Legislative Council

Thursday, 26 September 1985

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

LAW REFORM COMMISSION REPORTS

Implementation: Ministerial Statement

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [2.32 p.m.]—by leave: When the Government came to office in February 1983, there was a backlog of over 25 Law Reform Commission reports which required consideration by the Government.

These included reports on the Associations Incorporation Act, the Fatal Accidents Act, exemption from jury service, Absconding Debtors Act, the Limitation Act and latent diseases, and the Strata Titles Act.

Some reports had been outstanding for over 10 years.

With the tabling today of the annual report of the Law Reform Commission, I take this opportunity to state the Government's position in respect of the implementation of Law Reform Commission reports.

Since coming to office, the Government has enacted, or has brought before the Parliament, legislation arising from the following 11 Law Reform Commission reports—

Report	Resultant Legislation
No. 11: Liability for Stock Straying on to the Highway—June 1981.	Highways (Liability for Straying Animals) Act 1983; Dog Amendment Act, 1983.
No. 14: Offices of Profit under the Crown—March 1971.	Acts Amendment and Repeal (Disqualification for Parliament) Act 1984.
No. 34: Part I: Distribution on Intestacy—May 1973.	Administration Amendment Act 1984.
No. 34 Part III: Administration of Deceased Insolvent Estates—December 1978.	Acts Amendment (Insolvent Estates) Act 1984.
No. 36 Part I: Limitation and Notice of Actions: Latent Disease in Injury—October 1982.	Acts Amendment (Asbestos Related Diseases) Act 1983.
No. 58: Section 2 of the Gaming Act—January 1977.	Gaming and Betting (Contracts and Securities) Act 1985; Acts Amendment (Gaming and Related Provisions) Act 1985.
No. 66: Fatal Accidents—December 1978.	Fatal Accidents Act Amendment Bill 1984.
No. 71: Exemption from Jury Service—June 1980.	Juries Amendment Act 1984.
No. 73: Absconding Debtors Act—November 1981.	Restraint of Debtors Act 1984.
No. 18: Commercial Arbitration—January 1974.	Commercial Arbitration Bill 1985.
No. 56: The Strata Titles Act—December 1984.	Strata Titles Act 1985.

Cabinet has also approved the drafting of legislation in respect of another four reports; namely, the Associations Incorporation Act (No. 21, March 1972). Immunity of Suit between Husband and Wife (No. 32, September 1973), Unclaimed Moneys (No. 51, December 1982), and Admissibility in Evidence of Computer Records (No. 27, part I, July 1980).

Cabinet has approved in principle recommendations contained in report No. 26, part I, Appeals from Administrative Decisions, but further studies are required before drafting is approved.

Reports on Interim Hearings in Personal Injury Cases (No. 5), Motor Vehicle Insurance (No. 10), Affiliation Proceedings (No. 13), Competence and Compellability of Spouses as Witnesses (No. 31), Dividing Fences (No. 33), Suitors' Fund Act (No. 49), Appeals from Courts of Petty Sessions (No. 55, Pt. 1), and Liability of Highway Authorities for Non-feasance (No. 62) are under active consideration by the Government.

The report on affiliation proceedings is being considered in conjunction with the report of the Connor committee on the Family Law Act.

Competence and compellability of spouses as witnesses is being considered as an aspect of the Government's domestic violence task force inquiry. Action on that report has been deferred pending the completion of the task force inquiry.

The Appeal Cost Board has been reviewing the operation of the suitors' fund, and its report will enable legislative proposals to be finalised.

The Government has decided, on the advice of the Minister for Local Government, that it will not take any further action on the commission's report on Local Body Election Practices (No. 52).

In addition, the Government will not take any further action on the commission's report on Innocent Misrepresentation (No. 22). This report was presented over 10 years ago and has now been overtaken by developments in the law. There has been no indication that the courts are experiencing any difficulty in this area.

Neither is it proposed to take action on the commission's report on Evidence of Criminal Convictions in Civil Proceedings (No. 20). A recent decision of the Full Court of the State Supreme Court has had the effect that evidence of a criminal conviction could be admissible as *prima facie* evidence of the facts on which the conviction depended.

The decision effectively puts in place the provisions of relevant United Kingdom legislation, and the Government is satisfied that the decision removes any need for legislation.

It is not proposed to take any further action at an interstate level on report No. 28, part I, Official Attestation of Forms and Documents. The report has been considered by the Standing Committee of Attorneys General, but the committee has been unable to agree on the content of uniform legislation in this area. Implementation of the report in Western Australia is under consideration.

Action on the commission's unnumbered report in respect of protection of money awarded as damages has been deferred pending the Minister for Health's review of mental health legislation.

Report No. 8 on defamation has been considered in the context of the effort by the Standing Committee of Attorneys General to achieve uniform defamation legislation. That project has been very protracted and finally failed at the May 1985 meeting of the Standing Committee of Attorneys General.

Report No. 54 on contractors' liens suggested further study before a final decision was made on legislation to protect subcontractors and workers in the building and construction industries. The Government has subsequently made a further reference to the commission on possible forms of financial protection for building subcontractors and workers.

The Government has also introduced into the Parliament an Occupiers' Liability Bill which is based on an informal working paper prepared by the commission.

Since the Government came to office it has received three reports from the commission: Trustees' Powers of Investment (No. 34 part V, January 1984), Recognition of Interstate and Foreign Grants of Probate and Administration (No. 34 part IV, January 1984), and the Pawnbrokers Act (No. 81, June 1985).

The report on trustees powers has been subject to further consideration by a committee chaired by the Director General of Economic Development, Mr L. McCarrey. Legislation arising from the commission's report and the McCarrey review is anticipated in 1986.

The report on interstate grants of probate is under consideration by the Standing Committee of Attorneys General. The pawnbrokers report is under consideration by the Minister for Consumer Affairs.

Consistent with the Government's efforts to reduce the backlog of Law Reform Commission reports, has been its desire to ensure that law reform matters generally are given proper attention by Government.

As a result, the Government has established a policy and law reform section within the Crown Solicitor's Office to assist in law reform matters. The section will be responsible to the Crown Solicitor, who provides the Government with comment and critical assessment of law reform issues.

The section will formally comprise an Assistant Crown Solicitor and a professional assistant, and will draw on the expertise of other senior officers as the need arises. Given general financial restraints, the section is to be staffed by existing personnel and no new positions have been created.

The above outlines the Government's action to reduce the backlog of commission reports inherited from previous Governments. In keeping with its commitments, the backlog will be substantially reduced by the end of the Government's first term.

PRISONERS: PAROLE

East Pilbara Shire: Petition

The following petition bearing the signatures of 135 residents of East Pilbara Shire was presented by Hon. N. F. Moore—

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

The Petition of the undersigned residents of East Pilbara Shire respectfully showeth our objection to our region being used as a parole area for persons who have been convicted of serious crimes.

Your Petitioners most humbly pray that the Legislative Council, in Parliament assembled, should request the Government to have the courtesy of having consultation with the Shire before its final decisions are made in such cases.

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

(See paper No. 177.)

The PRESIDENT: Order! Honourable members, there is still too much audible conversation while the business of the Chamber is being conducted. I ask honourable members to refrain.

PORTS AND HARBOURS: BUNBURY

Dispute: Notice of Motion

HON. V. J. FERRY (South-West) [2.45 p.m.]: I seek leave to withdraw the last paragraph of my notice of motion as it is printed on the Notice Paper. It reads as follows—

> and calls on the Government to actively support the deregistration proceedings against the Maritime Workers' Union while using all the resources to bring the Port into operation immediately.

Leave granted.

Motion

Hon. V. J. FERRY: I move—

> That this House bitterly condemns the action of the militant union, namely the Maritime Workers' Union for its defiance of the Industrial Commission orders and contempt for the laws of the land resulting in—
>
> (1) the crippling of trade through the Port of Bunbury;
>
> (2) the shattering for all time the good trading reputation of the Port of Bunbury;
>
> (3) the devastating loss of production, trade and reliability of industries in the South West of Western Australia;
>
> (4) the loss of employment opportunities in a resource rich region of the State.

I am delighted to hear that the industrial dispute at the Port of Bunbury has apparently been resolved. It is sad that the dispute was allowed to go on for so long for one reason or another. I hope there will be a lasting peace on the waterfront at Bunbury because until the recent industrial trouble the Port of Bunbury had an enviable reputation of being a trouble-free port. It had an advantage over a number of other ports in Australia for that reason. However, the resolution of the dispute does not detract from the fact that that industrial action has damaged so many industries and a number of people in the south-west. It needs to be brought home through the medium of this House that these matters should be aired.

I am particularly concerned at the damage done to the reputation of the Port of Bunbury especially as there is a thrust to make greater use of that inland port. It is a port of international standing, and I know the Government is trying to establish a free trade area there. The recent industrial disputation will not help that situation. Some of the industries which have been using the port have been tremendously disadvantaged as a result of the strike. The mineral sands industry has been hit especially hard, and that will have ongoing repercussions.

I mention a few facts and figures about one company there, Cable Sands Pty. Ltd., which has orders to export 60 000 tonnes of ilmenite and 3 000 tonnes of zircon. It is awaiting shipment.

The company also has a contract of 40 000 tonnes with Russia. One of the difficulties is that Russia does not recognise strikes; they are not considered an excuse for non-compliance with agreed performance.

Hon. P. G. Pendal: They have other methods!

Hon. V. J. FERRY: That is the pity of it. This is the sort of disability with which the company is faced.

The mineral sands market is very competitive and there are three major companies in the south-west—Cable Sands Pty Ltd, Westralian Sands Ltd, and Associated Minerals Consolidated Ltd which used to be known as Western Titanium Ltd—and between them they employ a lot of people, and certainly the whole region benefits from that.

The Port of Bunbury has always had two things going for it—the lack of waterfront disputation and the quality of product. In this case the quality of mineral sands is world class and the sands are widely sought after. Of course,

the markets cannot be maintained unless they are serviced reliably. A case in point is that Cable Sands recently negotiated a contract with Finland. I understand the first shipment is to be met very soon and that the Finnish ship is on its way to the Port of Bunbury at the present time. If that ship were unable to load it would effectively stop the market in Finland for all times. I am sure that the Finns would be very doubtful about the reliability of the port and the industry to deliver its needs in the future. The contract is worth $2 milllion and it was won in competition with Canada, South Africa, and Norway. Members can see that it is a sizeable contract and could lead to other things.

It is appropriate that I mention some of the disabilities that the mineral sands industry will suffer as a result of this dispute. Additionally, the cost of shipping all goods from Bunbury will now rise because of an increase in insurance premiums. Again, Bunbury's reputation gave it a competitive edge on world markets, but that edge is now gone. Cable Sands recently was advised that a surcharge of $US5 a tonne had been added to all Bunbury cargoes and this is added to the normal sea freight of $28 a tonne—a rise of 17.86 per cent in freight charges. There is no reason to suggest that the same will not apply to other cargoes out of Bunbury which had a total export tonnage of 3.988 million tonnes last year. At an exchange rate of 0.68 the dispute will add $29 million to the cost of exports through Bunbury every year. Broken down, it will add $16.27 million to alumina, $7.07 million to mineral sands and $5.17 million to woodchips. That is a devastating impost on industry in the south-west and it is the result of the industrial action at the Port of Bunbury. The dispute should have been resolved weeks ago by this Government. However, it did not intervene as it should have and members will recall that I moved an urgency motion about a fortnight ago in this House. At that point the Government endeavoured to step up its investigations, but it should never have reached that point. I should never have been placed in a position to move an urgency motion on that issue and the Government now stands condemned for being tardy in its response.

I refer now to ilmenite exports, and to give a specific example, the f.o.b. cost is $A47 a tonne to which is now added $A48.53 a tonne in freight and surcharges for a c.i.f. price landed in the United States or Europe of around $A95.53—an overall rise of 8.33 per cent—just because of the dispute. Surcharges of this nature are not normally lifted once applied, so the damage has been done. It is irrevocable and the impost will remain on exports out of the Port of Bunbury for all time. That is a damning indictment of the Government's lack of consideration and appreciation of the dispute at the Port of Bunbury.

Hon. P. G. Pendal: It is probably part of "Bunbury 2000".

Hon. V. J. FERRY: "Bunbury 2000" is a flag-waving exercise, but it comes down to the cold, hard fact that this sort of action undermines everything good that the Government is trying to do for the region. The Government can talk about erecting buildings and shifting railways, but the damage has been done for all time to resource industries in a resource-rich area in the south-west. That is the most damning feature of the whole situation.

A number of ships have been waiting offshore and that has meant a loss to the shipping companies. The woodchipping industry is another industry which has been adversely affected. The woodchip industry is no different from the alumina and the minerals sands industries. Other industries are affected; for example, the general cargo trade, rock phosphate trade and chemicals trade. The people involved in those industries have also been affected.

I suppose that another bad feature of the dispute has been the dreadful division that has been created within the community because of the disputation. Never before has the south-west been divided on this vital issue. For instance, the members of one family have been divided in regard to the industrial argument—one union against another—and it is terribly sad that people should be put in this position. The problem has been brought into the kitchens of family homes and it has affected people's lives. I do not think it has affected one family only.

The dispute has certainly made a mockery of the Government's professed ability to resolve disputations promptly. We heard a little trumpeting in the community recently that the Government appointed certain people to straighten out difficulties in industry. This certainly did not happen in Bunbury despite "Bunbury 2000" or any other label one might like to put on it. The Government certainly needs to be condemned for its lack of understanding in the first place, and secondly for its

lack of action until it was forced into it by pressure from the industry, workers, and this Parliament.

Hon. Kay Hallahan: You are joking.

Hon. P. G. Pendal: I beg your pardon, don't mumble.

Hon. V. J. FERRY: Without prolonging the debate, there is one vital point I wish to make. Part (4) of my motion refers to the loss of employment opportunities in a resource-rich region of this State. Without the proper utilisation of resources in the south-west there can be no substantial growth or opportunity for employment. The south-west is the most diverse region in the State as far as natural resources are concerned. I will not go through them at this stage because members are well aware of the resources that can be tapped and used in that region. However, if we hinder the use of those resources they will not provide employment opportunities. Members have heard me quote the official employment figures of that region in recent years and they give lie again to the Government's professed concern for the creation of employment. By the Government's tardiness in handling this dispute, it has again impinged on employment opportunities for people who desperately want to live, work and have a decent life in the south-west. That is a sad commentary on the ability of this Government.

HON. PETER DOWDING (North) [3.00 p.m.]: The Opposition again uses this mechanism of moving a motion in this House knowing perfectly well that the structure of the electoral laws of our State is such that there is no way that a Labor Government can ever have the majority in this House. Secondly, members opposite know perfectly well that if we use the mechanism of seeking to amend the motion we will still be faced with their weight of numbers and their will will prevail; therefore, no motion of this type can be regarded as an expression of the will of the Parliament in relation to its unanimity.

In all respects the Government does not regard this as an appropriate venue for the expression of opinion about such matters. I make it quite clear, as Hon. Vic Ferry has in support of this motion, that the motion is not moved in any way other than to create some political kudos for himself; it has nothing to do with the settlement of this dispute or of future disputes.

Let me remind honourable members opposite that the Government has been working to resolve this dispute since its inception; secondly, it has been working with the Bunbury Port Authority to resolve this dispute since its inception; and, thirdly, since it is a dispute which involves a union movement, it has certainly been working with the Trades and Labor Council and employers in the area to endeavour to resolve the dispute. To the Opposition that may seem a strange thing for the Government to do because the Opposition does not have dialogue with anyone, but our Government has shown itself to have dialogue with all parties involved.

Hon. P. G. Pendal interjected.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Order! Hon. P. G. Pendal will desist from interjecting.

Hon. PETER DOWDING: We have made it perfectly clear the TLC has a positive role in resolving disputes which arise as this one did, and which ended up being a dispute between two unions.

The Government has given its full support to a resolution of this matter and it was finally resolved in the early hours of this morning before the Federal commissioner who was personally responsible for overseeing the dispute resolution process. The Government's intervention has not, in my view, altered the fact that it has been working tirelessly to endeavour to create a solution. I will tell the House that it was partly due to the efforts of my office, the Office of Industrial Relations, and those people who have been hired to give assistance to the Government in the area of industrial relations, that we were able to get to a climate in the early hours of the morning when Commissioner Turbet could finally record an agreement.

Let me say this: One of the commissoner's most strong recommendations was that for the employee's part, difficult as it may be, the commission would expect the utmost cooperation between all employees in carrying out the work of the Bunbury Port Authority. He recognised that in the statement, "as difficult at is might be". Nothing this House and members opposite might do, and more importantly nothing those members who represent the area might do, should inflame that situation. The Government and I will not be a party to saying and doing things which are likely to inflame the situation. Therefore, we will not support the motion for those two reasons.

Hon. Vic Ferry was way out of line factually in talking about the Government's intervention being based on anything that was done or said by him in or outside this House. The Govern-

ment has been involved almost since the inception of the dispute and has worked very hard to resolve it. We have been supportive of the Bunbury Port Authority in that endeavour.

Let me make it quite clear that neither the Liberal Party when in Government nor the Labor Party when in Government should possess the sort of laws that are possessed in Russia. As someone opposite remarked, they do not have disputes because they have other ways of resolving them. We have an industrial arbitration system of which we can be proud. We have a system to which we adhere, and a system where dispute resolution is done in the commission, if a dispute cannot be agreed outside. That is the proper place for the resolution of these disputes and that is where this one was ultimately resolved.

I share all the concerns that Hon. Vic Ferry raised about the damage that this disputation could do to that port and to those industries. Let us not go on about them being permanently damaged, because that is to accept that we do not have a future in re-establishing Bunbury as a major, safe, secure port of supply. Of course, we have had damage done to the reputation of the port, but it is not irreparable and we should not regard it as irreparable. We ought to work to ensure that it is not irreparable. The way we can best do that is to record the fact that this dispute arose in circumstances which were most unusual. As Commissioner Turbet remarked, it was one of the most difficult disputes he had ever had to deal with because of the way in which it arose. It was a dispute where a long time ago there was a recognition that there was no further justification for industrial claims being made along the lines of those originally made but, nevertheless, there were problems in resolving the dispute. I believe the Government has acted with great propriety to resolve it, and I hope honourable members opposite do not take this opportunity of trying to stir the pot.

I make it clear for those reasons that, while much of what Hon. Vic Ferry has said is correct about the seriousness and the nature of the dispute and the implications of it, the Government will not support any motion arising out of it which is introduced for these base political reasons.

HON. G. C. MacKINNON (South-West) [3.09 p.m.]: I wish to support my colleague, Hon. Vic Ferry, and to correct a couple of misconceptions the Minister has. He carried on as though it were the same motion we discussed the other day and seemed to feel that the motion was actually criticising him and the Government. It is doing neither. I suggest that the honourable member should look at the motion moved by Mr Ferry which bitterly condemns the action of the militant union, the Maritime Workers Union, for its defiance of the industrial commissions and contempt for the laws of the land. We have not argued with Mr Dowding about the standing of the arbitration system. I could argue with him on that subject if it were any use and if he would take some notice. He carried on today as though we were objecting to the behaviour of the Government and in particular to his behaviour.

As he raised the subject, I point out that it took the Opposition's leader, Hon. Gordon Masters, some two weeks of close questioning of the Minister before he would admit that the Australian Workers Union should be doing the job and should be receiving his support and that the Maritime Workers Union was the interloper. At the end of two weeks' questioning the Minister admitted that. Had he been forthcoming earlier the problem would not have become as serious as it is.

Hon. Peter Dowding referred to moving an amendment. Under the Standing Orders in this House we are not able to move that type of amendment just because there are more of us. If he so wished, Mr McNeil could move such a motion, have it seconded by Mr Charlton or any other member, and discuss the matter in full. It is a method devised by our forefathers in this place to allow matters of importance to be discussed. It ill behoves the Minister to carry on and give us a lecture as though this were a matter which could be discussed only if one party had a majority of members for whatever reason. The Minister claims that the Opposition has a majority because of a malapportioned system. That has nothing to do with it.

Hon. Kay Hallahan: The malapportionment in this House has something to do with everything that goes through the House.

Hon. G. C. MacKINNON: We heard that interjection from Hon. Kay Hallahan because I was gentleman enough to stop and listen to her. However, I do not want to be sidetracked into that sort of infantile discussion. No doubt a couple of Bills will be introduced this year in the fullness of time which will allow us to discuss that subject.

Because of the convoluted views of the Minister with regard to this matter he considers the Government should not play any part in it.

That has been our complaint: that the Government has taken no notice of the situation. We are suggesting that the arbitration system is such that the Minister should support the side which is so obviously in the right—the Australian Workers Union—and get something done about the situation. He should do so not just because of the principle and because we have a system that has served us in good stead, but because of the devastating effects of the dispute. You, Mr Deputy President (Hon. D. J. Wordsworth), last week gave an erudite explanation of the costs involved in this disputation.

There seems to be no agreement on whether it is a demarcation dispute; I said it was and Government members argued with me about it; the Minister has said it is, the newspapers say it is and the commissioners say it is. The Government cannot agree on a simple, fundamental issue such as this; therefore, what hope is there of its getting its teeth into the more difficult problems of industrial law?

I repeat that this motion contains no criticism of the Government or the Minister; that was the basis of the motion moved the other day. With regard to the motion before the House we want everyone to say that the law is the law is the law. The Maritime Workers Union should be told clearly and without any equivocation that it must obey the law.

I am sorry to disagree with my colleague on one matter but the problem has not been resolved, the dispute has merely been put on hold. Earlier this morning the Federal commissioner arranged to employ all workers involved for a specified period so that the resolution of the matter could be worked out. That is my understanding and perhaps in his response, Hon. V. J. Ferry can correct me if my interpretation is wrong. At some expense to the community the matter has been put on hold and I would like someone to tell me who will pay for it—the harbour board, the taxpayers of Western Australia, or someone else?

I regard even that as quite wrongful use of the system in that a limited source of money exists and people other than those involved will meet the cost of employing the additional workers. I assume this is purely and simply another example of gross featherbedding in that both crews will be employed and the same job which was initially performed by 12 men will be done by 22 men. Perhaps Mr Ferry will elaborate on that in reply. That is how I understand the situation after talking to my secretary in Bunbury.

It is rather unfortunate that this morning's paper, which was probably put to bed at 6 o'clock last night, contained the wrong news. The commissioner gave his judgment at one or two o'clock this morning with the result that the newspaper was out of date when people received their morning copy. I do not suppose that *The West Australian* will give those people who bought a copy their money back; it is one of the unfortunate things that happen now and again.

I understand that the problem has not been resolved; we have the absurd situation where an illegally-operating organisation, the Maritime Workers Union, has its members employed once more and working side by side with members of the legally, properly constituted group, the Australian Workers Union. A double wage will be paid. It is a suggestion put forward by the commissioner to hold the matter until Christmas in order that a resolution may be found in the meantime.

During all this time I have listened eagerly, waiting for the Minister to say that he hopes the people concerned will obey the law and the legal decisions of the courts set up for the workers. These courts do not affect people other than the workers; they are their special courts, and I have been waiting for the Minister to say that the workers should obey the decisions of those courts. They profess to believe in the rule of law. Unlike socialists in other parts of the world the Labor Party professes to believe in the law. However, no Labor members are nodding enthusiastically so perhaps they are not sure about that.

The sacked union members will be reinstated and paid and this is surely gross featherbedding. There must be employment projects in the south-west which could more fittingly have used the money to be spent in this matter; certainly some of the youth programmes could use the money. As yet, we do not know how much this exercise will cost.

During the years I have been in this place I have seen members working assiduously to ensure that our ports are kept in operation. You, Mr Deputy President (Hon. D. J. Wordsworth), have at some time been interested in the ports of both Esperance and Bunbury and I am aware of the time and effort you have devoted to ensuring that work comes to these ports. I have only been politically interested in the Port of Bunbury and over the years I am aware that Herb Robinson, Morrie Williams and George Simpson have worked hard to ensure that the

port facilities are used. Despite their efforts there has been a constant attrition of loads moving from Bunbury into the Port of Fremantle and some have been lost altogether; for example, sleepers. Through the work of the Liberal Government the Bunbury harbour board has improved quite markedly and much cargo has been shipped recently from the port. It has become well used as an outport. However, it is necessary to always be on the ball to ensure that these outports keep their share of trade. Apart from the cost factor, which you, Mr Deputy President, enumerated last year, the effect of lack of reliability with this type of carry-on is quite devastating.

I have no hesitation, along with all but 10 or 20 of the community in Bunbury, in supporting this motion.

HON. V. J. FERRY (South-West) [3.20 p.m.]: I am grateful for the remarks made by the Hon. Graham MacKinnon who has had long experience in representing Bunbury and the south-west region over a number of years.

I am glad he made those remarks because when I moved the motion I tended to restrain my comments because I did not wish to speak for too long. The comments of Hon. Graham MacKinnon added a further dimension of strength to the whole motion, and he is quite right that the motion condemns the militant action taken by the Maritime Workers Union, and the other things that flowed from that action. I am appalled at the Minister for Industrial Relations, Hon. Peter Dowding, who said that members in this place have no right to raise issues that affect the people they represent. What an appalling statement that was! It does not matter who the member is nor what electorate he represents, he is elected under the laws of this land to represent the people, not only the people in his province but also Statewide. It is quite appropriate for any member of this place to raise issues, and in this case this motion is important for a number of reasons.

Firstly, it is important for the Port of Bunbury and the industries of that region. Secondly, it affects the wellbeing of a whole host of individuals and, indeed, the total community of the south-west. If this is not a rightful case to raise in this Parliament, I do not know why any of us are in this place.

Hon. G. E. Masters: It is interesting that the Hon. Peter Dowding is not even prepared to condemn the MWU.

Hon. V. J. FERRY: He was very careful not to condemn the MWU, which is the subject of this motion. It is quite significant that the Minister at all times protects militant unionists, as does the Government in fact. However, that is old history. In recent history we have had the example of the Builders Labourers Federation, the Transport Workers Union, and the John O'Connor case. In that case, the Government failed to press home charges to give that man his chance before law to clear his name. Forever and a day John O'Connor will not be able to clear his name or his reputation because the Government pulled the plug out. That is the way that it provides this so-called protection to militant unionists.

The Minister today indicated his attitude to this motion by not agreeing with the condemnation of militancy in the MWU, and the really devastating effects the strike has had in Bunbury. It is typical of the Government's lack of determination to deal with this problem. Hon. Graham MacKinnon was quite right to say that as a result of the commissioner's deliberations with people trying to resolve the problem of the Bunbury port, there is an uneasy peace now and unless the whole thing can be resolved—and I fervently hope that it will be—there is likely to be further disputation.

I hope there will not be further disputation but I cannot really believe that there will be no further action. I do not say that merely to be provocative, but the commissioner, in his wisdom, hinted that there needs to be some discretion on the part of those taking part in the activity in the port. He is on record as saying that it was a difficult case to resolve and he gave a personal pledge that he would give further attention to ensuring that peace does reign—or at least he said words to that effect. I believe the commissioner will be called back to try to resolve any further difficulties. As Hon. Graham MacKinnon said and I revert to my earlier comments, the whole situation should have been taken by the scruff of the neck many weeks ago and the Government of the day has been negligent in that regard.

I believe a case has been made out to condemn the union for its action and the resultant damage to the whole south-west that that action caused. I believe the House should support the motion.

Question put and passed.

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Urban Lands Council: Consideration of Tabled Paper

HON. NEIL OLIVER (West) [3.26 p.m.]: I move—

> That this House take note of Tabled Paper 148, being a report of the Committee on Government Agencies relating to the Urban Lands Council.

This is a somewhat historical occasion for this House because it is the first occasion on which a report has been tabled by the Standing Committee on Government Agencies following a resolution of this House to refer a Government agency to that committee for its examination.

I wish to draw the attention of members of this place to the Standing Committee's terms of reference when it was appointed pursuant to Legislative Council Standing Order No. 38 on 7 April 1982. In part, they read as follows—

> (ii) To report to the House upon any matter concerning the government authorities referred to in paragraph (i) or any recommendations for abolition or amalgamation of them, or any findings particularly in regard to the productivity, efficiency, economy, effectiveness, organisation, and circumstances connected with them to which the Committee thinks the attention of the House should be directed.
>
> (iii) To inquire into and report to the House upon any question in connection with government agencies which is referred to the Committee by resolution of the House.
>
> (iv) To inquire into and where necessary, report to the House when, in the view of the Committee, any agency duplicates all or part of the work of another.

I repeat, "duplicates all or part of the work of". To continue—

> (v) To recommend as it deems necessary the application of the "Sunset" principle to any government agency.
>
> The "Sunset" principle is defined as a process whereby a government agency's existence is automatically terminated after a certain period unless specific re-authorising legislation is enacted.

This motion specifically allows the House to examine the seventh report of the Standing Committee on Government Agencies, which concerns the Urban Lands Council of Western Australia. It also gives members the opportunity during or at the conclusion of this debate to either accept the report in full or initiate recommendations back to the committee for reconsideration.

[Resolved: That business be continued.]

Hon. NEIL OLIVER: Prior to moving on to the general nature of the report, I would also like to draw members' attention to another Select Committee report currently on the Table of the House, the Select Committee report on a committee system in the Legislative Council. Page 1, paragraph 1.4 of that report which was presented by Hon. Vic Ferry reads as follows—

> Role of Council as second chamber. . .

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Order! I believe the member should not quote directly from that document. It is a different Standing Committee report. He should confine his speech to the other Standing Committee report and he should certainly not quote directly from another document.

Hon. NEIL OLIVER: I was unaware of that matter, Mr Deputy President, because I understood the report had been tabled and I thought it had been noted.

The DEPUTY PRESIDENT: The member is anticipating a future debate.

Hon. NEIL OLIVER: Mr Deputy President, I thank you for your ruling, but the point I would like to make is that the report recommends that we adopt a formal committee system in this House, and that would be a way in which the role of this House could be extended to examine legislation in a far more efficient manner. Indeed, it is a very commendable recommendation which had also been put by many members of this House and those in another place.

I am endeavouring to draw to the attention of the House the fact that we should review legislation, and this subject has been mentioned by members previously. I refer to Hon. Robert Hetherington, in particular, who has strongly suggested that we should have a committee system in this House. We have had reports of the Standing Committee on Government Agencies, and have had members like Hon. Robert Hetherington speak on that subject. Mr Arthur Tonkin in another place mentioned it while making a major speech dur-

ing the Address-in-Reply; he referred to the need to elaborate and examine reports such as that now before the House and to operate under a committee system.

Hon. Robert Hetherington: It was a very good report.

Hon. NEIL OLIVER: For the benefit of members, I want to trace the process of how this report came before the House and the action that was taken. As a member, I initially gave notice of the motion to this House on 18 October 1983. The motion was that at the next sitting of the House the Standing Committee on Government Agencies should investigate within the criteria set out in Standing Order No. 38(g) the activities of the Urban Lands Council and that the committee report no later than 31 March 1984. Subsequently it became a resolution of this House and was adopted. The date on which it was required to report was subsequently amended by permission of the House.

The report is now being debated—late in September 1985! My motion remained on the Notice Paper for some time before it was resolved by the House; in fact it was relegated further down the list of Orders of the Day by this Government—that of course is its prerogative—right through October and November until the twilight of the session in December 1983. Subsequently I was required by the principal adviser to the Standing Committee on Government Agencies to provide him with information as to what I felt ought to be examined. I wrote to him on 16 January and again on 14 February. My letter was as follows—

(1) Does the strategy adopted by the ULC, or subject to Government direction, take into consideration the activities of other Government bodies involved in the industry of land development?

(2) Is it reasonable to expect that the activities of the ULC could be, in the main, carried out by the private sector without ULC/Government intervention?

(3) Are the activities of the ULC duplicated by any of the following instrumentalities:

(i) Private enterprise

(ii) The Rural & Industries Bank of Western Australia

(iii) State Housing Commission

(iv) Joondalup Development Corporation

(v) Lands Department

(vi) Industrial Lands Development Authority

(vii) Education Department

(viii) Metropolitan Region Planning Authority

(ix) Town Planning Board

(x) University of Western Australia

(xi) Local Government Authorities

(4) In what form does the ULC account for the expenditure of public funds? Is this form of account subject to audit? In what form is an Annual Report made, and to whom?

(5) What are its sources of funds, the terms and conditions of any loans, and under whose authority are any surplus funds controlled or invested?

(6) After 9 years' operations, is there an overall surplus or deficiency in the income or expenditure of the ULC?

(7) Could the present ULC funds be used to make advances to client authorities against future emerging cash flows rather than undertake direct development in their own right?

(8) Does the ULC analyse the quantity of new allotments at different price levels required by the market in varied localities in Western Australia in order to influence price restraint without the Government being obliged to take over the total land development activity?

(9) What percentage of ULC activities, and at what price levels, is perceived as being the optimum?

(10) What activity, if any, has been carried out in non-metropolitan centres and, if none, why not?

(11) After 9 years of operation, can the objectives of the ULC be fulfilled by any other existing Government agency, by redeploying the funds presently utilised by the ULC?

(12) With 9 years of experience, should the ULC continue as a non-Statutory body advising the Government in the land development area without being involved in direct activities?

(13) Alternatively, should there be any changes in its direction by acting as an agent for other Government agencies who have land holdings which presently are developed independently of any overall strategy, but rather to the perceptions of each body as to its needs to realise capital sums and its own development programme?

(14) Does the ULC enjoy any special privileges not granted to private enterprise in its dealings with the Town Planning Board, the Metropolitan Region Planning Authority and the Metropolitan Water Authority?

The DEPUTY PRESIDENT: (Hon. D. J. Wordsworth): Would the visitors in the Public Gallery mind sitting down, please? Visitors are not allowed to stand in the gallery.

Hon. NEIL OLIVER: To continue—

(15) Is the marketing of land undertaken in a fair, commercial manner in competition with private enterprise and are all costs taken into account and rates and taxes paid—eg. Land Tax, Metropolitan Water Authority rates, Metropolitan Region Planning Authority Improvement Tax, and Local Government rates, etc?

(16) Has there been a significant reduction in the number of residential allotments developed since the introduction of the ULC and if so, has this been caused as a result of the ULC's operations and is it in the best interests of home purchasers or detrimental to free enterprise individuals and corporate development bodies?

Almost contemporaneously with that motion on the Urban Lands Council I moved similar motions the following day in regard to the Metropolitan Region Planning Authority and the Town Planning Board.

Ultimately those motions were resolved and referred to the Standing Committee on Government Agencies which in its wisdom did not conduct investigations because the Government, of its own accord, initiated inquiries into those agencies. I regard that as presumptuous in view of the fact that this House had resolved to investigate them. It was presumptuous of the Government of its own accord to decide it would duplicate the activities of a Standing Committee of this House. That in itself should be condemned as a waste of taxpayers' funds. This House resolved to examine the operations of the Metropolitan Region Planning Authority and the Town Planning Board, and the Government subsequently decided to have its own inquiries.

That was typical of this Government; I do not know how many inquiries it has undertaken since it came to office and how often they have been totally duplicated in the manner to which I have referred.

The day this report was tabled in this House I moved that it be made an Order of the Day for the next day of sitting so that the House could consider it. The Government showed its total disregard for the wishes of the House as you, Mr Deputy President, rose in your place, hoping to examine the report by moving that it should not be agreed to. It was pointed out by the Presiding Officer at the time that the motion was that the paper be tabled. I subsequently moved that its content be noted. What did the Government do with this document, which is probably the most major document yet prepared by a Select Committee of this House? It continuously relegated it to the bottom of the Notice Paper. If I had not sought yesterday to discharge it from the Notice Paper I presume it would have remained an Order of the Day and dropped off the Notice Paper when the current session concluded.

Leaving aside the question of the Urban Lands Council, this report goes to the heart of the future of this House in so far as the implementation of any form of committee system is concerned. We have already heard Labor members, in particular Hon. Bob Hetherington and his colleague in another place, Hon. Arthur Tonkin, expound the need for a committee system. Yet in this first example of a realistic inquiry into a Government agency the vote on the result of the inquiry was taken on party lines; that is, the Labor members voted in accordance with their Caucus contrary to the Legislative Council's Standing Order No. 38 and the motion to hold an inquiry which included as one of the terms of reference—

(iv) To inquire into and where necessary report to the House when, in the view of the committee, any agency duplicates all or part of the work of another.

Hon. Fred McKenzie: Mr Oliver, it was never discussed in the Caucus.

Hon. NEIL OLIVER: The motion went on as follows—

(v) To recommend as it deems necessary the application of the "Sunset" principle to any government agency.

On the first occasion that the Standing Committee on Government Agencies presented a report the committee divided on party lines without taking into account members' own consciences and the Legislative Council's Standing Order No. 38.

Sitting suspended from 3.45 to 4.00 p.m.

PARLIAMENT WEEK

Activities

THE PRESIDENT (Hon. Clive Griffiths): Before we resume the business of the House I direct the attention of members to a note I sent to all members of this House yesterday in regard to one of the activities of Parliament Week; that is, a trip from Parliament House to Princess May School in Fremantle by way of some vintage cars. This will be one of the ceremonies for the opening of Parliament Week on the Sunday.

I raise the matter now simply because arrangements have to be made and to warn honourable members, who may complain later that they missed out, that there is provision for me to accept only five members from this House. I advise members that there are only four positions left.

I also take the opportunity to advise members that Mrs Norma Turton has some invitation cards dealing with Parliament Week that are available to members to give to their constituents or others whom they wish to invite to the conducted tours that will be held during the course of Parliament Week. If members see Mrs Turton they can obtain a few thousand of those cards.

[Questions taken.]

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Urban Lands Council: Consideration of Tabled Paper

Debate resumed from an earlier stage of the sitting

HON. NEIL OLIVER (West) [4.50 p.m.]: We have found that the Urban Lands Council duplicates between five and 10 other activities in the same area. It has accumulated a massive loss to the taxpayers which is currently estimated at $22 million and may subsequently prove to be in excess of $50 million. I was disappointed that Labor Party members of the committee used their vote in a political way quite contrary to the reference given to the committee under Standing Order No. 38.

It will ultimately be the unfortunate duty of the current Federal Government, led by Hawke who in his former capacity of President of the ACTU strongly supported Prime Minister Whitlam and his Minister Uren, to acknowledge responsibility for this incredible debacle which will ultimately cost the Australian taxpayer $900 million. That is the amount the Commonwealth will have to write off. How the current Federal deficit will be handled when this amount is taken into account is for some other person with the magic of Keating, with his accord mark II, to implement.

However, the first loss in Western Australia, while providing home sites at an advantageous price, has by the continued artificial suppression of the market by the ULC denied those purchasers their natural right—a right enjoyed by all other Western Australians—to capital appreciation of private homes.

The very nature of an operation with this aim is akin to the socialist pursuits of Labor Governments which would prefer to deny Australians the right to own their own homes and to foster dependency on the State through rental accommodation. How misguided they have been!

It is interesting to note that the amount of taxpayers' funds lost through the supply of some 4 000-odd residential allotments—incorrectly targeted at anybody but the low income earner—could have bought an additional 600 Homeswest dwellings for the welfare section of our population. This opportunity would at least have allowed a proportion of the 380 000 Australian families, many living on the poverty line in private rental accommodation, some opportunity to live in dignity and raise their families with some degree of respectability. However, this has been denied by a Labor Government which purports to represent the disadvantaged in our society. For that reason, it stands condemned.

This long-awaited report contains much supportive evidence which substantiates the continued opposition to Government intervention in the land development market from the Urban Development Institute and other organisations throughout this State and other States. The report confirms our theories that the ULC is not only inefficient on a cost basis, as evidenced by the waiving of the debt of $22 million by the Commonwealth Government, but also has been operating outside its original charter and outside the conditions of the law.

I note that it is a recommendation of the committee that legislation be brought forward to ensure that the contracts that have been undertaken by the ULC are ratified and enforceable. The private sector is quite capable of operating efficiently and cost effectively because of fair competition in the marketplace and a desire to sell the final product at a price which must be competitive due to the very nature of this competition.

Commonwealth funds are still obtained from the Australian taxpayer. The rationale that the States should grab funds just because they are offered by the Commonwealth is not in the best interests of our nation. The committee's investigation showed that the ULC survived only through massive subsidies of taxpayers' money and that it operates in areas not envisaged in its original charter. In fact, it has written its own objectives. I note that more recently some of its original charter has been varied. That has happened since the resolution was adopted by the House.

Liberal Party members of the committee recommended that the Urban Lands Council be abolished. It is regrettable that due to their not caring to look to the terms of references, Labor members took the course of action that they did. I have already spoken on this matter. It has touched a very sore point with members opposite. It is regrettable that this happened in this first inquiry on a specific Government agency. It will be the forerunner of many other Standing Committees and it is regrettable that the vote was taken along party lines by Government members.

A continuation of these operations will permit the ULC to compete on unfair terms with private enterprise when it should be liable for the payment of land tax, water, sewerage, and drainage rates. Incidentally, it also has the benefit of not being obliged to meet company tax. Of course, it would not need to pay that tax because it has no profits. Thank heaven it cannot accrue its losses. It is mind-boggling that some $22 million in debts to the Commonwealth Government identified in the report and which could ensure the continution of the ULC has been subsidised by the taxpayer to the tune of $5 400 for each of its sales.

In addition, the Commonwealth and the State have been denied the opportunities to spread the tax burden fairly by the inability to collect revenue from company tax and the other rates which are normally levied on any private developments.

The report notes that further debts will be incurred. The Standing Committee members obviously are privy to the current predictions of activity. It appears that unless there is a major upsurge in the level of activity by the ULC in the current year—members of the committee would be privy to the Price Waterhouse report—there will be further write-offs by the fairy godmother, the Australian taxpayer.

The ULC has written its own objectives; it has strayed from its original charter for far too long. The report states—

> The primary function of the ULC would be to define development and redevelopment areas and growth centres, assemble and manage lands in such areas and centres, and release land acquired for development to suitable development agencies.

It has strayed totally from that charter and the manner in which the funds were granted. I trust that the Standing Committee will pursue similar agencies which have operated for four years without any Government supervision or with almost no accountability or reporting to the Parliament. Members of the Government on the committee should be aware of this and be diligent in seeing that the taxpayer's dollar is managed in a proper manner.

The objectives of the ULC are proved to be ineffective, inefficient, inequitable and disruptive. Throughout Australia eventually over $900 million of Australian taxpayers' funds have been lost. In some instances projects have not sold a single allotment. In South Australia, through the Land Commission's operations, the write-down of land values currently exceeds $120 million.

I think Mr Berinson was a member of the Ministry at the time Mr Uren was responsible for the urban development programme. The centre of Monaro on the Murray River has cost some $60 million but under that programme all that has happened is that a sign has been erected on the highway. Not one single allotment has been sold.

Mr Uren was responsible for the growth centres in Albury, Wodonga, Bathurst, Orange, and Monaro. In New South Wales I believe the losses will exceed $100 million. I have not had the opportunity to research the activities of the operations in Victoria.

Currently I am only aware of the massive losses that will be brought to account. The New South Wales Attorney General, Mr Jack O'Donnell, warned that State Government that the total deficit would inevitably fall on the State or Federal Government. However, he neglected to reiterate that the final payment would be met by the taxpayers of Australia.

In conclusion, one of the Federal Government's growth centre programmes was the Albury-Wodonga project which is certainly regarded by the Labor Government as one of the success stories of the urban development programme of the Whitlam era. For the benefit of members, I point out that the deficiency to date of that successful story of regional development is only a loss of $66.4 million to the Australian taxpayer.

I believe public expenditure should be better directed towards assistance for those people in real need. I refer to those people who are at or below the poverty line and meet the criteria of a first home buyer scheme. I do not, nor would any other Liberal member in this House, deny the need to care for people who are disadvantaged through no fault of their own. It is the responsibility of any Government, when controlling taxpayers' funds, to know at least what the bottom line figure will be if one intends to subsidise welfare housing, which I support and will continue to support.

Notwithstanding the recommendations numbered 1 to 10 set out in the report which is before the House, it should be noted that the recommendations 1 and 2 come from Hon. Colin Bell, Hon. Norman Moore and Hon. John Williams who recommended that the Urban Lands Council be abolished in view of their belief that the functions of the council would be better carried out by the private sector. I endorse their remarks. I am aware that a massive amount of effort has been put into this inquiry and it is regrettable that the report should be in the form that it is before this House.

I would like to end my remarks by saying that when I moved the original motion which this House adopted regarding the Metropolitan Region Planning Authority and the Town Planning Board, this Government immediately moved to set up a duplicate inquiry at a further cost to the taxpayer—for what purpose I would not know. This House had already resolved that it would examine those bodies, and after the Standing Committee on Government Agencies resolved to undertake this massive project, the Burke Government set up an inquiry into the operations of the Urban Lands Council through its Functional Review Committee. This committee's work is an extension of the ordinary process of internal advice to the Government, and detailed information of specific reviews will not necessarily be revealed to the public. It shows the attitude of this Government to this House when a Standing Committee is not allowed to commence an inquiry without that inquiry being duplicated by this Government.

Personal Explanation

HON. ROBERT HETHERINGTON (South-East Metropolitan) [5.05 p.m.]—by leave: Hon. Neil Oliver, during his speech, pointed out that, with respect to the recommendations of the committee that he has been discussing, at one stage the committee divided on party lines. I have no objection to that. Obviously there were three on one side and three on the other according to parties. He then indicated that the members of the Labor Party had voted according to Caucus instructions. That is not true. At no stage did I receive any instruction from the State Parliamentary Labor Party or from any Minister on how I was to vote or what conclusions I was to reach on this inquiry. At no stage have I reported to the State Parliamentary Party or asked advice on how I should vote. On all occasions I and the two members with me behaved with the utmost propriety. We listened to the evidence, we reached our own conclusions, and we voted accordingly. If the vote was on ideological lines, so be it. But that does not mean that we were instructed or behaved improperly in any way. Certainly, the honourable gentleman suggested that each one of us behaved improperly, and that was not the case.

Debate Resumed

HON. N. F. MOORE (Lower North) [5.07 p.m.]: I want to say one or two things about this report and to comment on the remarks of Hon. Neil Oliver. I want to talk about his earlier comments when he referred to the situation with respect to the House discussing reports of committees.

When the report was introduced into the House the chairman made a short speech of introduction and the deputy chairman also made some comments. Then the chairman moved a motion that the report do lie upon the table of the House, and be adopted and agreed to. The deputy chairman made some further comments and then there was a point of order.

Hon. Neil Oliver then moved that consideration of the report of the Standing Committee on Government Agencies be made an Order of the Day for the next sitting of the House. That was agreed to by the House. As a result of that motion being agreed to, it then became an Order of the Day and was promptly put to the bottom of the Notice Paper and it will remain there for as long as the Government so determines.

Hon. Neil Oliver—who was responsible for the Standing Committee's inquiry into the Urban Lands Council, and who explained today that it was his motion that was passed by this House directing the committee to inquire into the council—was not given an opportunity to comment on the report of the committee because it is languishing and will continue to languish forever on the bottom of the Notice Paper. So he was required to take the action he did to have that Order of the Day discharged by moving a motion. He has just moved the motion and used the opportunity to discuss the report. What could happen at the end of his contribution to the motion is for the Government Whip or a member on the Government side to move that the debate be adjourned, in which case, it may never come up again.

As it turns out the Government has not taken that tack, so we now have a motion before us which will enable us to talk about the report. I do not believe it is incumbent upon me as a member of the committee to make comments in this House on the committee's decisions. We made our deliberations in the committee and we put forward our report from the committee. That is where my contribution finishes on the content of the report.

I raised this matter today because there are other members of the House who would certainly have an interest in the committee's decisions and I think there ought to be a mechanism, particularly when we look at the report of the committee on committees, for Standing Committees' reports to be considered by the House in a way that is not at the expediency of the Government and there ought to be a mechanism to enable the House, and any member of the House, to comment upon recommendations of a committee without the prospect arising of that mechanism being put to the bottom of the Notice Paper and being left there. Perhaps what the Hon. Neil Oliver has done today provides that mechanism. However the Government jumps to its feet and moves that the debate be adjourned, so it must stay where it is on the Notice Paper and we cannot talk about it. I am not sure what the mechanism should be, but maybe the House should consider that point.

I want to conclude my comments simply by saying that I do not believe members of committees ought to use this House to regurgitate the arguments they were engaged in during the deliberations in the committee. Thus I take exception to the comments made by the Hon. Robert Hetherington when he said that the committee found no clear evidence that we would be better off without the Urban Lands Council.

It was my view on the committee that there was sufficient evidence to get rid of the council and I put forward that view as part of the recommendations in the committee report. I will not argue as to why I said that, I simply say to the Hon. Robert Hetherington that while I do not believe that what he said on that occasion was correct; it is simply my point of view. He is entitled to say it, but I think we have already gone through that argument and the House is simply not the place to regurgitate that matter.

Debate adjourned, on motion by Hon. Fred McKenzie.

LOCAL GOVERNMENT GRANTS AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [5.14 p.m.]: I move—

That the Bill be now read a second time.

The Bill proposes changes to the constitution of the Western Australian Local Government Grants Commission and attends to several other miscellaneous matters.

The constitution of the commission has remained unchanged since it was established as a five-member body by the Local Government Grants Act in 1978. It is now considered appropriate to delete the requirement for a Treasury Department representative, and in so doing provide for increased local government representation by substituting a member selected from names submitted by the Country Urban Councils Association.

This change is proposed following extensive consultation with local government and agreement being reached on the provision for representation by the three associations of local government.

The opportunity is also being taken to provide for the appointment of a deputy chairman who will be that member who is an officer of the Department of Local Government. This will provide more adequately for stability and continuity in the operations of the commission.

All members of the commission are required to exercise their powers having regard to the general interest of local government throughout the State.

The Bill presents the opportunity for a greater say by local government in the manner in which general revenue is to be distributed and will be well received by local government in Western Australia.

The Bill also provides for a review of the operation of the Act every five years.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. Margaret McAleer.

ACTS AMENDMENT AND REPEAL (TRANSPORT CO-ORDINATION) BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon. Peter Dowding (Minister for Employment and Training), read a first time.

Second Reading

HON. PETER DOWDING (North—Minister for Employment and Training) [5.17 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to amend the Transport Act 1966, and certain other acts, and to repeal the State Transport Co-ordination Act.

Its effect will be to amalgamate the office of the Coordinator General of Transport and the Transport Commission to form a new Department of Transport. The Government sees this initiative as a positive step in improving the efficiency of transport administration in Western Australia.

At the present time, the Coordinator General of Transport, with a small staff, carries primary responsibility for policy research and planning, as well as overseeing and coordination of the Transport portfolio's capital programme, operating budgets and pricing.

The Transport Commission, with a staff of some 90 persons, primarily administers regulatory, licensing and subsidy policies, with a policy evaluation and development role and industry support function.

Over the years, the roles and functions of the two offices have grown increasingly close and in some cases have overlapped, and this has tended to cause some confusion in both the business and public sector as to which agency people should deal with.

For these reasons, and to improve the efficiency of transport policy development, the two agencies will now merge and it will be possible to formally integrate the functions and skills of each and as a result also provide better support for the Minister for Transport in his administration and operation of his portfolio. It is also pointed out that this amalgamation is to be achieved without any increase in staff numbers.

This Bill, in effect, merges the State Transport Co-ordination Act and the Transport Act, to create a new Transport Co-ordination Act. It also deletes reference to the two positions of Coordinator General of Transport and Commissioner of Transport, and inserts instead the position of Director General of Transport, who will be responsible for the operation of the new department.

While the main purpose of the Bill is to amalgamate the two transport agencies, the opportunity has also been taken to seek amendments to two other sections to improve transport efficiency.

One amendment relates to participation in or financial assistance to those bodies whose principal objects are the improvement of transport or transport safety. The other proposed amendment will extend a transport freedom to enable carriers to transport grain past the nearest CBH bin where for some reason the grain cannot be delivered to that site. Previously the carrier would be required to obtain a licence in such circumstances. It is now proposed that he be able to undertake the transport under exemption.

Furthermore, provision has been made in the Bill for a review of the operation of the Act every five years.

In the Committee stage, I will take the opportunity to explain in more detail the individual amendments that are proposed. For the mo-

ment though, I would reiterate the point that I see the proposal before us as one of the most significant developments in transport in this State for many years, and one which will help to place Western Australian transport administration in a stronger and more efficient position than ever before.

I commend this Bill to the House.

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

CONSTRUCTION INDUSTRY PORTABLE PAID LONG SERVICE LEAVE BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon. Peter Dowding (Minister for Employment and Training), read a first time.

Second Reading

HON. PETER DOWDING (North—Minister for Employment and Training) [5.21 p.m.]: I move—

That the Bill be now read a second time.

This Government believes that harmonious and good industrial relations is essential to the development of Western Australia and to a rising standard of living for all citizens.

Industrial relations is about people and how they relate to each other in their workplace. An effective industrial relations system should reflect the views of those parties involved in the day-to-day management of human resources. It should foster consultation and cooperation, not conflict and confrontation.

This Government recognises that business, both big and small, and unions and individuals are equally important in the process of achieving a balance in the social and industrial process. Progressive and stable government requires that they be treated as such.

This Government recognises the positive contribution consultative processes play in industrial relations and welcomes the participation of employers and unions as a sign of their goodwill and their commitment to the process.

The establishment in December 1983 of the Tripartite Consultative Council is consistent with this recognition and is central to the Government's industrial relations policy. It provides a forum through which unions and employers together with Government may consult and discuss matters which can lead to improvement in industrial relations in Western Australia.

Positive examples of how tripartite consultation through the council has led to legislation being presented to this Parliament are—

occupational health safety and welfare;

workers' compensation; and

the Industrial Relations Act.

In each of these areas, tripartite consultation has sought to achieve workable solutions within the constraints of industrial reality. In areas where differences remained, Government and therefore Parliament has then made the decision.

The Bill now before Parliament, the Construction Industry Portable Paid Long Service Leave Bill 1985, has also proceeded through the tripartite consultation process.

On 27 February 1984, Cabinet approved the establishment of a scheme of portability of long service leave entitlements within the building and construction industry in WA. That approval was one in principle and contained a direction that the operation of the scheme be the subject of tripartite consultation.

The tripartite council subsequently resolved to form a subcommittee, composed of representatives of the union and the employer organisations in the construction industry, to carry out this task.

The subcommittee representation consisted of the Confederation of Western Australian Industry, the Master Builders Association, the Australian Federation of Construction and Contractors, and the range of unions involved in the construction industry.

Arrangements were made for deputy members to attend the subcommittee meetings to ensure that continuity of representation was maintained. The subcommittee was chaired and serviced by the Office of Industrial Relations.

On 20 September 1984, the results of the subcommittee deliberations were reported to the council in the form of a proposed draft Bill which represented the collective views and substantial consensus of the subcommittee on how the scheme should operate.

It should be noted at this stage that the broad agreement reached throughout the entire process of producing this Bill is in relation to the operation and implementation of the scheme only.

I commend the parties and place on record my appreciation of the spirit in which those parties participated in the discussions leading up to the production of this Bill. The consensus reached is a measure of the goodwill and high level of competence which exists in industrial relations, in both employer and union organisations.

While on the employer side there is not total agreement in principle that there should be such a scheme, there is, however, an acknowledgment that the Government intends to move in this direction, and employer representatives participated by supplying the highest level of expertise to assist in the hammering out of the details which could implement the Government's decision.

Cabinet received the tripartite council's report and approved the preparation of legislation along the lines of the report.

In the spirit of consensus and conciliation Cabinet also approved the continued involvement and participation of industry and union representatives in that drafting process.

This process has now been completed. The tripartite council received the draft Bill which was then numbered draft No. 3, and in accordance with its charter resolved in the following terms—

> Draft No. 3 dated June 28, 1983 of the Construction Industry Portable Paid Long Service Leave Act 1985 be recommended to Government in the following terms:
>
> (1) The attached Parliamentary Counsel's draft No. 3 represents consensus (except in the areas referred to below) between the parties on how the scheme should operate, but not agreement in principle to a scheme by every party in the industry.
>
> There is no consensus in the following areas:
>
> Inclusion of contractors in section 3(5);
>
> retrospective application on introduction of the scheme schedule 1(B) and 1(C); and
>
> level of penalties sections 23, 29(1), 29(2), 31(2), 31(7), 33(3), 39(4), 46(2), 53, 54, 55(1) and 56.
>
> (2) The attitude of the parties to the areas where no consensus exists be recorded and conveyed to Government, those attitudes being:
>
> Inclusion of Contractors
>
> Employers—oppose inclusion
>
> Unions—support inclusion
>
> Retrospective Application on Introduction of the Scheme (2 years bonus credits)
>
> Employers—oppose
>
> Unions—support
>
> Level of Penalties
>
> Employers—Level is generally too high, but do not oppose penalties to the level which currently exists in the Industrial Relations Act.
>
> Unions—Level proposed is appropriate.
>
> (3) A small number of issues as drafting changes without changes of intent of the Bill on which continued discussion is approved, to be co-ordinated by John Carrigg of the Office of Industrial Relations.
>
> (4) The Master Builders' Association attitude is recorded by the Council as set out in this resolution.

The Bill before Parliament therefore reflects the substantial consensus of the parties involved in the industrial relations arena in Western Australia as to how a scheme for portability of long service leave in the construction industry should operate.

In referring to the major thrust of the Bill I will detail the parties' attitudes to the areas on which no consensus could be reached and advise Parliament of the reasons for the Government deciding in a particular way in respect of those issues.

Before proceeding to refer to the main features of the Bill, it is appropriate to outline the history of this matter prior to the recent developments involving the tripartite council.

With the exception of Queensland and WA, there exists in all of the States and in the Australian Capital Territory, schemes whereby long service leave entitlements in the construction industry are portable. In each case the schemes are established by legislation and generally have a commonality in the way in which they operate. The schemes have been in existence in some cases for 10 years or more. Tasmania is leading in this regard with legislation dating from the early 1970s. The latest scheme to be introduced, as recently as 1981 in fact, is that in the Australian Capital Territory.

In considering the need for a scheme of portability of long service leave for employees in the construction industry, it is important to note that portability for long service leave is a feature of the terms and conditions of employment of a number of groups in Western Australia and nationally.

In Government, there are arrangements for portability service when an employee moves from one Government employer or instrumentality to another, or from one Government to another.

Including Commonwealth Government employees, the total number of workers in Western Australia covered by reciprocity is conservatively estimated to be 130 000 to 140 000.

The coal industry in Western Australia is another industry where portability of long service leave exists. Members would know that there are three companies producing coal in Western Australia and there are arrangements which provide for the transmission of entitlements where an employee moves from one company to another.

A very important part of the government sector in Western Australia, and the employer of a large number of employees, is local government. Members will recall that in 1976 an Opposition Bill to amend the Local Government Act to include provisions to establish portable long service leave arrangements for employees of local government was defeated in this Parliament. However, those arrangements were considered by the then Government to be appropriate to foster the career aspect of local government, so employees could better serve that sector of government. Portable long service leave conditions throughout local government in Western Australia were provided for by an amendment to the Local Government Act in 1977.

The nature of employment on the waterfront is similar, as far as its intermittency is concerned, to that in the construction industry; that is, whether work is available or not depends entirely on factors outside the control of those in the industry.

It is a feature of the terms and conditions of employment of these groups that entitlements enjoyed by Australian workers are organised on the pooling basis. The employers contribute a special levy, and when the employee accumulates sufficient credit for those entitlements it becomes due. This of course applies with respect to long service leave.

Sea-going personnel are covered by a national arrangement.

There have been earlier attempts to introduce a scheme in Western Australia.

In 1977, Government set up, under the chairmanship of the Department of Labour and Industry, a committee to examine the need for a long service leave payment scheme for workers in the building industry.

The committee was tripartite in nature, comprising representatives of the Master Builders Association, Trades and Labor Council, Confederation of Western Australian Industry and the Government. The committee produced a draft proposal for an Act concerning long service leave payments in the building and construction industry.

In facilitating the discussion at that time, the Government made it clear that it did not have a commitment to introduce a scheme. However, the Government provided a means by which the parties could confer. It was not possible, however, to get agreement that a recommendation be made to proceed with legislation.

In proposing to Parliament that employees in the construction industry be enabled to participate in entitlements enjoyed by employees in other industries, the Government is not advocating any change to standards which currently apply.

Indeed, employees in the construction industry are already entitled to long service leave by virtue of either their award or the Long Service Leave Act. However, the nature of the industry is such that they are effectively denied the opportunity of enjoying that entitlement.

Similar circumstances have been addressed and remedied in Government, local government, the coal industry, and on the waterfront. It is not that the Government proposal is imposing an additional entitlement or additional cost on the industry; the entitlement already exists.

The Government is proposing that, consistent with the construction industry in most other parts of Australia, Western Australia make arrangements whereby these employees can enjoy the entitlement which has been granted to them.

Because of the nature of the proposal and the nature of the way work is carried out in the industry, involving subcontract arrangements to a large extent, it is difficult to provide an

accurate estimate of the number of employees who would be involved. However, after consultation with industry representatives, it is estimated that approximately 9 000 employees could be registered in the scheme proposed.

While the amount of dollars which will be collected from employers can be estimated on the basis of the expected participation in the scheme, it is the Government's view that this is not an additional cost to industry.

The scheme is not imposing a new entitlement and I would expect that the normal costing arrangments which exist in the construction industry would contain an element for employee entitlements not paid on a weekly basis; those entitlements being public holidays, sick leave, annual leave and, of course, long service leave.

Under the existing long service leave provisions, employees in the construction industry are required to have 15 years' continuous service with one employer to be eligible for long service leave in full, and 10 years for a *pro rata* entitlement.

This industry is characterised by the short-term nature of employment contracts. This is an industry in which the mobility of labour is such that most employees are unlikely to become eligible for long service leave. Employers in the industry are able to receive service from their employees as do employers in other industries, yet without in most cases having to pay long service leave.

In the absence of any portable arrangements, current long service leave provisions in the construction industry are clearly inconsistent with the principles of justice and equity central to this Government's philosophy. This anomalous situation has been recognised and corrected in all of the other States and the ACT, with the exception of Queensland. This legislation will provide a fair system of long service leave in the construction industry in Western Australia.

To run the scheme a seven-member board will be appointed consisting of three employer representatives selected by the Minister from a panel of six names, three of whom will be submitted by the Master Builders Association of Western Australia and three by the Confederation of Western Australian Industry.

Three employee representatives shall also be appointed by the Minister from a panel of six names, three being submitted by the Trades and Labor Council of Western Australia and three by the Building Trades Association of Unions of WA.

The choice of the chairman rests with the Minister.

The board will be required to report to the Minister on its activities, including its financial and investment responsibilities. It will be empowered to invest its income subject to the usual accountability requirements. The Auditor General is charged under the Act with the responsibility for inspection and auditing of the board's accounts, and to draw the Minister's attention to appropriate matters.

The entitlements to long service leave set out in the Bill for employees in the construction industry mirror those in industry in Western Australia generally. It is intended that they be no better or no worse than the general standard. This, however, has to be modified in terms of the portable nature of the scheme.

The basis of earning credits towards a long service leave entitlement will be on a days of service arrangement. Employers will be required to submit returns signifying what employees they have and for how long they have worked with them over the return period, which will be set out in the regulations. The entitlement for the employee will be based on 220 days of service equating one year. The standard 15 years' service attracting 13 weeks' long service leave will be a full entitlement. This arrangement reflects that which obtains generally in the other States.

Proposals for setting up the scheme have been drawn largely on the experience elsewhere and in particular on the Australian Capital Territory.

The Act provides for registers to be maintained by the board, one for registered employees and one for registered employers. Those registers will be for the purpose of maintaining the records of entitlements of employees and liabilities for contribution by employers.

Employers will be required to submit returns to the board, those returns to be accompanied by the levy which will be based on the ordinary rate of pay; that is, the rate of pay the employee received for ordinary hours of work. The level of the contribution will be set by regulation by the board on advice from the actuary. The experience in the other States indicates that a levy of around 2.5 per cent to 3.5 per cent is necessary at the outset of the scheme. That levy can be reduced, based on Eastern States' experience, as the scheme progresses.

The Act contains provisions relating to difficulties which may be experienced by employers in the event of partnership dissolutions, bankruptcy, and similar circumstances.

The Act contains provisions for the engagement of staff, including a chief executive officer who has statutory obligations in terms of making assessments in the event of the absence of accurate information as to an employer's liability. The board is also empowered to appoint inspectors for the purpose of obtaining information required for its activities. The officers of the board have authority under the Act to access books and subject to board approval to institute proceedings for offences against the Act.

An appeal arrangement has been provided in the Act whereby matters concerning individuals' entitlement for registration, the level of ordinary pay, and the payment of the long service leave can be determined by the Special Board of Reference constituted under the Industrial Relations Act to deal with long service leave matters at large. This represents sensible use of existing expertise in the industrial relations system and simplifies appeal procedures.

The provisions of the Act are to apply to employees registering and their registered employers to the exclusion of long service leave entitlements obtaining from the Industrial Relations Commission's long service leave general order and the Long Service Leave Act.

The Act is the means by which one receives the long service leave benefit. The bulk of the administrative arrangements necessary for the functions of the scheme will be provided in regulations to be made by the Governor on behalf of the board. This is seen as being important, particularly in its initial stages, as the scheme may need some fine tuning.

It is considered that there are sufficient legislative and statutory constraints and enablements in the Bill to allow it to work effectively independent of Government, but nonetheless to be subject to scrutiny by the involvement of the Auditor General and the statutory obligation to report and advise matters to the Minister. The board also has an obligation to seek frequent actuarial assessment of its activities.

The Bill is presented to the House as one which has emerged from the consensus approach this Government takes on all industrial relations matters with the full utilisation of the tripartite council.

I detail those operational matters which the Government has decided—

Inclusion of contractors: Union representatives sought to have contractors included in the scheme, and employer representatives opposed inclusion. The Government has decided that contractors will not be included in the scheme.

Contractors are included in some of the schemes in the other States, but that inclusion is either on a voluntary basis or alternatively contributions to the scheme by contractors are voluntary in nature.

Retrospective application on the introduction of the scheme: The unions sought the application of two years' bonus credits for employees registering within the first three months of the scheme. In addition, the unions sought the recognition of service with an existing employer where the registration is effected after the first three months of the scheme. With respect to this second matter there is agreement that those employees who register within the first three months of the scheme will have service with their employer recognised.

As the Government originally decided that there should be a scheme in February 1984, and having regard for the history of the matter, the Government decision is to allow for the retrospective application of the scheme by way of bonus credits of two years for employees registering within the first three months, and for recognition of service with the current employer for those employed employees registering after the first three months of the scheme.

Level of penalties originally proposed in the Bill were opposed by employers: While it is not possible to reflect exactly the level of penalties in the Industrial Relations Act, in this Bill, because of the different nature of this Bill, the penalties have been adjusted in an effort to propose a level which employers may find acceptable.

In respect of the penalty on an employee dismissed for misconduct, employers have expressed the view that the penalty should be the loss of all entitlements. Government has decided that in such a circumstance the employee should lose only the entitlements credited with the employer at the time during the particular contribution period, which will be a maximum of two months or eight weeks.

The provisions of this Bill seek to make arrangements whereby employees in the construction industry in Western Australia can actually enjoy an entitlement which is already prescribed but, because of the intermittent nature of employment in the industry, is rarely enjoyed.

The Bill reflects the central belief of this Government that each party involved has a contribution to make in the area of industrial relations.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. G. E. Masters (Leader of the Opposition).

ACTS AMENDMENT (SEXUAL ASSAULTS) BILL

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [5.39 p.m.]: I move—

> That the Bill be now read a second time.

In the course of the last election campaign, the Government made the following election commitment—

> Acts of violence against women are increasing at an alarming rate in our community; a problem which Governments have ignored.
>
> Labor will: enact tougher more effective laws against rape, sexual assault and other forms of violence against women.

This Bill proposes to give effect to the Government's election commitment.

Reform of laws in respect of rape and sexual assault have been advocated by concerned community groups in Western Australia for some time.

The present offences of rape and indecent assault were enacted over 70 years ago, and are based on legal principles established in the last century. Since that time, great changes have occurred in the position of women in our society as they progress towards greater equality. Attitudes to women which would have been acceptable then are no longer acceptable today.

Women's groups, in particular, have argued that the old laws and rules of procedure result in unfair treatment to victims of rape by the legal system, and do not do enough to encourage rape victims to report the offence, or to ensure punishment and deterrence of offenders.

In recent years the community has become more sensitive to the needs of rape victims, but legislative changes are still needed.

Many jurisdictions, including New South Wales and South Australia, have recently enacted major reforms of their sexual assault laws on a similar basis to this Bill.

Suggested reforms have usually included proposals that categories of sexual assault be graded according to the degree of violence of the assault, that the definition of sexual assault be widened and without gender distinction, and that the presumptions that 14-year-old males are incapable of sexual intercourse and that men cannot rape their cohabiting wives be abolished.

The Government's view is that reform in this area should be guided by the following principles—

> Equality of treatment under the law for victims of sexual assault by not requiring unnecessary special procedural or evidentiary rules in respect of victims;
>
> protection of victims of rape and other sexual assault from unnecessary hardship under the legal process by minimising the victim's ordeal in the course of the prosecution;
>
> the minimisation of inappropriate not guilty pleas so that victims are not required to unreasonably go through the trial process;
>
> encouragement of victims to report rape and other sexual assaults;
>
> the achievement of a high conviction rate of offenders, thereby providing an effective deterrent to sexual assault;
>
> the reflection of community condemnation of sexual assault, with penalties appropriate to the degree of associated violence; and
>
> the continued recognition and protection of the legitimate rights of accused persons.

The above aims require action on both the substantive and procedural law in respect of rape and sexual assault.

The present substantive law in respect of rape and sexual assault in Western Australia is found in the Criminal Code. The relevant provisions are as follows—

Section 6: Definition of carnal knowledge. The common law definition of carnal knowledge has the effect that it is only applicable to penile/vaginal penetration and is said to be "complete upon penetration".

Section 29: Males under the age of 14 are presumed to be incapable of having carnal knowledge.

Section 314: Assault with intent to commit sodomy—carnal knowledge against the order of nature—is an offence subject to a term of imprisonment of 14 years.

Section 315: Indecent assault on males is an offence subject to a term of imprisonment of three years.

Sections 325, 326 and 327: Rape—sexual intercourse without consent where the victim is not the cohabiting wife of the accused—is an offence subject to life imprisonment. An attempt to commit rape is subject to a term of imprisonment of 14 years.

Section 328: Indecent assault on a female—any sexual assault short of intercourse—is an offence subject to a term of imprisonment of four years.

I will now outline the proposed changes to the substantive law now found in the Criminal Code.

The Bill proposes to introduce categories of sexual assault punishable according to degree of violence on a scale from four years, to a maximum penalty of 20 years, for the worst types of sexual assault.

The Government expects that the new penalties will be taken by the courts to indicate Parliament's view that sexual assaults are extremely serious offences and that should be reflected in the penalties imposed.

That particularly applies to the worst cases of sexual assault, where the proposed maximum of 20 years will establish new and clear guidelines. At present, the maximum penalty for rape is life imprisonment. Actual sentencing practice, however, has deprived this maximum of any real relevance or reality. It is no longer an effective maximum. Indeed, the highest penalty imposed in recent years for the worst type of rape has been 14 years.

The Government believes that although sentencing is a matter which must ultimately be left to the discretion of the courts, it is appropriate that the worst types of sexual assault, previously punished by a maximum of, effectively, up to 14 years, should be subject to a term of imprisonment towards the top of the 20-year range.

The range of sexual assaults will be—

indecent assault subject to imprisonment for a term of four years;

aggravated indecent assault, subject to imprisonment for a term of six years;

sexual assault, subject to imprisonment for a term of 14 years; and

aggravated sexual assault subject to imprisonment for a term of 20 years.

Alternative verdicts are provided for.

The present Criminal Code provisions relating to non-consensual sexual offences will be repealed.

All sexual assault matters will be dealt with under one chapter of the code, to be headed "Sexual Assault".

The term "rape" will be abolished and sexual assault will be defined in gender free terms in respect of both the offender and the victim.

The presumption that males under the age of 14 are incapable of sexual intercourse will be abolished.

The repeal of the present code provisions will have the effect of removing the immunity with respect to rape offences of a married man who is not separated from his wife. It is not proposed that any such immunity remain or be put in place for the proposed sexual assault offences.

A wider definition of sexual penetration, modelled on New South Wales legislation, replaces the existing carnal knowledge definition for sexual assaults.

Sexual penetration will include penetration of the vagina of any person or anus of any person by any part of the body of another person or an object manipulated by another person except where carried out for proper medical purposes and will also include activity generally described as fellatio or cunnilingus.

This has the effect that the most serious forms of indecent assault are to be equated in seriousness with the more recognised forms of sexual intercourse or penetration.

The definition of consent is tightened to ensure that consent can only be freely and voluntarily given. It is expressly provided that a failure to offer physical resistance to a sexual assault does not of itself constitute consent to a sexual assault.

This, together with the restricted definition of consent, will ensure that consent cannot be freely and voluntarily given if it is obtained by force or threat.

Circumstances of aggravation are widely drawn to include—

the doing of bodily harm to the victim or another person;

the accused being armed with an offensive weapon or pretending to be so armed;

the accused doing an act likely to seriously and substantially degrade or humiliate the victim;

the accused being in company; and

the victim being under the age of 16 or over the age of 60.

I will now outline the proposed changes to procedure and evidence governing sexual assault matters.

The present procedural laws governing rape and sexual assault are contained in sections 36A and 36B of the Evidence Act.

The provisions prescribe certain matters as "restricted matters" on which evidence shall not be adduced or questions asked by or on behalf of a defendant, except where leave is granted by the court.

At present for committal proceedings, leave shall only be granted if the court is satisfied that the restricted matters are of such relevance to issues which arise that it would be unfair to the defendant to exclude the evidence.

At trial, the court shall not grant leave unless it is satisfied that what is to be adduced or elicited has substantial relevance to facts or goes to the credit of the complainant.

Restricted matters are defined to be—

the sexual experience—of any kind and at any time—of a complainant with a person other than the defendant;

the complainant's disposition in sexual matters, excluding her disposition with respect to the defendant; and

the complainant's reputation in sexual matters.

Section 36A and 36B were introduced into the Evidence Act in 1976 and provide a degree of protection in relation to matters of evidence for victims of sexual offences.

At that time, however, no provision was made for the issues of corroboration of the victim's evidence, or the lack of delay of complaint by the victim. As a result, present practice requires a judge to warn a jury of the danger of convicting on the uncorroborated evidence of the victim, and a jury may draw negative conclusions from the victim's failure to report the rape promptly or at all.

In accordance with the principles stated above, the Bill proposes to effect changes to the Evidence Act which will have the effect that evidence laws will protect the victim from unnecessary hardship by further restricting the admissibility of evidence relating to the victim's sexual history during court proceedings.

The accused person's legitimate rights will continue to be protected.

The proposed changes will have the effect that evidence of the victim's sexual reputation and sexual disposition will be absolutely inadmissible on behalf of the defendant.

Evidence of the victim's prior sexual experiences will be admissible in restricted circumstances with leave of the court. It is proposed that in such cases, evidence of or related to the complainant's prior sexual experiences, whether with the accused or any other person, will be inadmissible unless leave of the court has first been obtained in the absence of the jury.

The court shall only grant leave where what is sought to be adduced or elicited has substantial relevance to the facts in issue—and not simply to credit—and the probative value that it is sought to be adduced or elicited outweighs any distress, humiliation or embarrassment which the complainant might suffer as a result of its admission.

Further, a judge will not be required to give a warning to the jury that it may be unsafe to convict on the uncorroborated evidence of the complainant and will not do so unless satisfied that such a warning is justified in the circumstances of the case.

As well, where a lack of or delay in the making of a complaint is suggested, the judge shall warn the jury that that does not necessarily indicate the allegation was false. The judge will also inform the jury that there may be good reasons why a victim of a sexual assault may hesitate in making or may refrain from making a complaint about the assault.

The wife or husband of an accused person would be both competent and compellable as a witness in sexual assault trials.

An explanatory memorandum has been prepared and this will be circulated with the Bill. Accordingly, I will not take members through the Bill clause by clause.

In summary, the Bill has three main purposes—

To provide more effective laws for the protection of women against rape and other sexual assault.

To protect the victim of sexual assault from unnecessary and unfair hardship in the course of the trial process, while at the same time protecting the legitimate rights of defendants.

To reflect the community's attitude that the worst types of sexual assault offences should be dealt with more severely.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. I. G. Medcalf.

ADJOURNMENT OF THE HOUSE: SPECIAL

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [5.50 p.m.]: I move—

That the House at its rising adjourn until Tuesday, 8 October 1985 at 4.30 p.m.

Question put and passed.

House adjourned at 5.51 p.m.

QUESTIONS ON NOTICE

109. *Postponed.*

CRIME

Car Thefts: North Metropolitan Province

184. Hon. P. H. WELLS, to the Attorney General representing the Minister for Police and Emergency Services:

Further to question 152 of 18 September 1985—

(1) Has there been an increase or decrease in car thefts in the areas mentioned?

(2) If the information of the number of thefts is not available what information, if any, concerning the degree of car thefts in these areas is available?

Hon. J. M. BERINSON replied:

(1) and (2) As previously advised, statistics are not readily available for specific areas from which vehicles are stolen.

The three year periods, ending June 1983, 1984, and 1985 show on a State-wide basis an increase of vehicles stolen as 8.28 per cent, 10.12 per cent, and 9.81 per cent respectively. These figures include all offences of illegal, unlawful, or unauthorised use, use without consent, and attempts at illegal use. They exclude cases of tampering.

Although these increased figures apply on a State-wide basis there is nothing to indicate they would not be applicable to the areas mentioned by the member.

As an indication to the member of the task to obtain the information required, in 1983, 1984, and 1985 there were 6 629, 7 300 and 8 016 vehicles reported stolen respectively. The task would involve manually checking each of those reports. Diversion of staff for that purpose is not considered appropriate when such staff can be better utilised.

187 and 191. *Postponed.*

LAND: URBAN LANDS COUNCIL

Functional Review Committee: Investigation

192. Hon. NEIL OLIVER, to the Minister for Budget Management:

(1) Has the Functional Review Committee completed its investigation into the operations of the Urban Lands Council?

(2) Was Price Waterhouse consulted in view of the report prepared for the Standing Committee on Government Agencies?

(3) Will the Premier table the report when it is completed?

Hon. J. M. BERINSON replied:

(1) Yes.

(2) and (3) The committee's work is an extension of the ordinary process of internal advice to the Government, and detailed information concerning specific reviews will not necessarily be made public.

CRIME

Collie: Statistics

197. Hon. W. N. STRETCH, to the Attorney General representing the Minister for Police and Emergency Services:

(1) What was the reported crime rate in Collie for the years—

(a) 1981-82;

(b) 1982-83;

(c) 1983-84; and

(d) 1984-85?

(2) How many crimes of breaking and entering were reported during those same years?

(3) How many crimes were solved in Collie for each of those years?

(4) How many crimes of breaking and entering were solved in Collie for each of those years?

Hon. J. M. BERINSON replied:

The following figures relate to offence reports recorded in the respective annual reports from Collie Police Station for fiscal years 1982-83, 1983-84, and 1984-85. Figures are not readily available in statistical format for the fiscal year 1981-82.

Total offence reports—

(1) (a) —

(b) 598

(c) 647

(d) 800

(2) (a) —

(b) 105

(c) 144

(d) 174

(3) (a) —
(b) 207
(c) 279
(d) 181
(4) (a) —
(b) 27
(c) 64
(d) 32.

CRIME

Manjimup: Statistics

198. Hon. W. N. STRETCH, to the Attorney General representing the Minister for Police and Emergency Services:

(1) What was the reported crime rate in Manjimup for the years—
(a) 1981-82;
(b) 1982-83;
(c) 1983-84; and
(d) 1984-85?
(2) How many crimes of breaking and entering were reported during those same years?
(3) How many crimes were solved in Manjimup for each of those years?
(4) How many crimes of breaking and entering were solved in Manjimup for each of those years?

Hon. J. M. BERINSON replied:

The following figures relate to offence reports recorded in the respective annual reports from Manjimup Police Station for fiscal years 1982-83, 1983-84, 1984-85. Figures are not readily available in statistical format for the fiscal year 1981-82.

Total offence reports—

(1) (a) —
(b) 231
(c) 161
(d) 259
(2) (a) —
(b) 34
(c) 19
(d) 38
(3) (a) —
(b) 69
(c) 38
(d) 35
(4) (a) —
(b) 16
(c) 4
(d) 4.

199 and 200. *Postponed.*

TAXES AND CHARGES: DEATH DUTIES

Deceased Persons: Probate Applications

201. Hon. I. G. MEDCALF, to the Attorney General:

Further to the answer to question 142 of Tuesday, 17 September 1985, concerning the requirement to swear as to particulars of assets and liabilities of a deceased person—

(1) Is the information as to a deceased's assets available to the general public and the media?
(2) If not, to whom is it available?
(3) Is it available to legal firms as a matter of routine?
(4) Is leave of the registrar required?
(5) If so, on what terms is leave granted?
(6) Is there any formal rule restricting access to such information?

Hon. J. M. BERINSON replied:

(1) Rule 43A of the Non-Contentious Probate Rules provides that—

Any person shall, on payment of the prescribed fee, be entitled during office hours to search for and obtain a copy of any of the following documents filed or on record in the Registry, namely:

(a) a will or codicil that has been proved;
(b) a grant of probate or administration;
(c) an order to administer; and
(d) with the leave of the Registrar, any other document.

(2) to (4) Answered by (1).

(5) Leave may be granted on grounds being shown that the party has an interest in the estate or for good cause being shown.

(6) Rule 43A of the Non-Contentious Probate Rules.

202 to 204. *Postponed.*

WATER RESOURCES

Lancelin: Ocean Farm Blocks

205. Hon. TOM McNEIL, to the Leader of the House representing the Minister for Water Resources:

What are the water supply arrangements and costs applicable to people owning an Ocean Farm block at Lancelin?

Hon. D. K. DANS replied:

This information is not available as the water supply to lots in the Ocean Farm development has been arranged by the developer. This is a private water supply, and the Water Authority of Western Australia has not been involved in any way.

206 to 208. *Postponed.*

PLANNING

Victoria Park: Request

209. Hon. P. G. PENDAL, to the Minister for Employment and Training representing the Minister for Planning:

What has become of my request in question 860 for the Perth City Council town planning scheme for Victoria Park to be approved with the exception of the Shepperton Road strip?

Hon. PETER DOWDING replied:

I am advised that the Minister for Planning is presently considering a report and recommendation from the Metropolitan Region Planning Authority about the Shepperton Road amendment to the metropolitan region scheme. His early decision is expected, and, as a consequence, an amendment to the council's town planning scheme may not then be necessary.

210. *Postponed.*

CEMETERY

Pinnaroo Valley: Reserving

211. Hon. P. G. PENDAL, to the Attorney General representing the Minister for Local Government:

(1) When was the land at Pinnaroo Valley set aside for use as a cemetery?

(2) When was the area first used as a cemetery?

(3) Has any site for a future cemetery been chosen in the southern suburbs?

(4) If not, does this indicate that one is not needed?

(5) When is it estimated that Karrakatta and Fremantle cemeteries will have come to the end of their lives?

Hon. J. M. BERINSON replied:

(1) Pinnaroo Cemetery was proclaimed as a public cemetery on 18 May 1962.

(2) First used as a cemetery during May 1978.

(3) Two sites in the southern suburbs have been identified as suitable for public cemeteries, one being in Baldivis and the other being in Canning Vale. Neither site has yet been proclaimed as a public cemetery under the Cemeteries Act.

(4) Answered by (3).

(5) Karrakatta and Fremantle cemeteries have adequate land for new graves for 7 to 10 and 60 years respectively.

Both sites will be used for crematoriums and associated memorial gardens for the foreseeable future.

212. *Postponed.*

QUESTIONS WITHOUT NOTICE

COMMUNICATIONS

Television Programme: "Four Corners"

174. Hon. P. G. PENDAL, to the Attorney General:

(1) Has the Attorney General read the report in *The West Australian* of 24 September which dealt with the deaths of Western Australian Aborigines in custody and which says in part—

> Evidence given at inquests and trials was used to re-enact the final moments of the men?

(2) Does he recall that he has refused to provide a sexual assault victim from my electorate with the transcript of the trial dealing with the assault?

(3) Will he inquire into the reason that the "Four Corners" programme was given a transcript for its purposes while at the same time my constituent was not given a transcript for her purposes?

Hon. J. M. BERINSON replied:

(1) Yes.

(2) This part of the question refers to the request by Mrs Williams and it occurs to me that it may help to summarise

the issues involved in the general distribution of transcripts if I indicate to the House a summary of the reasons as advised to Mrs Williams direct.

In the course of a letter to Mrs Williams dated 9 September 1985 I summarised the relevant considerations as follows— .

1. The purpose of transcripts of courts proceedings is primarily to assist in the conduct of the trial, and for use on appeal where necessary.
2. Almost invariably, transcripts contain material which could be of personal or other embarrassment to parties, victims, witnesses, and even people who may not be directly related to the case at all.
3. In many cases, allegations are made which are not substantiated and which are not accepted by the jury or the court. It would be undesirable to give general circulation to such material, especially with the appearance of authenticity which an official record might give.
4. In the above circumstances, there is a necessary reluctance to make transcripts available unless a genuine and positive purpose can be identified.

The further advice I gave to Mrs Williams was as follows—

> The above, of course, represents the general policy only and this is not inflexible. Particularly where the request is from a victim this would receive sympathetic consideration within the general guidelines.
>
> In that context, I repeat my earlier invitation to you (or to your representatives, if you prefer) to peruse the transcript in my office with a view to indicating some useful purpose which might be served by its availability.

I conclude by again making clear that Mrs Williams has never been refused the transcript and I still do not take the position that she should not have it made available to her. The invitation remains open to her or her representatives to peruse the material and indicate some useful purpose to which she might put it.

(3) I am happy to make those inquiries.

COURT TRANSCRIPT

Provision: Mrs Williams

175. Hon. P. G. PENDAL, to the Attorney General:

> I thank the Attorney General for the answer to my previous question but advise him that I was aware of most of the information he gave. I ask—
>
> (1) Is it not a fact that the victim, while not being denied access to the transcript has, in fact, been denied access to a copy of it?
>
> (2) If so, can he inform the House the legal basis for that refusal?

Hon. J. M. BERINSON replied:

(1) and (2) Mrs Williams has not been refused access to a copy, either.

Hon. P. G. Pendal: I did not say that. I concede that she has been given every access, but she has been denied a copy of the transcript; and that is two different things.

Hon. J. M. BERINSON: I am saying that she has not been denied the transcript. The position is that availability of the transcript remains a possibility and will be pursued, given an indication from Mrs Williams after perusal of the document of some useful purpose which might be served by that.

COURT TRANSCRIPT

Provision: Mrs Williams

176. Hon. P. G. PENDAL, to the Attorney General:

> Can he inform the House of the legal basis for his refusal to provide a copy of the transcript for the lady in question for her own use?

Hon. J. M. BERINSON replied:

> What is being implemented in this case, as I understand it, is, as in all other cases both with this and previous Governments, a matter of administrative practice rather than of law.
>
> Perhaps the honourable member might assist by indicating what law to the contrary there is. My own understanding is that there is no law either

way—that it is a matter of administrative discretion based on long-standing practice by successive Governments and Attorneys on the same sort of general considerations as I have outlined to Mrs Williams previously and today to the House.

COURT TRANSCRIPTS

Provision: Public

177. Hon. P. G. PENDAL, to the Attorney General:

(1) Does not the transcript of the trial represent in the written form the words which are verbalised and which are heard by anyone attending a trial or by any member of the Press?

(2) If that is correct, could the Attorney General tell us the difference between the two and why the second is denied while in the first instance physical access to the court is not denied to members of the public and the Press?

Hon. J. M. BERINSON replied:

(1) Yes.

(2) Our courts are almost invariably open so that what goes on is known to representatives of the Press and any member of the public who is interested in attending. That is very different, though, from the circulation of material with the appearance of authenticity that a transcript of everything that was said in written form, could well attract. It will give an indication of the difference between the two to point out to the honourable member that in spite of the openness of our courts to the Press, media reports are in fact very limited.

COURT TRANSCRIPT

Provision: Mrs Williams

178. Hon. P. G. PENDAL, to the Attorney General:

Would the Attorney General be prepared to make available to this lady a copy of this transcript, minus any of the matters which during the trial the judge may have directed would not, and should not, be a matter for the public record?

Hon. J. M. BERINSON replied:

For the reasons which I have indicated, no.

COURT TRANSCRIPTS

Provision: Victims

179. Hon. P. G. PENDAL, to the Attorney General:

Since the Attorney General concedes it is a matter of policy and not a matter of law, has he consulted the Law Society on the practice that has been followed, as he has pointed out, undoubtedly by this and past Administrations? If he has not, would he be prepared to ask for the Law Society's views on whether a victim of a serious crime, such as in this case, should not only have access to the transcript but be given a copy as well?

Hon. J. M. BERINSON replied:

I have not consulted the Law Society in this matter and neither has the Law Society consulted me. The society has never been backward in raising matters of public interest which are involved in the administration of the law, and that is the reason for my indicating that there has been no communication between the Law Society and myself either way.

LAND: TRANSFERS ACT

Amendment: Provisions

180. Hon. I. G. MEDCALF, to the Attorney General:

With reference to the answer he gave to question 141 when I asked whether the Government intended to introduce a new Transfer of Land Act in the current session of Parliament, would he advise the House what new concepts, if any, are proposed to be included in the new Transfer of Land Act?

Hon. J. M. BERINSON replied:

I have a memory which is notorious for its inadequacy, and I confess that without a copy of the reply to question 141 I am unable to respond satisfactorily to this question. However, I believe the question was directed to the Minister for Lands and Surveys and was—

Hon. I. G. Medcalf: I thought you administered the Act.

Hon. J. M. BERINSON: The answer to question 141 correctly should have indicated that the answer was

provided by the Minister representing the Minister for Lands and Surveys. In fact, the Transfer of Land Act was passed to the Minister for Lands and Surveys something like 12 or 18 months ago. If the honourable member wants to put that question on notice I am quite happy to request further details from the Minister.

LAND: TRANSFERS ACT

Amendment: Provisions

181. Hon. I. G. MEDCALF, to the Attorney General:

(1) In view of the serious position disclosed by the fact that the Attorney General is no longer taking a personal interest in the Transfer of Land Act, which is, of course, an Act of acute legal significance, will he inquire as to what the Minister for Lands and Surveys is proposing to do to the Transfer of Land Act?

(2) What new concepts may be involved in the new Act?

(3) Why is the new Act necessary in view of the fact that many textbooks have been written on the Act and the principles are well understood by the legal profession and the public generally?

(4) Will he ensure that the modifications of the new Act do not introduce more legal problems than may exist at present?

Hon. J. M. BERINSON replied:

(1) to (4) When I receive a copy of those questions in written form I will certainly ensure that they are conveyed to the Minister for Lands and Surveys.

I thought Hon. Ian Medcalf was rather unkind to suggest that I would be paying no attention to it, but the member would understand at least as well as I, and perhaps better, that there is a difference between taking an interest in and being in charge of a piece of legislation.

POLICE

Buildings: Armadale

182. Hon. I. G. PRATT, to the Attorney General representing the Minister for Police and Emergency Services:

I have given telephone notice of these questions to the Minister for Police and Emergency Services—

(1) Is it a fact that a new police complex is to be built at Armadale?

(2) If the answer to (1) is "Yes"—

(i) on what site is the complex to be built;

(ii) what is the commencing date for construction?

(3) Is it a fact that a building on the site is occupied by the Armadale-Kelmscott Community Youth Support Scheme?

(4) What notice will the group be given to vacate the premises, and what action does the State Government intend taking to assist in the relocation of CYSS.

Hon. J. M. BERINSON replied:

The Minister for Police and Emergency Services has provided the following answers—

(1) A new police complex is proposed for Armadale and enjoys a good priority on the Police Department's 1985-86 capital works programme. Commencement, however, is subject to funding from the forthcoming Capital Works Budget.

(2) (i) A site comprising lots 14-16 Jull Street and Lots 22, 23, 38, and 39 Prospect Road;

(ii) answered by (1).

(3) The Armadale-Kelmscott CYSS occupies a building on Lot 39, Prospect road.

(4) Acquisition of the site is being attended to on behalf of the Commissioner of Police by the Under Secretary for Lands. It is suggested that this question be directed to the appropriate Minister.

MEMBERS OF PARLIAMENT

Disqualification Legislation: Origin

183. Hon. I. G. MEDCALF, to the Attorney General:

In view of the Attorney General's ministerial statement today on the subject of law reform, in which he indicated that legislation arising from 11 Law Reform Commission reports has in fact been based on those reports, is he not aware that the legislation described as the Acts Amendment and Repeal (Disqualification for Parliament) Act 1984 was not based

on the Law Reform Commission report No. 14 but upon the report of a Select Committee of the Parliament?

Hon. J. M. BERINSON replied:

On my recollection of the background, and I say this subject to checking and correction, a mix of proposals went into the final Bill, and my memory is that I was correct in saying that part of the mix came from the Law Reform Commission.

ADMINISTRATION AMENDMENT ACT 1984

Law Reform Commission Report

184. Hon. I. G. MEDCALF, to the Attorney General:

With further reference to the Attorney General's ministerial statement in which he indicated that the Administration Amendment Act of 1984 was based on a report of the Law Reform Commission in May 1973, clearly giving the impression that no action had been taken on the report, is he not aware that a number of the recommendations of the report had already been the subject of legislation passed by this Parliament?

Hon. J. M. BERINSON replied:

Yes, I am aware of that, and this ministerial statement was made to indicate that the Act of 1984 constituted an additional aspect of the implementation of that report.

TRAFFIC ACCIDENTS

Fatal: Legislation

185. Hon. I. G. MEDCALF, to the Attorney General:

Arising from the Attorney General's ministerial statement, is he not aware that the report of the Law Reform Commission of December 1978 with regard to fatal accidents legislation had already been considered by the previous Government, and was the subject of a Cabinet decision and instructions to Parliamentary Counsel before the last Government went out of office?

Hon. J. M. BERINSON replied:

I am aware that previous Governments have considered all manner of things. The significance of my statement on these and other occasions in respect of Law Reform Commission reports is that the present Government has shown an unprecedented concern for actually getting things done. By that I mean it has gone beyond the stage of consideration and/or acceptance and/or instructions for drafting, by bringing matters to the stage of actual legislation before this Parliament, and enactment.

ABSCONDING DEBTORS ACT

Law Reform Commission Report

186. Hon. I. G. MEDCALF, to the Attorney General:

Perhaps I can bring matters a little more up to date and ask whether the Attorney General is aware that in connection with the report of the Law Reform Commission in November 1981 on the Absconding Debtors Act, the previous Government had not only made a decision to implement the report and instructed Parliamentary Counsel, but had also indeed approved legislation virtually identical to that which the Attorney General introduced into this House?

Hon. J. M. BERINSON replied:

On the spur of the moment I am unable to confirm that. I am not, without further checking, aware of it. Nonetheless I accept the member's implication that that was the case, and I congratulate the past Government on having brought matters to that stage. I can only regret that in that other cases the previous Government was unable to reach the stage of introducing legislation to the Parliament and having it passed in the way we have done.

COMMERCIAL ARBITRATION ACT

Law Reform Commission Report

187. Hon. I. G. MEDCALF, to the Attorney General:

With reference to the comment appearing in the Attorney General's ministerial statement that certain legislation had arisen from certain Law Reform Commission reports, does he still maintain that the Commercial Arbitration Act of 1985 arose from the report of the Law Reform Commission of January 1974, in view of the fact that the Parliamentary

Counsel's committee of the Attorneys General's conference had, in fact, prepared uniform legislation, and the Commercial Arbitration Act of 1985 was that uniform legislation?

Hon. J. M. BERINSON replied:

The question of Law Reform Commission reports involves a number of considerations. The important issue at each stage is to make a decision on relevant action. By that I mean that it is a perfectly proper result of Government consideration of a Law Reform Commission report that a decision should be made not to implement it. I would expect Hon. Ian Medcalf to agree with that.

Similarly, it is perfectly proper to implement parts of the Law Reform Commission report or to implement recommendations of the commission in a modified form.

While the Commercial Arbitration Act was an exercise by the Standing Committee of Attorneys General directed to uniform legislation, so far as I can see that does not detract from the relevance of that Act to the Law Reform Commission report.

DIVIDING FENCES ACT

Law Reform Commission Report

188. Hon. I. G. MEDCALF, to the Attorney General:

With reference to the Attorney General's comment in his ministerial statement that Law Reform Commission reports on certain matters are under active consideration, would he advise the House what stage the active consideration has reached in relation to report No. 33 on dividing fences?

Hon. J. M. BERINSON replied:

In the course of attempting to expedite consideration of Law Reform Commission reports, it has been necessary to set out some sort of priority. I cannot go beyond saying that the dividing fences report is under active consideration. It will be self-evident from that that legislation on this report cannot be expected this year; but beyond that I am unable to speak in terms of definite timetables.

HIGHWAYS (LIABILITY FOR STRAYING ANIMALS) ACT

Law Reform Commission Report

189. Hon. I. G. MEDCALF, to the Attorney General:

Is the Attorney General able to advise the House what is the present status of the Government's active consideration of Law Reform Commission report No. 62 on the liability of highway authorities for nonfeasance?

Hon. J. M. BERINSON replied:

This matter did reach the stage of preliminary Cabinet discussion. It was subsequently followed by a meeting which I had with the local government associations, when some serious reservations were expressed. After quite lengthy and constructive discussion with the associations it appeared to me that further consultation would be substantially assisted if, rather than speaking in generalities, we were in a position to get to work on an actual draft Bill.

Therefore, I undertook to the local government associations that I would have a draft Bill prepared and submitted for further discussion with them in advance of any further Government consideration. The difficulty in meeting that undertaking has arisen from the great pressure on Parliamentary Counsel's office. It has not been possible to get a sufficient priority for the relevant drafting work to allow further consultation in the current session of Parliament.

Action will now have to await some relaxation of the pressures on Parliamentary Counsel, and that will no doubt come about at the end of this session. I look towards taking this proposition further at that time.

PROBATE GRANTS

Interstate: Law Reform Commission Report

190. Hon. I. G. MEDCALF, to the Attorney General:

(1) With further reference to his ministerial statement of today wherein he said—

The report on interstate grants of probate is under consideration by

the Standing Committee of Attorneys General.

would he be good enough to indicate how long he thinks it may be before there will be an outcome from the meeting of the Standing Committee of Attorneys General so that uniform legislation will be brought in throughout Australia?

(2) If, as I suspect, it may take some years, is he prepared to look into the question of introducing legislation in Western Australia, which is quite feasible, irrespective of the other States as this does not have to be a uniform exercise, in order to reduce the expenses and costs which local people have to pay in relation to probates and administrations?

Hon. J. M. BERINSON replied:

(1) and (2) In a way, I am very sad to see Hon. Ian Medcalf descend into asking rhetorical questions. He would know better than I would when the Standing Committee of Attorneys General might conclude their considerations on any matter at all.

Hon. I. G. Medcalf: I knew the answer to that.

Hon. J. M. BERINSON: It is really asking for the impossible. Of course he knew the answer to it, and I know he knows the answer to that question. My answer is that I do not know, although I am inclined to suspect that the member is quite right in suggesting that the delay might be considerable.

Hon. I. G. Medcalf: I said it may be some years.

Hon. J. M. BERINSON: Yes, and I think the member is right in that respect too. The member went on to ask whether in view of the possibility or likelihood of delays in respect of uniform legislation I would be prepared to put this matter for consideration by the State Government alone. That in fact has already been done.

CROWN LAW DEPARTMENT

Crown Solicitor's Office: Policy and Law Reform Section

191. Hon. I. G. MEDCALF, to the Attorney General:

Arising out of his ministerial statement, and with reference to his comments that the Government has established a policy and law reform section within the Crown Solicitor's office—which of course is to be applauded—particularly in regard to his further comment that—

> . . . the section is to be staffed by existing personnel and no new positions have been created

is he not aware that new positions were created in this office some three years ago in order to to carry out this precise work?

Hon. J. M. BERINSON replied:

If that were the case, I can only surmise that the office was then detoured from sufficient application to its work to produce the sort of results that we have in fact now produced.

STRATA TITLES ACT

Corporate Bodies: Minutes

192. Hon. P. H. WELLS, to the Attorney General:

My question is in connection with the Strata Titles Act and the requirement for corporate bodies to provide a copy of minutes of their annual general meetings and submit it to that office.

(1) What will the Government do with the 10 000 to 20 000 reports it will receive?

(2) Is he aware that in many cases corporate bodies, particularly those in duplexes, have no business to transact and therefore they will submit nil reports, and that it is utter nonsense to have to submit a nil report to the Government as required by the Act?

Hon. P. G. Pendal: A bit of law reform!

Hon. J. M. BERINSON replied:

(1) and (2) I would hate the impression to be given on any occasion on which a member of the Opposition proposed to ask me a question that I had arranged to have the Act transferred to another Minister, but the fact is that, as with the Transfer of Land Act, the Strata Titles Act does not fall within my ministerial responsibility but within the responsibility of the Minister for Lands and Surveys.

I therefore ask that this question be put on notice.

PAWNBROKERS ACT

Sunset Clause

193. Hon. D. J. WORDSWORTH, to the Attorney General:

Referring to his ministerial statement—

Hon. J. M. Berinson: Yes, I am responsible for it.

Hon. D. J. WORDSWORTH: While he is basking in the glory of it, does he recall that he assured the House, when handling the Pawnbrokers Amendment Bill 1984, which was emasculated by his colleague, the Minister next to him, that an entirely new Bill would be before the Chamber within 12 months, and that on that basis this House built into the previous amendment a sunset clause which will expire in December? Should he read the Law Reform Commission report he will find that it points out that the sunset clause will expire in December this year.

Hon. J. M. BERINSON replied:

I suppose all sessions of questions without notice have their peculiarities, but I confess I have never faced a session of them in which I have been asked questions on so many matters which are not related to my responsibility.

Hon. P. G. Pendal: It is just that we thought we would try you on those because you cannot answer the ones that are related to it!

Hon. J. M. BERINSON: I thought I did reasonably well on the ones that are related to my portfolio, though I do have a certain biased attitude in that respect.

While the reference to the Law Reform Commission on the Pawnbrokers Act certainly came through my office, due to the connection of the Law Reform Commission with the Attorney General, the Act even at that time was the responsibility of the Minister for Consumer Affairs and it remains his responsibility—not that I would suggest that any delay in implementation could be ascribed to him. Anything that happens in respect of that Act, with such a fine Minister in charge of it, would be well justified; but the fact remains that I am unable to go beyond that statement. Perhaps the member would like to redirect his questions to the responsible Minister.

Hon. P. G. Pendal: You dropped your bundle.

The PRESIDENT: Order! We are dealing with questions without notice, not general discussions.

PAWNBROKERS ACT

Amendment

194. Hon. D. J. WORDSWORTH, to the Minister for Consumer Affairs:

Could he inform the House and the Attorney General how he is getting on with the Pawnbrokers Act, and whether indeed he will bring before the House a new Bill replacing that Act by the time we rise this year and before the sunset clause expires?

Hon. PETER DOWDING replied:

The matter is under consideration.

LIQUOR

Licensing Court: Returns

195. Hon. P. H. LOCKYER, to the Minister for Racing and Gaming:

(1) Is the Minister aware that several liquor outlets, including hotels and the old commissioned, licensed stores, are most insulted about the returns that must be submitted to the Licensing Court?

(2) If he is so aware, is he taking some steps to cut down on what seems to be an enormous amount of paper work for these people?

Hon. N. F. Moore: Good question!

HON. D. K. DANS replied:

(1) and (2) I am taking no steps at this stage to cut down on what appears to be an unnecessary amount of paper work. I am having a full investigation undertaken by the department.

MINISTER OF THE CROWN: LEADER OF THE HOUSE

Crystal Ball

196. Hon. P. H. WELLS, to the Leader of the House:

I refer the Leader of the House to a photograph of him recently appearing with a gypsy and a crystal ball and his statement that he would like to have a crystal ball.

(1) Has the Leader House obtained a crystal ball?

(2) If he had his future told, what was he told?

Hon. D. K. DANS replied:

(1) and (2) I said in that statement that I would like to have a crystal ball of my own as a politician, not as a Minister, because we are often called upon to make quick predictions about the future. If I had that ball perhaps my predictions might be more accurate.

LIQUOR

Licensing Court: Inquiry

197. Hon. P. H. LOCKYER, to the Minister for Racing and Gaming:

(1) Could the Minister enlighten the House as to when he expects the investigations into the Licensing Court problems to be completed?

(2) Will the chairman of that investigation report directly to the Minister or to the Licensing Court?

Hon. D. K. DANS replied:

(1) and (2) Unfortunately, I gave the crystal ball away. I do not know the answer. The investigation is being conducted by the head of the department. When his report is completed, it will be submitted to me.

HOMOSEXUALITY

Crawley "Beat": Police Check

198. Hon. P. H. WELLS, to the Leader of the House:

(1) Did the Minister arrange with a policeman in his office this morning to communicate with police officers to check on the homosexual beat at Crawley?

(2) What was the answer he received?

Hon. D. K. DANS replied:

(1) and (2) The inspector of police is from the Fraud Squad and is not connected with the internationally known homosexual beat outside the university.

UNION

Australasian Meat Industry Employees Union: Industrial Action

199. Hon. G. E. MASTERS, to the Minister for Industrial Relations:

I refer to the question asked by Hon. Tom Knight, and the answer given by the Minister yesterday, concerning the Australasian Meat Industry Employees Union's plan for a series of one-day disputes in Western Australia and throughout Australia.

(1) Has the Minister been made aware of the circumstances of the dispute?

(2) If so, what action has he taken in an endeavour to avoid the stoppages which have been predicted?

Hon. PETER DOWDING replied:

(1) and (2) I have seen a Press report today of the proposal. I have not taken any action. I remind Hon. Gordon Masters that I have said in this House often enough that the Government does not have a Minister to act as a sort of industrial superman who hops into the nearest telephone booth when he is alerted to problems in the industrial arena and emerge as a super IRO. I have also told him often enough that one does not solve industrial disputation by making public utterances in this House or anywhere else. I think the combination of those two propositions gives him enough of an answer to satisfy him.

UNION

Australasian Meat Industry Employees Union: Industrial Action

200. Hon. G. E. MASTERS, to the Minister for Industrial Relations:

No, I am not satisfied and, no, I do not know whether he has taken any action or not. Will the Minister, in view of the seriousness of the stoppages and their effects on the farming and meat processing industries under-

take to have discussions with the secretary of the Australasian Meat Industry Employees Union in Western Australia, his friend Alex Payne, in an endeavour to persuade that union not to proceed with the stoppages?

Hon. PETER DOWDING replied:

I will give the matter consideration.

UNION

Australasian Meat Industry Employees Union: Industrial Action

201. Hon. G. E. MASTERS, to the Minister for Industrial Relations:

(1) Does the Minister support the reason for the stoppages?

(2) If not, will he agree that section 45D of the Trade Practices Act in the Mudginberri dispute, which is the cause for the stoppage, was properly used in the circumstances?

Hon. PETER DOWDING replied:

(1) and (2) I have made it clear, as my party has made it clear at a State and Federal level, that we do not see section 45D as playing a role in solving industrial disputations. Time after time we have to remind the Opposition that when industrial relations are managed in the way that we manage them, the results speak for themselves. As a result of our management of industrial disputes we have the lowest level of industrial disputation in Australia for 17 years.

ABATTOIR: MUDGINBERRI

Dispute: Trade Practices Act

202. Hon. G. E. MASTERS, to the Minister for Industrial Relations:

The Minister's reputation has become rapidly tarnished over recent weeks.

Does the Minister agree that the use of section 45D of the Trade Practices Act has brought a halt to the Mudginberri dispute?

Hon. PETER DOWDING replied:

I do not accept the Leader of the Opposition's assertion. If he wants to use question time to elicit information from the Government, he should use it for that purpose. I reject the assertion absolutely.

ABATTOIRS

Australian Meat Corporation: Japanese Promotion

203. Hon. D. J. WORDSWORTH, to the Minister for Industrial Relations:

Is the Minister aware that the Australian Meat Corporation is holding a major promotional campaign in Japan and that, at the height of the advertising campaign, no meat is available because of the current strike?

Hon. PETER DOWDING replied:

I am not aware of that.

POLICE: FIREARMS

Crossbows: Sale

204. Hon. I. G. PRATT, to the Minister for Consumer Affairs:

What stage has the Minister reached in placing restrictions on the sale of crossbows?

Hon. PETER DOWDING replied:

I indicated about 10 days ago that the matter was under consideration.

ABATTOIRS

Meat Commission: Brand-changing Scheme

205. Hon. D. K. DANS (Leader of the House):

I wish to give an explanation with respect to an answer given yesterday. On behalf of the Minister for Police and Emergency Services I now clarify that answer. I refer to a question without notice asked by Hon. P. G. Pendal. The wrong placement of a comma in part (3) of the prepared answer may have given a wrong impression. Part (3) should have read—

> Yes in some instances, in a bona fide capacity.

That is, some of the cattle were received by the Western Australian Meat Commission while acting in good faith.