of the Rural Adjustment and Finance Corporation, and in particular that part where the Treasurer advised that "The appointment of a Board for the new three year term is currently under consideration", can the Minister confirm -

(a) that the board will be appointed for the new three year term; and

(b) that the composition of the board will remain unchanged?

Hon J.M. BERINSON replied:

The Treasurer has provided the following reply -

(a)-(b)

Yes.

COMMERCIAL TENANCY LEGISLATION - SMALL BUSINESS DEVELOPMENT CORPORATION REVIEW

1206. Hon N.F. MOORE to Hon Tom Stephens representing the Minister for State Development:

(1) Has the Small Business Development Corporation completed its review of the commercial tenancy legislation?

(2) If not, when will the review be completed?

(3) Will the review report be made public?

(4) If so, when?

(5) If not, why not?

(6) What is the proposed legislative program to implement the recommendations of the report?

Hon TOM STEPHENS replied:

The Minister for State Development has provided the following reply -

(1) Yes.

(2) Not applicable.

(3)-(4)

In accordance with section 31(2) of the Act, the report is to be tabled in each House of Parliament by the Minister for State Development as soon as practicable.

(5) Not applicable.

(6) Appropriate steps will be taken to implement the recommendations once the report has been tabled. Due allowance will be made for public comment on the report, any further necessary deliberations with industry, the outcomes of working groups, and the relevant procedural and statutory processes in the course of implementation.