

# Legislative Council

Thursday, 18 October 1990

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

## STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

### *Report Tabling - Appointment of Proxies*

HON E.J. CHARLTON (Agricultural) [2.33 pm] - by leave: I am directed to report that the Standing Committee has resolved that I seek leave for members of the committee to appoint proxy members to replace them on the committee for the duration of its consideration of the Estimates. The committee further resolved that any proxies so appointed be appointed by the committee member to be replaced and such appointments be advised to the chairman of the committee.

The reason for the tabling of this report is that next week during the consideration of the Estimates the 11 appointed members will split up into three committees to deliberate upon the areas of responsibility of the three Ministers in this House. We intend that any member of those subcommittees will have the opportunity to appoint a proxy for himself. That is the simple exercise which is a resolution made by the full Estimates Committee at a meeting this morning. The committee requires the support of the House in adopting this resolution.

I move -

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

[See paper No 632.]

The PRESIDENT: Before putting the question, I indicate that the report seeks leave for members of the committee to appoint proxy members. I advise the House that in this place seeking leave is a circumstance whereby a single dissenting voice can preclude leave from being granted. To use that terminology with this report, and then to move that the report do lie upon the Table and be adopted is a contradiction of situations. However, I will not make an issue of this. I suggest that committees in future should consider this. I do not believe that the honourable member intended that the situation should apply by which a single dissenting voice could preclude the motion. I am disturbed by the wording of the motion, but I will not take issue with it.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [2.41 pm]: I support the motion of the leader of the National Party, but in so doing I make it clear that this is the first year in which the Standing Committee on Estimates and Financial Operations will operate. It has been broken into three separate subcommittees and, as the leader of the National Party has explained, there is a need for members of the Estimates Committee to be able to move from one subcommittee to another.

While I support the comments of the leader of the National Party - the leader of the National Party, the Leader of the House and I have had preliminary discussions on this matter - I make it clear to the House that we are still very much in an experimental phase. I am pleased that the motion by the leader of the National Party is for the duration of the consideration of the Estimates because I expect that, after the Estimates have been considered and the Estimates Committee has reported to the House, we will be able to determine whether this year's format is the correct format and whether there is any need for change.

It is important to note that the motion before the House does not extend to any other committee. It is restricted entirely to the Estimates Committee. In that case, I offer the support of the Liberal Party.

Question put and passed.

## STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

### *Hon Tom Stephens - Resignation*

THE PRESIDENT (Hon Clive Griffiths): I have received a letter from Hon Tom Stephens, MLC, which reads -

Dear Mr President

I hereby submit my resignation as a Member of the Standing Committee on the Estimates and Financial Operations.

I submit this resignation with regret due to unexpected additional duties.

Yours sincerely

TOM STEPHENS, MLC

MEMBER FOR MINING AND PASTORAL REGION

It is necessary for me to call for nominations for somebody to fill the vacancy.

*Hon Tom Helm - Appointment*

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

That Hon Tom Helm be elected to fill the vacancy.

### ACTS AMENDMENT (BETTING TAX AND STAMP DUTY) BILL

#### *Receipt*

Bill received from the Assembly.

#### *First Reading - Disallowed*

**THE PRESIDENT** (Hon Clive Griffiths): I am not prepared to allow this Bill to proceed to a first reading for the following reason: The title of the Bill states that it is one to amend certain Acts "in relation to betting". One of the Acts proposed to be amended is the Bookmakers Betting Tax Act. The title of that Act commences -

An Act to Impose a Tax on Money Paid or Promised as the Consideration for Bets made by or on behalf of Bookmakers.

Part 3 of the Bill received from the Assembly purports to repeal the substantive provisions of section 2 of the parent Act and substitute for them a flat rate of tax calculated on ascertainable criteria. Effectively, the Bill proposes a tax.

Subsection (7) of section 46 of the Constitutions Acts Amendment Act provides that Bills imposing a tax must impose the tax and no more; that is, "tacking" is prohibited. The Bill now before the House deals with a number of matters over and above the imposition of the tax under part 3. Accordingly, I have no option but to direct that the Bill not proceed further.

### ACTS AMENDMENT (PARLIAMENTARY SECRETARIES) BILL

#### *Receipt and First Reading*

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

### MOTION - MOTOR VEHICLE REGISTRATION POWERS

#### *State-Federal Transfer Opposition*

**HON R.G. PIKE** (North Metropolitan) [2.48 pm]: I move -

That this House hereby informs the Governments of the State and Commonwealth that it will decline to pass any legislation that transfers any or all aspects of motor vehicle licensing to the Commonwealth from the State.

I draw the attention of the House to a *Sydney Morning Herald* front page article dated 9 October, nine days ago. The article states in part -

The Federal Government is preparing a long shopping list of major reforms, including forcibly taking over the States' vehicle registration powers, to be presented to Premiers at this month's Special Premiers' conference.

The Federal Minister for Land Transport, Mr Brown, recommended to Cabinet yesterday that the Government consider withholding part of its \$1.6 billion annual roads funding from States which refuse to transfer their vehicle registration powers to the Commonwealth.

Members should note the following well -

He also suggested that if necessary the Government could use its constitutional powers to wrest the registration powers away from the States.

Later on in the same article the following statement is made -

The Prime Minister is expected to talk to each of the Premiers this week in an attempt to get broad agreement in regard to this historic conference.

That is the end of the article. Next Sunday we shall celebrate 100 years of self-government in Western Australia from 1890 to 1990. If this bloody-minded, hatchet operation by the Federal Government - under both Liberal and Labor Administrations, lest members opposite think I am being totally partisan in this matter - continues down the road of gelding the States of their real powers, within 10 years - certainly 20 years at most - this State Parliament will preside over precisely nothing, because systematically the taxing powers of the States were taken during the second World War so that they have only a residual power which they do not use. Under John Gorton the submerged lands Act was enacted as a consequence of a High Court decision. We are now looking absolutely in the face of the transfer of vehicle licensing to the Commonwealth with its normal Big Brother threat; that is, if the State does not do what the Commonwealth wants it will browbeat the State with its finance powers. We all saw an example of this bloody-minded Minister Brown not too long ago displaying the disposition of a runaway circular saw when he told the Minister for Police in this place, who had hitherto quite objectively said that he would oppose a reduction in the legal blood alcohol content from 0.08 to 0.05.

Hon Graham Edwards: Are you quoting me, Mr Pike?

Hon R.G. PIKE: The Minister for Police can have his turn in a minute. The facts speak for themselves.

Hon Graham Edwards: Identify where the quote comes from, because you are wrong.

Hon R.G. PIKE: The facts of the matter are that the record speaks for itself. If the Minister wishes to deny that was clearly the intent of his statement, I am happy for him to do so and I will produce the record and show a different story. In the meantime I advise him that a loud, rude interjection is no substitute for the facts.

Several members interjected.

Hon R.G. PIKE: I have a slight cold and I do not want to have to raise my voice in order to cater for the yahoos opposite, but I can assure members opposite that I will do so if it is necessary.

The PRESIDENT: Order! I do not know what has happened overnight, but when I call for order it means that everybody must keep quiet. I suggest that they stop their unruly interjections. I have said very many times before that members are not required to like what the member on his feet says in this place, but they must listen to what is said. They can rest in the knowledge that I also must listen. If I must listen to what is said, I want to hear it. I suggest that the members keep a hold on themselves and they will have an opportunity to speak in a minute.

Hon R.G. PIKE: I go on to make the point that when the Labor Government reversed its initial stand with regard to the 0.05 and 0.08 debacle, it was done as a consequence of the bloody-minded imposition by Federal Minister Brown of the money power of the Federal Government. I was fair enough to point out that hitherto Federal Liberal Governments have done the same, but the end result is that the powers of the States vis a vis the powers of the Commonwealth are very severely eroded. We know that interpretations made by High Court judges appointed by Federal Governments over the years have also gelded the rights of the States, and that the foreign affairs powers interpretation, if given its most liberal interpretation, could do likewise.

I have a list of the powers that have gone, which are income tax, and power over the offshore minerals - which is covered by the submerged lands Act. That has been given back temporarily. Those powers which are going relate to vehicle licensing and corporate affairs. We know, as the Attorney General knows, that corporate affairs is very much to the forefront in this Parliament and in the Commonwealth at the moment. I detour for a moment to say

that the Attorney General - I have said this before and the Attorney General may notice that I have not changed *Hansard* - put up a valiant fight on behalf of Western Australian State rights and the businessmen in this State for the retention of corporate affairs powers. That was commendable although I think that laterly he is being overpowered. I go on record as saying that in the face of this bloody-minded attempt by Brown to take an amount of \$162.2 million a year - which in this present Budget is the amount we shall receive from vehicle licensing - and to transfer it to the coffers of the Commonwealth Government by threatening, as he is, either to withhold the sum of \$1.6 billion in petrol funding and/or to use the Commonwealth Government's nebulous constitutional powers, goes beyond the pale.

I am very critical of Minister Beggs because it is nine days since Brown made this statement as documented and there has been absolute silence from the Minister. She is an incompetent, inefficient Minister because on the one hand -

Hon Graham Edwards: Now we have the truth. You are not after a bipartisan approach on anything; you just want to play politics. It is just another stunt.

Hon R.G. PIKE: Either on the one hand she is dedicated to the socialist, centralist control which we know emanates from Canberra - evident in the transfer of the corporate affairs and vehicle licensing powers - and by her silence, unlike the Attorney General in this place who put up a valiant fight, she stands condemned that she is happy to see \$162 million and control of vehicle licensing transferred from the State to the Commonwealth, or -

Hon Graham Edwards: Where has it come from?

Hon R.G. PIKE: If the Minister will listen and realise that a loud voice is no substitute for logic, he may get somewhere.

Hon J.M. Berinson: You agree that the income tax power is probably the most serious of all the matters you have listed.

Hon R.G. PIKE: I will come back to that.

Hon J.M. Berinson: You will concede also that that transfer was entrenched under a Liberal Government?

Hon R.G. PIKE: The answer to that question is that income tax powers were taken by John Curtin as a wartime emergency measure at the time of the second World War.

Hon J.M. Berinson: Those powers lapsed.

The PRESIDENT: Order! I will not tolerate the interjections and I certainly will not tolerate a private little argument between Hon Robert Pike and anybody else who wants to argue with him. The member is moving a motion that has nothing to do with the Income Tax Act or whether it was a wartime measure or some other measure. I suggest that members stop their interjecting because in half an hour we shall run out of the time available to debate motions. I suggest that may not be a bad thing anyway. Members should stop carrying on private conversations.

Hon R.G. PIKE: I continue to make the point that I am dealing with a summary of the powers that have gone, which include income tax power and the power over sea and submerged lands, and the powers that are going, which include vehicle licensing and corporate affairs.

The next list is the powers that are threatened; that is, local government, education and the environment.

On Sunday we will celebrate 100 years of autonomous or self-government in Western Australia, but I put it to members that, while this State will continue in name to have self-government, within 10 years, and certainly within 20 years, we will have a State Parliament with gelded powers. Members will be sitting here, telling each other how good or bad they are, but they will have no real power because a succession of Commonwealth High Court interpretations of the Constitution and a succession of Federal Liberal and Labor Governments have so bastardised the Constitution that members of this Parliament will be presiding over nothing.

A voice must be raised to point this out at a time when Federal Minister Brown has said in the plainest possible language that he will transfer to the Commonwealth the State's

\$162 million revenue from vehicle licensing fees. That takes me to the fairness of the proposition, and I point out to members that when the petrol tax was introduced into this country almost the totality of that revenue, less administration costs of five or six per cent of a dollar, was used for roads and services. The Commonwealth now takes 32¢ from every litre of fuel sold in Australia, yet returns to road funding only a miserly 5.8¢ per litre. This translates to 18 per cent for road funding and 82 per cent into the Commonwealth Government's coffers for general revenue.

The nub of the matter is whether it is desirable for this House to determine that the Government be told and the Commonwealth be informed that this House will not pass any legislation which will enable the transfer to the Commonwealth of this State's undoubted vehicle licensing powers.

Hon E.J. Charlton: What is more, Mr Pike, tell members that the money will be redistributed over east for the Commonwealth's own decision-making purposes.

Hon R.G. PIKE: Just as the fuel levy revenue has, so also would this be the case.

This situation parallels what has happened with corporate affairs. Tony Hartnell and the Commonwealth Government have tried to sell to us the perception that if the Commonwealth administers something it will be bigger, better and brighter than anything the States can administer. The truth is that anything the Commonwealth does is simply more expensive. It is proposed to transfer control of corporate affairs to Canberra. That will not lead to greater efficiency. The Federal Police are administered from Canberra. Some time ago the man who was No 2 in the Federal Police was murdered, and the police are no closer to finding out who murdered him. So we cannot simply predicate actions on the view that somehow or other the Commonwealth can do things better than the States. I am sure the Attorney General will agree with me, because we know that the States are better able to administer corporate affairs.

It is important that the Premier of this State and the Prime Minister be informed of the problems I refer to. It is important to keep in mind every time there is a problem that the essence of centralised Government is to create and exacerbate a problem and then demand the power to solve it. The end result is that unless in a Federal system such as ours we have multiple centres of economic power, with real influence and income sources, we will never protect democracy, because the real protection of democracy is the powerful dissemination of real financial force. If we do not have economic freedom we will never have political freedom. Likewise, if this State does not retain control of vehicle licensing, its power and authority will be diminished. Therefore, if we do not prevent the State of Western Australia from being beggared by the action of the Commonwealth in proposing to compulsorily take over those vehicle licensing powers, this State will have no real power or authority in what should be a true federation but which is rapidly becoming a centralist Government.

I conclude by repeating - because I was interrupted by the Attorney General, and he may be hoping I will miss the point - that Minister Beggs stands condemned, first, for her silence for nine days following this draconian announcement by Federal Minister Brown, who displays the disposition of a runaway circular saw carving up States' powers. Minister Beggs' silence means either that she totally supports the socialist concept of centralised control from Canberra or that she is so absolutely incompetent and inefficient that, unlike the Attorney General in this place, who has taken the proper action on the question of corporate affairs, she does not even know about this proposal. Either way she stands condemned.

The real issue in this matter is both Whitlam and Hawke, and the philosophy of the Labor Party.

Hon Tom Stephens: Fraser was not a bad centralist either.

Hon R.G. PIKE: Whitlam with his new federalism proposed the escalation of the powers of local government, the creation of massive regional governments, and of course the eventual moving sideways of the States; and he proceeded to implement that. It is not without significance that at a referendum the people of Australia rejected the proposition that local government come within the orbit of the Commonwealth of Australia. It is not without significance that there is a Federal Minister for Local Government - which has no business being within the sphere of the Commonwealth. It is also not without significance that at that time the Western Australian Liberal Party was the only party, and I include all other State

Liberal parties, which proposed opposition to that part of the referendum. Hawke in his Boyer Lectures proposed the total elimination of the States and the enhancement of the power of local government.

So while members may think this is not a particularly interesting subject, the real issue is that if this State Parliament does not direct its attention to the issue of the loss of its powers then that which may appear to be flippant and superfluous to members at present will become such a reality that within two decades - and probably one - there will be no need for members of the upper House of the Parliament of Western Australia, nor, for that matter, of the lower House. The issue is that a Federal Minister has proposed, in a bloody-minded and threatening way, to transfer to the Commonwealth the vehicle licensing powers of the States. The penalty for our non-compliance will be the withholding of part of the distribution of the \$1.6 million for road funding, or alternatively the removal of the States' power to register vehicles.

I remind members again of the incompetence and inefficiency of Minister Beggs and the absolute silence of our present Joan of Arc Premier, Carmen Lawrence, in allowing this to pass without their raising a voice against it, contrary to the proper action of the Attorney General, who has, in a limited way, defended the right of the State in respect of the transfer of corporate affairs powers. In case members opposite say I do not know what I am talking about in regard to the inactivity of the Premier, she likewise, if properly informed by her Minister, should be aware that nine days ago Federal Minister Brown proposed the compulsory transfer of vehicle licensing fees from the State to the Commonwealth, yet what we have from the Premier and Minister Beggs is a deafening silence. I ask the House to support the motion.

Debate adjourned, on motion by Hon Doug Wenn.

### DAYLIGHT SAVING BILL

*Leave to Introduce - Denied*

HON J.M. BERINSON (North Metropolitan - Leader of the House) [3.11 pm]: I move -

That leave be given to introduce a Bill relating to daylight saving.

The PRESIDENT: Order! Honourable members should come to order. One of the prerequisites to debate in this place is to be present. If members do not come to order, some of them will not be present.

Question put and a division taken with the following result -

#### Ayes (13)

Hon J.M. Berinson  
Hon J.M. Brown  
Hon Cheryl Davenport  
Hon Graham Edwards  
Hon John Halden

Hon Kay Hallahan  
Hon Tom Helm  
Hon B.L. Jones  
Hon Garry Kelly  
Hon Mark Nevill

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

#### Noes (14)

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

Hon Barry House  
Hon Murray Montgomery  
Hon N.F. Moore  
Hon P.G. Pandal  
Hon R.G. Pike

Hon W.N. Stretch  
Hon Derrick Tomlinson  
Hon D.J. Wordsworth  
Hon Margaret McAleer  
(Teller)

#### Pairs

Hon T.G. Butler  
Hon Tom Stephens  
Hon Bob Thomas

Hon Peter Foss  
Hon Muriel Patterson  
Hon P.H. Lockyer

Question thus negatived.

**ACTS AMENDMENT (PARLIAMENTARY SECRETARIES) BILL***Second Reading*

**HON J.M. BERINSON** (North Metropolitan - Leader of the House) [3.15 pm]: I move -

That the Bill be now read a second time.

Earlier this year, when the Government moved to appoint Parliamentary Secretaries, the President of the Legislative Council ruled that it was inconsistent with the principles of constitutionally responsible Government because only a Minister may take responsibility for the carriage of Government legislation. The Legislative Council referred the matter to its Standing Orders Committee, which reported in July. The committee recommended the following -

That legislation be introduced to repeal and re-enact section 44A of the Constitution Acts Amendment Act 1899 to enable the appointment of Ministers of the Crown under the title of "Parliamentary Secretary" who are not entitled to remuneration as a Minister but are nonetheless eligible, at the Premier's discretion, to receive expense of office allowances at rates fixed by the Salaries and Allowances Tribunal.

The Acts Amendment (Parliamentary Secretaries) Bill has been drafted along the lines of the recommendation and seeks to amend the Constitution Acts Amendment Act 1899 and the Salaries and Allowances Act 1975. The proposal before the House replaces the present provision for appointment of "Honorary Ministers" in section 44A of the Constitution Acts Amendment Act, with a provision for the appointment of "Parliamentary Secretaries", who will not be Ministers.

There are several reasons for the change from honorary Minister to Parliamentary Secretary: The Government wishes to provide the required constitutional support for assistance to Ministers in the conduct of their work in Parliament and elsewhere, but wishes to make such a provision without unnecessary expense and without addition to the Cabinet. While the appointment of an honorary Minister, as authorised by existing legislation, would avoid the expense of a Minister's salary, it would not avoid the larger expense of the accompanying office and staff. Previous appointments to the office of honorary Minister have generally been associated with plans for a subsequent increase in the number of Ministers. In the past, honorary Ministers have been appointed as members of Executive Council and have been entitled to allowances and benefits similar to Ministers.

**The PRESIDENT:** Order! These audible conversations are out of order. I will not warn members again. If members want to carry on audible conversations, I can give them an absolute guarantee they will have all afternoon to do that, and it will not be in this House.

**Hon J.M. BERINSON:** Clearly, the arrangements associated with the appointment of honorary Ministers are unsatisfactory to the Government, which has deliberately reduced the Ministry from 17 to 16 members.

The intended functions of a Parliamentary Secretary are to assist in the carriage of Government Bills and other business of the relevant Minister, or as required by the Premier; to assist in the performance of official duties as required by the relevant Minister; and to do things that are incidental to these functions. Parliamentary Secretaries will be open to questions on legislation of which they have charge, but it will continue to be necessary to direct all other questions to the relevant Minister. The original intention to appoint three Government members of the Legislative Council to the proposed office of Parliamentary Secretary remains. The new Parliamentary Secretaries will work within the offices of existing Ministers.

Proposed amendments to the Salaries and Allowances Act are consequential to the amendment to section 44A of the Constitution Acts Amendment Act. The Bill provides that, if the Premier approves, the payment of an allowance can be made to a Parliamentary Secretary. Allowance is defined to mean payment for expenses incurred by people in performing the functions of Parliamentary Secretary and would be determined by the Salaries and Allowances Tribunal. However, it is intended that expenses attributable to a Parliamentary Secretary will be met from within the present Budget allocation to operate the relevant Minister's office.

The report by the Standing Orders Committee of the Legislative Council included a draft Bill

prepared by the Clerk of the Council. A proposal in that draft prevented the appointment of Parliamentary Secretaries to Executive Council. This proposal is not included in the Bill before the House because it is a well established convention that only Ministers become members of Executive Council and it would not be appropriate to enact a provision that suggests that members other than Ministers might be appointed to Executive Council. The Government will review the effectiveness of this measure in September next year.

I commend the Bill to the House.

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

## TOTALISATOR AGENCY BOARD BETTING AMENDMENT BILL

### *Receipt and First Reading*

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

### *Second Reading*

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [3.20 pm]: I move -

That the Bill be now read a second time.

This Bill makes amendments to sections 26, 28 and 28A of the Totalisator Agency Board Betting Act 1960.

Section 26 of the Act was included in the original 1960 legislation to provide a guaranteed source of funds to be used for the establishment of a Statewide network of totalisator agencies. This guaranteed funding was secured by the statutory requirement that 1.25 per cent of TAB betting turnover be paid into a separate bank account established under section 26. Funds allocated to that account could be used only for certain specified purposes consistent with the establishment of this network of agencies. While section 26 was later amended slightly, this basic purpose remained predominant. The level of funding has grown over time in line with growth in TAB turnover, and in 1989-90 the 1.25 per cent appropriation is expected to total in the order of \$6 million.

The guaranteed allocation of funds by statutory provision is now out of step with contemporary accounting practice. Accordingly, the Bill repeals section 26 of the Act. This does not mean that funds will no longer be available to the TAB for capital works, or that the overall level of TAB funding will be necessarily reduced. However, it does mean that the TAB will be required to prepare an annual capital works budget, with capital funding to be obtained either from retained earnings or through the general borrowing powers of the TAB.

Operating expenses such as depreciation, maintenance, repairs and debt servicing costs will be debited to the TAB's operating account, rather than the section 26 account. This will result in a greater degree of accountability for the use of these funds, consistent with the recommendations of the Burt Commission on Accountability. In the past, funds under section 26 of the Act have been used by the TAB to purchase shares in companies, including the company which operates radio station 6PR. The Auditor General in his report on the TAB's 1987-88 financial statements raised some doubt as to whether the funds from the section 26 account should have been used to purchase these shares. To remove any doubt about the legality of this transaction, which was to benefit the racing industry, the Bill deems such purchases always to have been valid and effective.

Because section 26 of the Act is to be repealed, existing references in sections 28 and 28A to moneys to be set aside by the board under section 26 will also be amended by this Bill.

Section 28 of the Act sets out how the Totalisator Agency Board surplus is to be allocated to the three racing codes. It also sets out how, once funds have been allocated to the horse racing and trotting codes, they are to be distributed to clubs operating within each of those codes. The existing Act provides that this distribution within the horse racing and trotting codes shall be in accordance with the formula specified in the Statute. With the changing nature of both codes, it is too restrictive and inflexible to have this formula for distribution specified in the Statute. Accordingly, the Bill provides that regulations may be made for these purposes.



This amendment will not in any way alter the sum of money payable to each of the horse racing and trotting codes, but will allow greater flexibility in prescribing how the funds can be distributed within each of those codes.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

## **RACING PENALTIES (APPEALS) BILL**

### *Receipt and First Reading*

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

### *Second Reading*

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [3.25 pm]: I move -

That the Bill be now read a second time.

This Bill establishes a Racing Penalties Appeal Tribunal to service the horse racing, trotting and greyhound racing codes in the State. In 1987, the Government established an inquiry into the horse racing industry in Western Australia chaired by Mr C.W. Quin. The Quin report was released in 1988, and many of its recommendations were implemented by the Acts Amendment (Racing Industry) Act 1988. One of the recommendations of the Quin report was that there be established a racing appeals tribunal to hear appeals against penalties, decisions or orders of any stewards in horse racing. This Bill adopts that recommendation and extends it to the trotting and greyhound racing codes as well. Horse racing, trotting and greyhound racing are carried out under rules made or adopted by the relevant controlling authority for each code. In each case, the stewards, who are employed by the respective controlling authority, are responsible for enforcing those rules. The rules usually make provision for appeals against a decision of the stewards to go to a committee of the controlling authority or some other body set up by the committee. The present system is subject to the perception that, because the controlling authority in each code employs the stewards and either hears appeals from the stewards or controls a separate process for appeals, enforcement of the rules is not entirely impartial and objective.

The racing codes are multimillion dollar industries and the public is entitled to be assured that the rules are properly enforced and applied. During the preparation of this Bill there has been extensive consultation with the three racing codes to ensure the impartiality of the appeal tribunal and to reach agreement on its jurisdiction and procedure.

This Bill will establish an independent Racing Penalties Appeal Tribunal to cover appeals in all three codes. The tribunal established by the Bill is based on similar bodies which operate successfully interstate. Funding of the tribunal's operation will be by way of deductions from the moneys made available to the three racing codes from the TAB surplus. These deductions will be in proportion to the number of appeals heard for each code. It is proposed that the tribunal operate on a part time basis only. To ensure expenditure is kept within reasonable limits, the tribunal's annual budget will be subject to the Minister's approval. When the tribunal is in place, the rules of racing for each of the three codes would continue to apply, and would still be enforced by the stewards for each code. However, where the stewards impose a penalty comprising a suspension or disqualification, or a fine of any amount, the person affected may appeal to the tribunal. A person will also be able to appeal to the tribunal against a decision of a committee to issue a warning-off notice.

The tribunal is to be headed by a chairperson who is a legal practitioner of not less than seven years' standing. For any particular appeal the tribunal is to be constituted by the chairperson and two members. These members will be drawn from a panel of persons who are eligible for or have held an appointment as a magistrate. There is provision for appointment of an acting chairperson of the tribunal to allow for more than one appeal to be heard at once. The tribunal is to act informally and without undue technicality and, while it must comply with the rules of natural justice, it does not have to comply with the laws of evidence and procedure. Expert witnesses may be called to give assistance - for example, in the areas of chemistry or engineering.

The tribunal will not be able to award costs against a party unless an appeal has been made vexatiously or frivolously. However, to ensure that only genuine appeals are made, the tribunal may require an appellant to lodge a sum as security. To prevent an appeal being used as a means of delaying the operation of a steward's penalty, the Bill also provides that an appeal shall not constitute a stay of that penalty unless the tribunal specifically so orders. There is no appeal from a decision of the Racing Penalties Appeal Tribunal, although decisions of the tribunal could be reviewed by the Supreme Court by way of prerogative writ in the normal way. It is envisaged that the tribunal will create and maintain an atmosphere of confidence in the impartiality and fairness of enforcement of racing rules, and will receive the support of the three codes.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

## HERITAGE OF WESTERN AUSTRALIA BILL

### *Second Reading*

Debate resumed from 26 September.

**HON KAY HALLAHAN** (East Metropolitan - Minister for Heritage) (3.30 pm): This is the end of the second reading debate, and the Bill has certainly created a lot of interest among members in this House, given the number of speeches that were made. Certainly within the community there has been a most inordinate interest and activity by various organisations, individuals, local governments and industry bodies in an attempt to find a workable piece of legislation to protect the heritage of Western Australia. I will deal with a number of the Opposition's proposed amendments. Some of them I regard as quite constructive; others are unacceptable and I will have more to say about them. The Government will move a number of its own amendments in response to comments made here and in the other place, and in response to the undertakings given by my colleague the Minister for Transport.

I will address a number of the points raised in the debate in this place. I am sure that those members who have followed the debate closely would be at least aware that a great deal of attention has been given to the input received by the Government. I contend that the Bill, with the amendments proposed by the Government and those amendments we propose to accept from the Opposition, will be a well considered piece of legislation. It is certainly not one that has been arrived at in haste. The comment made on more than one occasion is that the Bill is a very lengthy one, and that it is difficult to understand. Comments have been made also on the time that successive Governments have taken to bring forward and process heritage legislation. Those comments reflect the considerable complexities involved with this legislation. For this State this is new and ground breaking legislation to achieve a balance between the competing interests. In the spirit of cooperation an attempt has been made to work with members opposite. Sometimes that has been productive, and sometimes the Government has felt that its efforts have fallen on deaf ears. However, in later days there has been a renewed interest in finding consensus between the parties and it is my hope that ultimately we will have a workable piece of legislation. It is still my view that if we do not have a workable piece of legislation we will have no legislation.

**Hon P.G. Pental:** We would agree with that.

**Hon KAY HALLAHAN:** In recent weeks discussion about the Bill has continued. Some of that discussion has been in the public arena and some has been between organisations at various meetings. I am pleased that last week a meeting was held between the Building Owners and Managers Association which was attended by the instructing officer on behalf of the Government and by Hon Peter Foss on behalf of the Opposition. The view that emerged from that meeting was that the Government and the Opposition should make a greater attempt to work together to agree on the basic and important principles of the Bill. The Government believes that is urgently needed, and it wants to see the legislation proclaimed and come into force.

**Hon P.G. Pental:** Would the Minister advise whether the new set of proposals put forward by BOMA has been considered?

Hon KAY HALLAHAN: I will refer to some matters in my response.

Hon P.G. Pental: They are germane to the whole process of the Bill.

Hon KAY HALLAHAN: That is the member's opinion.

Hon P.G. Pental: That is what you said four weeks ago.

Hon KAY HALLAHAN: Another proposal was put to BOMA, to which the Government has not had a response. The tick tacking has continued and it may well continue after we get past the second reading debate. I hope we will progress beyond the second reading today.

Hon P.G. Pental: So do we.

Hon KAY HALLAHAN: I refer members to the scope of the Bill and some of the comments made in the course of the rather lengthy debate in this House. Both Hon John Caldwell and Hon Derrick Tomlinson raised questions about the meaning of heritage. The definitions are in my view clear enough. We are dealing with all the history of Western Australia to this very moment, but not including Aboriginal heritage because that is covered under the Aboriginal Heritage Act. This legislation focuses on the built environment; that is, buildings and structures of post settlement origin. It also deals with historic sites on which there may be no evidence of events. I am thinking in particular of Cape Inscription which has been clearly marked out. However, there may be other historic sites at this particular time which have not been so marked. The Bill deals with archeological sites where the evidence of past activities may well be buried in superficial deposits. For example, the legislation will cover the Macassan sites in the Kimberley; those sites where Indo-Malaysian fishermen camped and collected beche-de-mer sea cucumbers, many hundreds of years ago. The Macassan sites are technically prehistoric but are not protected by the Aboriginal Heritage Act.

Hon John Caldwell sought an assurance that the Bill would deal with places of heritage value outside the metropolitan area. I am happy to provide that assurance to the member. I will point out why we bother to conserve heritage places at all: We are not protecting those places and sites purely for sentimental reasons; rather we are trying to maintain some evidence of our culture so that our generation and subsequent generations will have a better understanding of how our society developed socially and culturally in the hope that this will foster a stronger, clearer Australian identity. I would think we would agree that we want to escape the cultural cringe mentality which, although much stronger some years ago, still exists; and we still have a way to go in developing a clear Australian pride.

The early development of Western Australia occurred in the country. That development is an integral part of our history. The land was opened up for farming, and mining communities were established throughout the State, which contributed to the prosperity that Hon Derrick Tomlinson noted as being recorded along St George's Terrace. It was very noticeable that most of the later speakers on the Bill gave examples of heritage places like Greenough, Dongara, Cossack, Broome, Esperance and Kalgoorlie, and referred to particular homesteads. It was my colleague, Hon Tom Helm, who referred to the unique Australian architecture of the outback. Indeed, country areas contain very important elements of our heritage. Once again I give the assurance that they will certainly not be overlooked.

Hon Derrick Tomlinson also wanted to know at what stage a site becomes a heritage place. For obvious reasons the whole debate on heritage tends to focus on old things. This Bill does not lock us into that view and I ask members to consciously reject the notion that heritage means old. That is a very narrow view of heritage and it is easy to lapse into that habit of thinking. It is conceivable that under this Bill a contemporary building could be entered into the Register of State Heritage Places provided that it has cultural heritage significance. Such a place must have considerable architectural merit because it would have no historical significance. The heritage legislation could contribute to an improvement in the architectural and planning standards in the State. This certainly was one of the intentions in framing the Bill. I am sure all members would agree with that general approach.

It is very difficult to evaluate the cultural heritage significance of places that are less than 30 years old because the context of such an evaluation is usually not documented. The approach in evaluating significance is to compare like things in their historical context; for example, federation houses are compared with each other rather than with houses generally so that special features can be highlighted in a statement of significance. The underlying message in the somewhat apocryphal story about the Kentucky Fried Chicken outlets told by

Hon Garry Kelly is that those buildings had no architectural merit. They did have some social significance but it was not sufficient to make the South Australian Government want to list the remaining pyramidal roofed shop.

I was also pleased that Hon Derrick Tomlinson referred to the dynamics of change in the central business district with successive waves of development. I applaud all the changes that have occurred, particularly those in recent years. However, the Government and I recognise that progress is necessary and desirable and that changes will come with such progress. That is why the Government framed the legislation in this way. The legislation does not and will not stifle development. I re-emphasise that the legislation does not sterilise any site and prevent redevelopment of any site; however, it does recognise the changing needs of society.

Planning and development decisions are not taken over by the new Heritage Council. They will continue to be made by the State Planning Commission, local municipal councils and existing appeal tribunals. The only change to the approvals process as a consequence of this legislation will be that the heritage values of a place, as clearly documented in the statement of significance, will be taken into account in those planning and development decisions. The key factor of this legislation is that it allows Government, on behalf of the community, to offer incentives and inducements to developers to look after those heritage values. It will enable the Government, through the Heritage Council, to negotiate with developers in the early stages of planning and to negotiate with something useful to offer. The National Trust has always had the capacity to negotiate with developers to encourage a balanced approach but it has never really had anything to offer to developers. The outcome of those negotiations is visible to us all today.

*Sitting suspended from 3.45 to 4.00 pm*

**[Questions without notice taken.]**

Hon KAY HALLAHAN: The heritage legislation provides for a very impressive range of incentives so that a better balance between conservation and development may be struck on an agreed basis.

Hon Margaret McAleer referred to the demise of the Weld Club because of its annual tax burden of \$132 000. The provisions of this Bill might well have saved the dining room and the grounds because clause 34 allows for such taxes to be waived. Clause 33 would also be useful. It requires the Valuer General to revalue to reflect the current use. In the case of the Weld Club it would reflect the current use rather than the assessment on the development potential, and that would certainly have led to substantial reductions in rates and taxes.

Hon D.J. Wordsworth: You could have put a condition on that waiving of rates.

Hon KAY HALLAHAN: The Bill must be passed before we can waive rates. There would have to be a heritage place listing and there would have to be something significant about it. That would have to be arrived at before any waiver of rates and taxes.

Hon D.J. Wordsworth: You could have insisted, for example, that the Weld Club accept women members.

Hon KAY HALLAHAN: Hon David Wordsworth has made the most extraordinary contribution to this Bill and I did have a cryptic comment to make, but I sensibly left it out. However, I may not be able to resist much longer.

I will clarify the membership of the Heritage Council which was raised by Hon John Caldwell. The Bill was amended in the other place to provide for a membership of eight including by right The National Trust of Australia (WA); owner groups, such as the Building Owners and Managers Association; and local government. I do apologise as I may have caused some confusion through an error in my second reading speech. I appreciate, however, being reminded of the work of Ainslie Evans of Katanning. I am aware of her work and continuing interest and strong support for this legislation. On the subject of Heritage Council membership, I note that the Opposition has on the Notice Paper the same amendments that were discussed in the other place and not adopted because of the significant practical limitations that they would impose. I do not propose to go into those here, but suggest that members opposite might wish to review that argument before proceeding further with those amendments.

Hon Peter Foss raised three issues and I will take those in order. The first was that it appeared that the Government could deal with its own buildings in a privileged way because the Minister is to be the final arbiter on what is entered on the Register of State Heritage Places. I will assure members present today that is in no way the intention; it is precisely the opposite. The legislation was written to be binding on the Crown in full recognition of the fact that Government is an important owner of heritage places and needs to lead by example if it is to obtain the cooperation of private owners.

Hon N.F. Moore: Quite right.

Hon KAY HALLAHAN: I agree that it would not be appropriate to ask private property owners to conserve historic buildings if the Government itself did not.

Hon N.F. Moore: Did you include the sunken garden? It has great heritage value.

Hon KAY HALLAHAN: Heritage is an interesting area because we all have different views about what constitutes heritage value.

Hon N.F. Moore: I am sure that when you go to see it you will agree it has great heritage value.

Hon P.G. Pental: The Bill itself will be of heritage value if it takes us the next 13 years to get it through.

Hon KAY HALLAHAN: We should all make a strong commitment now to see that we get it through.

Hon P.G. Pental: We have done that. You want to filibuster your own Bill.

Hon KAY HALLAHAN: The Opposition wants a commitment to a Bill that will not be workable and that will still expose our buildings as has been done in New Zealand; that is my very great worry. I hope that we can find a way through this, being all people of goodwill and good sense.

Hon P.G. Pental: The Opposition is keen to do that.

Hon KAY HALLAHAN: Let us put it to the test.

Hon P.G. Pental: We will put you to the test too.

Hon KAY HALLAHAN: Hon Peter Foss was the first to advance that argument in defence of the two schedule approach in the Opposition's heritage Bill. I suppose it would have been better had we had opportunities for discussion outside the Chamber at some earlier stage. Now that the need for discussion has been established we can follow on from that.

I appreciate the concerns of members opposite about this legislation, but I do not believe the two schedule approach is the best way to deal with it. The Government examined the whole range of administrative possibilities and decided that ministerial control of the State register was appropriate. The same situation applies in other States while the Australian Heritage Commission has complete control of the register of the National Estate. The Government's decision is appropriate because the State has a constitutional responsibility for land-use decisions and the Commonwealth does not have that responsibility.

In response to a concern expressed by Hon Peter Foss I indicate that one of my amendments will give effect to making public the advice of the Heritage Council. The approach would be similar to that which is adopted by the Environmental Protection Authority, which publishes its advice to the Minister. People would be in a position to assess the advice which has been forthcoming. Hon Peter Foss referred also to the need for a precautionary list and I advise that this Bill does not make provision for that type of list. However, in clause 42 of the Bill reference is made to a database which would fulfil the functions of the precautionary list as outlined by the member. It is not limited in its scope, but it is required to be accurate, based on factual information rather than assertion or conjecture, and it is publicly available. I would have some concerns about adding another list to the provisions of the Bill because it would confuse the public and may well dissipate the energies of the council. Instead of adopting the member's proposal holus-bolus we could look at upgrading slightly the controls associated with the database for which provision has been made in the Bill. I thank Hon Peter Foss for drawing attention to the heritage surveys being undertaken in Victoria on a local government authority district basis. A similar approach is adopted in New South

Wales, while in South Australia the regional surveys often cover several local government districts. Providing this legislation is passed, Western Australia will begin the surveys as soon as possible in order to establish the database and the register. We will almost certainly consider thematic surveys because they will provide better contextual information for different types of sites. As a result of that we may look at railway stations or police stations as a whole instead of on a shire by shire basis. I acknowledge that shire council surveys are the best for establishing social significance.

Another issue raised by Hon Peter Foss was compensation. During the course of this debate my colleagues on this side of the House have attempted to dispel the misunderstanding which, in my view, has given rise to the Opposition's amendments relating to compensation. I am not sure whether we have made any headway because it seems that members opposite have been listening exclusively to the development industry on this issue and have been misled in that advice.

Hon P.G. Pandal: That is not true. You can continue to peddle that if you like.

Hon KAY HALLAHAN: I do not want to repeat the comments made by the Government during the second reading debate in relation to compensation, but I will refer to the more important points.

Property owners have the right to do certain things on their properties, but that right is not unfettered. During the course of the debate the assumption was that property owners had unfettered rights of ownership. Existing laws certainly limit an owner's right to develop in a way which will reduce his neighbour's enjoyment. However, existing laws can also restrain the owner for his or her own good. The Soil and Land Conservation Act was referred to earlier in the debate and under that Act the Commissioner of Soil Conservation can prevent an owner from clearing vegetation because of the potential degradation which might occur on that piece of land. I am sure National Party members can confirm this with Hon Peter Foss. The Government recognises property rights such as they are and the legislation has been specifically designed not to infringe on those rights. It is precisely for that reason that the Heritage Council will not be given any executive or decision-making powers; it is an advisory body only.

Decisions on building and demolition licence applications will continue to be made by local municipal councils, while decisions on subdivision applications will continue to be made by the State Planning Commission. Members on this side of the House were puzzled about the rights being referred to by members opposite as sequestered or infringed. However, Hon Peter Foss may have inadvertently revealed an insight into the Opposition's attitude in an interjection he made when Hon Fred McKenzie was speaking during the second reading debate. In his interjection he referred to the right to knock down a building. It is true that under the present provisions of section 374A(2) of the Local Government Act a local council is not able to refuse a demolition licence for a registered building. The Government seeks to amend this provision in the consequential Acts amendment Bill so that a council may refuse a demolition licence for a registered building. I ask members directly whether this is the right that is being sequestered by the heritage legislation. Are they seeking compensation for the loss of an absolute or unconditional right to demolish a heritage building? If that is what they are seeking, they are asking the Government to pay people not to commit acts of environmental and cultural vandalism.

Hon P.G. Pandal: No, what we are saying is that if society makes a demand on the owner to forgo certain rights, society should compensate. It has been made quite clear.

Hon KAY HALLAHAN: I advise Hon Phillip Pandal that under the planning legislation that argument does not apply.

Hon P.G. Pandal: It does apply.

Hon KAY HALLAHAN: Demolition control is an essential element of heritage legislation, but we balance it by providing a whole range of incentives to encourage people to think how best they can save the heritage value of a property by bringing in some better design and planning. It sounds to me from the interjections by Hon Phillip Pandal that we are continuing to lock horns on this issue which is critical to this Bill. The Opposition is turning the notion of justice and equity on its head. It would be like me, as a property developer, saying to Government, "I propose to build the ugliest structure conceivable, but if you pay me I will do it better."

Hon P.G. Pental: Who prepared the notes you are reading from?

Hon KAY HALLAHAN: It is the same principle as an industry holding Government to ransom by saying that it proposes to pollute the environment, but it will not do that if it is paid not to do that. Is that what the Opposition is saying? I could put forward a proposition which would put it in even a worse light.

Hon P.G. Pental: The person who wrote the notes for you could put it in a worse light.

Hon KAY HALLAHAN: Hon Fred McKenzie referred to the intention of some property developers to move onto a site with a bulldozer in the dead of night to demolish a building illegally. Some developers seem to think that the ineffective controls over illegal demolition should be continued and, therefore, are concerned that this legislation may raise penalties. Is that the sort of illegal act members opposite want continued?

I point out to members that the right to demolish buildings provided for under the Local Government Act is not absolute. We have legal opinion which states that demolition is included within the meaning of a development under the Town Planning and Development Act. Therefore, demolition can proceed only under the terms of a development approval. Furthermore, many local government town planning schemes define development to actually include demolition. I think the City of Fremantle's town planning scheme includes that provision and demolition of buildings in that local authority cannot proceed without a development approval. If Hon Peter Foss is expressing a concern merely about demolition we could find a sensible way around it. From the Government's point of view it must be made aware of the Opposition's agenda on the compensation issue in order that it can be debated properly. We have written to people asking them to define more clearly what are the property rights that they want protected. That letter went out a few weeks ago and we are still waiting for replies to it.

Hon Peter Foss attempted to draw a direct analogy between entry into the Register of State Heritage Places and reservations under the metropolitan region town planning scheme. I have to tell members that is just not the same thing at all; reservation under that scheme is a signal of the intent to purchase for a public purpose such as a road, school or hospital. In contrast, we have no intention of buying people's heritage properties. That would be completely contrary to the spirit and intent of the Bill, which is to foster public ownership and pride in our heritage places.

There is some small parallel between heritage identification and spot rezoning, although that is slight. However, although section 11 of the Town Planning and Development Act provides for compensation and betterment, section 12 excludes zoning from consideration under section 11. Rezoning is a closer analogy than reservation, but members opposite refuse to acknowledge that because it would weaken their argument. Opposition members, including Hon Phillip Pental, have today tried to suggest they have a clear grasp of the issues involved here.

Hon P.G. Pental: At least I did not have to read notes prepared by someone else when dealing with the Bill. That person clearly does not understand the Opposition's view, anyway.

Hon KAY HALLAHAN: These are my notes, and they are accurate and thorough, reflecting the importance with which the Government views this Bill. Hon Phillip Pental said that he had had contact with the National Trust, the Fremantle Society, the Guildford Society, the Mt Lawley Society and the Heritage Protection Association. He said -

As Members would expect, each of these has had input to what has ultimately become the Opposition's attitude.

I know that these groups do not support the Opposition's position because they have written to me stating just that.

Hon P.G. Pental: That is not what they have told us.

Hon KAY HALLAHAN: They do not support Hon Phillip Pental on compensation.

Hon P.G. Pental: They do not support the Government on a lot of the content of the Bill, either.

Hon KAY HALLAHAN: That is not what the correspondence says. I know that many local authorities in the metropolitan region are also opposed to the Opposition's position. My

colleague, Hon Tom Butler, read out a letter from the Shire of Swan and made reference to statements by Councillor Roul representing the Western Australian Municipal Association, the body that incorporates all local government in the State of Western Australia. That letter was in support of the Government's position on this Bill.

Hon T.G. Butler: In fact, the Opposition won out on that.

Hon KAY HALLAHAN: The Opposition is not on its own, as five industry groups support its position. They are, the Building Owners and Managers Association, Real Estate Institute of WA, the Institute of Valuers and a couple of others.

Hon P.G. Pental: We have tried to take input from BOMA, REIWA and all the people the Government have clearly ignored.

Hon KAY HALLAHAN: That is not true; we have had input from them but cannot agree with their position.

Hon P.G. Pental: With their latest position?

Hon KAY HALLAHAN: There comes a time when one has to make a decision about what are the interests of particular members of the community. I think they are afraid that heritage legislation will in some way interfere with the rights of their membership over buildings even if they are of the most significant heritage value. Great support has been given for the Government's position against having compensation provisions included in the Bill. That has come from a number of bodies. I do not have a comprehensive list of those bodies but they include the following: The Australian Heritage Commission; the International Committee on Monuments and Sites; the Art Deco Society of WA Inc; the Heritage Protection Group; the Fremantle City Council; the East Fremantle Town Council; the City of Subiaco Council; the Kalamunda Shire Council; the Mosman Park Town Council; the City of Stirling Council; Friends of the GPO; and the Fremantle Society. There were other indications of support. I would not like those people to feel they have not been recognised or included in my comments today, but I have an extensive list of organisations and groups who wrote pressing the Government to be resolute against this notion of compensation and wanting to see Western Australia have heritage legislation that works at long last.

Amendments on the Notice Paper under Hon Phillip Pental's name are virtually taken word for word from the submission on the 1987 Bill which was made to the Government by the five industry interest groups: BOMA, REIWA, the Institute of Urban Development, the Institute of Valuers, and the Society for Land Economists. Those five bodies submitted a submission in 1987 and the amendments put forward by Hon Phillip Pental in 1990 are almost identical to them.

Hon P.G. Pental: What about the latest one they have sent to you that you will not comment on?

Hon KAY HALLAHAN: There has been a meeting and we are waiting for a response from them.

Hon P.G. Pental: What is your attitude to their modified form of compensation? Do you have an attitude to that?

Hon KAY HALLAHAN: Compensation is out of the question, but provision for appeal is one of the amendments which will be moved and which we hope will go a long way toward overcoming some of their concerns. If an adequate appeal provision exists we hope that will overcome the whole problem of compensation.

I do not want to inflame the debate because it is important I do not do that. I again put the serious view that we must find a way around this matter other than by providing for compensation. We have been negotiating with industry groups, but I think there is a fairly intense position there and I am not sure that we will get the sort of absolute agreement that I had hoped over the past few weeks would be achieved. The industry groups have indicated an acceptance in principle of the concept of an appeal to an independent arbiter, as I have just indicated, in respect of the level of incentive offered under part 4.

We are proposing to move an amendment to allow such an appeal when we reach clause 29. That clause deals with heritage agreements which are, in effect, voluntary contracts between the Crown and the owner. Under those terms of agreement the Crown would offer various



forms of conservation assistance and in return the owner would agree to properly conserve his or her heritage place. We will be proposing an appeal to the Town Planning Appeal Tribunal as the most appropriate planning body. It will have access to an additional advice from a licensed valuer.

Our proposed amendment will create a situation where a property owner could approach the Government and say, "I want to conserve my building but I need more assistance." The owners' negotiating position would be strengthened by virtue of his or her assured access to an appeal body; thus there would be a strong likelihood of any owner achieving a satisfactory outcome. We are hoping through that mechanism that we may yet be able to find a way through for this Bill. The appeal provision is linked with the existing heritage agreement provisions because they refer to a whole range of financial and non-monetary incentives available under the Bill and because the contract element will protect the interests of the Crown.

There has been much comment during the second reading debate, so I hope that I have covered the most significant points raised. Members spoke at length. I could have made a much longer speech than I have just made in reply had I endeavoured to answer all of those points. For that reason I have pruned my comments from those I originally intended to make to sum up the debate on this important legislation.

We must all acknowledge that although we now have a bit of a feel for heritage conservation, it is a very difficult issue and is a new concept for the community to understand. It is a challenge for us all to deal with such a complex issue in a workable way. The Government is willing to look at constructive amendments and will agree to some of the amendments proposed by the Opposition, and will also move some amendments of its own as a result of the debate in another place and our consultations with community groups; but we will not proclaim a Bill that has been amended badly, particularly on the compensation issue. I accept that the Opposition parties have the ability to send legislation to the Standing Committee on Legislation. A number of conservation groups have approached me to say they are very unhappy at that prospect. They would prefer the Bill to be debated in the Parliament.

Hon P.G. Pendal: You mean you have encouraged them to say that.

Hon KAY HALLAHAN: I have been approached by a number of community groups interested in heritage, who are very anxious to see the passage of heritage legislation, and who may not appreciate that in this instance, where we have yet to find a pathway between the Government and the Opposition, the climate which may be provided in the Standing Committee on Legislation may be the place to work out a consensus. So while I accept the anxiety of those groups to see a Bill in place, the fact is that at this stage there is still disagreement between the Government and the Opposition, although I hope we can find a way through that disagreement and agree on a Bill to protect our very rich heritage. In saying that, I acknowledge that we have lost some wonderful and valuable buildings, which has caused sadness to many people over the years.

I commend this Bill to the House. It is a very important, if complex, piece of legislation; but once it is in place and has been in operation for a few years it will be accepted in the same way as the environmental protection legislation is now readily accepted and regarded as absolutely integral to protecting the quality of our life. I regard heritage legislation in the same way.

Question put and passed.

Bill read a second time.

#### *Referral to Standing Committee on Legislation*

HON P.G. PENDAL (South Metropolitan) [5.03 pm]: I move -

That the Heritage of Western Australia Bill be referred to the Standing Committee on Legislation for consideration and report.

Members would be aware that the Opposition foreshadowed such a motion earlier this year - indeed, many months ago - and it should come as no surprise to anyone that we believe that is the system of scrutiny that this House ought to apply to this important legislation on this occasion. That is the view of the Parliamentary Liberal Party and also, I understand, of the Parliamentary National Party.

In referring to some of the matters dealt with by the Minister in her response I will confine my remarks to the reasons why the Standing Committee on Legislation should deal with the matter. The Minister talked about the need to swiftly enact legislation so that we will not lose any more precious heritage buildings. However, the Minister omitted to tell us that the Government has been responsible for the demolition of some of those heritage buildings during the last couple of months, and certainly during the last couple of years. So it ill becomes the Minister to cry too many crocodile tears at the prospect of buildings being prematurely demolished when in fact she and her predecessors have actually made decisions which have led to the demolition of certain buildings. The Minister cannot say that the Parliament ought not to refer this matter to that committee on those grounds. Clearly if the matter were as urgent as the Minister suggests the Government would have proceeded with the Bill in 1987 when it was first introduced.

Hon Kay Hallahan: Or in 1976 by your previous Government.

Hon P.G. PENDAL: Indeed. For three long years we have had before the Parliament a heritage Bill in one form or another that the Government did not permit the Opposition to even debate until July this year. So the Minister cannot express fears about the premature demolition of heritage buildings when she was responsible for the demolition of the Crematorium Chapel and when her predecessors in this Government were responsible for the demolition of the stables at the old Swan Brewery site and for the virtual demolition of St George's Hall in Hay Street, the most important public building to be demolished since the Barracks Arch.

Hon B.L. Jones: Should we demolish the old Swan Brewery?

Hon P.G. PENDAL: I am not interested in what Hon Beryl Jones thinks ought to be demolished. I am saying that the Minister cannot say to the Parliament that the matter is now so urgent that we cannot refer it to the Standing Committee on Legislation while at the same time the Government is running around the place organising the demolition of the heritage buildings that it owns.

Hon Kay Hallahan: Don't be outrageous.

Hon P.G. PENDAL: I am not being outrageous because the Minister was the person who signed the death warrant of the Crematorium Chapel. The Minister did not even have the decency to cremate it! Only a few minutes ago the Minister was singing the praises of the Art Deco Society, but the Art Deco Society did not think much of the Minister four weeks ago.

Hon Kay Hallahan: It thinks less of you.

Hon P.G. PENDAL: If I were allowed to quote what the Art Deco Society said about this Minister's capacity to understand the issues she would be very embarrassed. At least members on this side do not have to rely in their response to the debate on arguments which have been written out for them, as the Minister was doing a few minutes ago. I now want to mention another reason why the Bill should be referred to the Standing Committee on Legislation. The fact is that all political parties in this State agree on the need for heritage legislation; but the difficulty is in how we achieve that.

Hon B.L. Jones interjected.

Hon P.G. PENDAL: Again Hon Beryl Jones cackles on about matters that she does not understand -

Hon Kay Hallahan: You do not understand it, and you are supposed to be a spokesperson on it.

Hon P.G. PENDAL: - because the complex nature of the Bill is demonstrated by the fact that the Bill has hung around in the Parliament for three years, where the Government has not permitted the Opposition to debate it.

Hon Kay Hallahan: Oh, look!

Hon P.G. PENDAL: That is true.

Hon Kay Hallahan: The Opposition does not actually contribute much on this subject.

Hon P.G. PENDAL: With all due respect, the Minister would not know. She picked up the

portfolio six months ago after the Premier moved Mr Pearce out because he had made a laughing-stock of the Government over heritage matters. That is why he was moved. I suggest the Government looked around for the Minister who knew least about it and Hon Kay Hallahan drew the short straw. The fact is that the Bill has been in the Parliament since October 1987, in the Assembly, and the Government would not permit it to be brought on for debate at all in 1987 or throughout 1988. We therefore went into a State election with a Bill on the Notice Paper on which the Opposition had never been allowed to express a view in the Parliament.

Hon Kay Hallahan: Is that the only place you can express your views?

Hon P.G. PENDAL: It is a very important venue.

Hon Kay Hallahan: But it is not the only place you express them, is it?

Hon P.G. PENDAL: No, mainly because Parliament rarely sits now, under this Government.

Hon Kay Hallahan: That is nonsense.

Hon P.G. PENDAL: Hon Kay Hallahan knows an analysis has been done of this Government's sitting record by some people at the university, and it is appalling. Is it any wonder that the Opposition has to go outside the Chamber and use other forums such as the media?

Hon Kay Hallahan: Surely you have the right to use the media anyway. That is part of democracy.

Hon P.G. PENDAL: Of course we do, and we do it, and we will continue to do it. I have seen the untruths that have been perpetrated by the Government, and in particular by staff members of the Government, in this matter, and it should be clearly understood that the Opposition supports heritage legislation. You, Mr Deputy President (Hon D.J. Wordsworth), are known to be an ardent supporter of heritage legislation although you have been in one of the best positions of all, of the people who have actually been involved on the ground, as it were, in preserving a heritage property.

Hon Kay Hallahan: Are you talking about Araluen?

Hon P.G. PENDAL: I am not talking about Araluen at all. As you would know, Mr Deputy President, I am talking about the preservation of the Dempster homestead at Esperance, of which you are now the owner.

There is another reason why this matter should be referred to the Legislation Committee. When I left for the United States five weeks ago, several people in the House said, "You do not think this is going to be over by the time you get back, do you?" I said, "Indeed, the Government is keen to have it expedited. Surely one has to take the Government at its word and the Minister at her word." One person, who obviously has been around for longer than I have, said, "I will have a small wager with you that things will not have altered by the time you get back." I said, "I have more faith in the Minister than you have"; yet here we are, five weeks later, and we have not even finished the second reading debate - and this from a Minister who put out a Press statement several months ago saying that the Opposition was holding the Bill up, which was a complete and utter untruth.

Hon Kay Hallahan: You still are holding the Bill up.

Hon P.G. PENDAL: The Minister could have brought this Bill on for debate at any time since October 1989.

Hon Kay Hallahan: Because we cannot get agreement.

Hon P.G. PENDAL: The Minister just said, "Because we cannot get agreement." Parliament is the place where we get agreement on legislation, yet by July this year there had not been an opportunity for the Opposition parties to debate the matter in Parliament. One does not get agreement on major pieces of legislation out on the highways and byways or in the media.

Hon Kay Hallahan: I have news for you. You know so little about getting agreement on legislation.

Hon P.G. PENDAL: I suggest that we could have had legislation on the Statute books three years ago, had the Government been prepared to expedite the whole matter. I remind the

Minister and other members opposite that we were prepared to forgo the usual week-long adjournment that we have for Bills in order to let the Government expedite it, and when I led for the Opposition in response to the Minister's second reading speech I spoke the next day and forwent that week-long traditional break.

Hon Kay Hallahan: That was to allow you to speak before you went overseas. Don't be dishonest.

Hon P.G. PENDAL: It was for exactly the reason the Minister gave, because the alternative would have been that we did not proceed until the Opposition's lead speaker on the matter was ready to speak. That would have put the Bill another five weeks behind; yet the Government went to sleep. It is like so many other things. The Government is not governing; it is not legislating. It governs and legislates by Press release and then resorts to silly, stupid, incidental things like daylight saving Bills.

Hon Graham Edwards: That is a good quote - "Silly, stupid, incidental things like daylight saving Bills."

Hon P.G. PENDAL: Yes, they are silly, stupid, incidental things. Members opposite should tell me how many jobs daylight saving will create for the people of Western Australia. Not one.

Hon Graham Edwards: What about the people in the community who are strongly supporting it, like the Confederation of WA Industry?

The DEPUTY PRESIDENT (Hon D.J. Wordsworth): Order! The Minister shall not interject about another Bill altogether.

Hon P.G. PENDAL: Exactly - he should not be talking about daylight saving.

That is another reason why the Bill must go to the Legislation Committee. I am astonished that five weeks have passed and the Bill has not been advanced. That is how serious the Government is. When the Minister sends out to her supporters the Government's response to this Bill, given only a few minutes ago, I hope she also sends out the remarks by the Opposition as to why the Bill has been held up for a further five weeks when the matter could have been disposed of and could have been with the Legislation Committee for that month.

I went on public record and said, with the concurrence of some of the members of that Legislation Committee, that we would hope that the Bill could be back from the Legislation Committee within 28 days of its committal there, which would have meant it would be back in the House this very week and due to be passed into law; but has that happened? Of course not. The Government has shown as much commitment to the swift passage of legislation on heritage in the last four weeks as it has shown in the last three years, since October 1987. It is a token, it is something the Government brings on when it gets into trouble with other political matters, just as it did with the Daylight Saving Bill. Many of the organisations the Minister has mentioned, and some she has not, are astonished that the Bill was not referred to the Legislation Committee four weeks ago.

Hon Kay Hallahan: They will be astonished if we get a Bill and we will not have a Bill if you do not change your ways.

Hon P.G. PENDAL: I will come to that.

Hon T.G. Butler: You are holding up the Bill.

Hon P.G. PENDAL: Hon Tom Butler has not followed the passage of the Bill. He mouths those silly, inane comments which are simply untruthful. From October 1987 when the Government introduced the Bill until July 1990, the matter was never debated in Parliament. The interjector appears in one of the longest contributions he has made to this House in several years -

Hon Kay Hallahan: You missed his speech on this Bill.

Hon P.G. PENDAL: I am not sorry I missed that speech because the sad thing is that I had to read it when I got back, and having done so I was no wiser than I had been before. Every time the Government tells a fib on this matter I make a practice of finding the person to whom the fib was told and then uncovering the facts, as happened with the reporter on the

*Kalgoorlie Miner* who was told things by the Minister's Press secretary which were untruthful. When I was able to explain to the reporter of the *Kalgoorlie Miner* that the Bill had never been in the Parliament for debate, that reporter was astonished and agreed that he had been told fibs by the State Government.

Hon Kay Hallahan: That reporter was so badly mauled by Hon Phillip Pendal that he will never forget the experience and will never forget Phillip Pendal either.

Hon P.G. PENDAL: The Minister's nose grows longer by the minute. The Opposition has been able to pin that sort of comment on the Minister as her Press releases circulate and continue to carry the sort of fibs of which her Press secretary has been part.

Several members interjected.

Hon P.G. PENDAL: The Minister and her supporters can please themselves. What was intended to be a five minute speech to refer this Bill to the Legislation Committee can continue until next Tuesday as far as I am concerned.

Several members interjected.

The DEPUTY PRESIDENT (Hon D.J. Wordsworth): Order! The Hansard reporter is having difficulty recording the unruly interjections. The motion should be properly debated without interjections.

Hon P.G. PENDAL: I have news for the Hansard reporter - I am having difficulty also. Recorded on page 4901 of *Hansard* this year is one of the issues which is at the heart of this debate. I am astonished that the Minister has not familiarised herself with it, because on that page are listed the reasons that this Bill will stand or fall. The sequence of events is this: It is true that a variety of organisations made submissions to the Opposition calling for amendments to the Bill. At the last minute one of those organisations, the Building Owners and Managers Association, first approached the Government and then the Opposition with regard to the amendments contained on Supplementary Notice Paper 19-2 in my name. BOMA said that its members were willing to make some concessions in their demands from the Government and the Opposition. That view was supported by the Real Estate Institute of Western Australia and the associations representing land valuers, land economists and others. Because the Minister failed to mention in her response to the second reading debate the concessions outlined on page 4901 of *Hansard*, I will mention them now. Unless we get some consensus on this central issue, there will be no Bill, although everyone in this House wants a Bill.

Hon T.G. Butler: But you do not.

Hon P.G. PENDAL: Hon Tom Butler is a silly little man.

The DEPUTY PRESIDENT: Order! The member will ignore the interjections.

Hon P.G. PENDAL: Members will appreciate that I have just said I do want the legislation in bubs' grade language that even some members of the House who have difficulty following complex matters should have had no difficulty understanding. The Opposition supports heritage legislation and so does the National Party. We have just passed the second reading, or did Government members fail to understand that the second reading has just been passed?

Hon T.G. Butler: We know where you are coming from and whose interests you are representing.

Hon P.G. PENDAL: The proposal from BOMA detailing its concessions is set out on page 4901 of *Hansard*, as follows -

Further to our meeting at which alternative compensation mechanisms were proposed we suggest that the following procedure could be implemented.

1. Compensation as a matter of principal is to be a right. Compensation in the first instance to be arrived at by negotiation.
2. In the event that a negotiated settlement cannot be reached the matter is to be referred to a tribunal or Court of Appeal. There should be no right of appeal to the Minister.
3. The Tribunal is to decide if the basis of compensation offered is adequate.

*Point of Order*

Hon GARRY KELLY: I do not want to constrain the member in his comments, but the motion before the House is that the Bill be referred to the Legislation Committee. I want to speak to the motion before the House rises because I have a vested interest in this matter. Surely we should not be debating the substantive matter of the Bill, but rather whether it should be referred to the committee.

The DEPUTY PRESIDENT: I will not make a ruling, but I recommend to the member on his feet that he ties in his comments with reasons that the Bill should be referred to the Legislation Committee.

*Debate Resumed*

Hon P.G. PENDAL: We have spent at least half the time on the matter of the referral dealing with inane interjections from Government members which had nothing to do with the Bill. I acknowledge that Hon Garry Kelly's comments certainly did not fall within the category I have described.

The matters I refer to must be considered by the Legislation Committee if we are to have a Bill. Unless we reach agreement on the five matters I am attempting to outline, regrettably, there may be no Bill. I hope that heritage legislation is placed on the Statute book within a couple of weeks.

Hon Kay Hallahan: Within a couple of weeks?

Hon P.G. PENDAL: Yes. I have already said this Bill could have been before the Legislation Committee five weeks ago, but the Minister chose not to expedite it. The further reasons outlined in the message from BOMA are -

4. If not adequate the Tribunal is to have the power to determine the level and method of compensation.
5. The Tribunal in assessing such compensation shall determine the extent and method of compensation using the mechanisms available under the act including the use of transferrable development rights.

I ask the Minister to listen to this. The message continues -

Only after it has been demonstrated that such mechanisms do not adequately compensate the owner of the heritage property may the Court/Tribunal assess portion of the compensation in cash.

What are the property owners saying in all of that? That is the basis of the concession which they are now willing to make; it is something with which the Legislation Committee must come to terms. The private land owners are saying that they are prepared to de-emphasise their previous stance on cash compensation. As other members have said during the second reading debate, if one puts the position on cash compensation, one can make that cash compensation of such a high order that the system would not work.

The DEPUTY PRESIDENT (Hon D.J. Wordsworth): Order! I believe the speaker has strayed from the argument of why we now should send the Bill to the Legislation Committee. The debate he is introducing is more a matter of what needs to happen to the Bill, and that could happen in the Committee stage in any case. I believe the honourable member should stick to his motion.

Hon P.G. PENDAL: Thank you, Mr Deputy President; I shall. It is clear that if the Government had its way on the submissions made by those private organisations, the Bill would not get up. That is a fair summary of where the Government stands. In deference to what you have just pointed out, Mr Deputy President, I say that the matter must go to the Legislation Committee with that new concession of the Building Owners and Managers Association in mind if we expect the Legislation Committee to come back to the House with a recommendation that the Bill should pass. I cannot stress strongly enough the central nature of those five points I have just read out. Originally those private land owning groups had taken what could fairly be described as an uncompromising stand. I reflected that stance, and I had no difficulty in reflecting it, because I did not think that people's private property should be taken away from them. The Building Owners and Managers Association is now saying that it is prepared to de-emphasise the cash nature of compensation in order

that the committee will hopefully recommend that we should look at compensation in other forms before getting to the bottom line of cash.

The DEPUTY PRESIDENT: Order! I repeat, I believe the honourable member's argument should be based on why this Bill should go to the Legislation Committee instead of through the normal form of Committee in this House.

Hon P.G. PENDAL: Thank you, Mr Deputy President. Unless the Bill goes to the Legislation Committee, and unless the Legislation Committee is prepared to recommend amendments along the lines I have just set out, I do not believe we will have a Bill. That is a good reason why I believe it is extremely important for the Bill to go to the Legislation Committee and not be dealt with in the normal way on the floor of this House. The matters outlined on Supplementary Notice Paper 19-2 embody the amendments moved by me and Hon Peter Foss. Other members may have moved other amendments since I have been away. That is why the Bill must go to the Legislation Committee. It is no good the Legislation Committee's reading the amendments in isolation without that reference on page 4901 of *Hansard* in respect of the new concessions which BOMA is prepared to make.

I appeal to the Government to support the motion for referring the Bill to the Legislation Committee. I am surprised to hear in the public media statements to the effect that referring the Bill to the Legislation Committee is an attempt to hold up the Bill. We heard that allegation in respect of the tobacco legislation. Why have a committee system if we are not going to send the unresolvable to it? Therein lies the major reason why the Legislation Committee must deal with the matter; because the matter is unresolvable at the moment. For three years the Government has not even been able to proceed beyond the second reading debate stage because some of its advisers disagree with its approach to heritage legislation. The Minister handling this Bill knows that some of those internal advisers disagree with the way in which the Government is handling the Bill, therefore it is not correct or proper for the Minister to continue to push this untruthful line around the community -

Hon Kay Hallahan: There is no untruthful line!

Hon P.G. PENDAL: - that the Bill is being held up because of the Opposition when the Government's own advisers express disquiet and dissatisfaction. That is another good reason why the Bill must go to the Legislation Committee. My only regret is that it has not been there for four weeks. That arrangement was made so that by the time the four weeks was up we could be dealing with the third reading stage of the Bill today.

Hon Kay Hallahan: But you are not the Government.

Hon P.G. PENDAL: No. I know why the Bill has been held up.

Hon Kay Hallahan: You really are an appalling creature!

Hon P.G. PENDAL: I really do know why.

Hon Kay Hallahan: People do not trust your integrity.

Hon P.G. PENDAL: People tell me why the Bill is being held up. We did not come down in the last shower. I hope, if the committee has power to subpoena people, we might be able to call some of those people who have expressed disquiet on the matter. For all those reasons this matter must be referred to the Legislation Committee, and I hope that we will see the Bill come back in a form which the House is capable of passing within a few weeks.

HON J.N. CALDWELL (Agricultural) [5.37 pm]: I am very happy to second this motion. We have just witnessed a revitalised Hon Phillip Pendal who has returned from his overseas trip. I suppose the Government wishes he had stayed there a lot longer.

Hon Kay Hallahan: Don't you?

Hon Graham Edwards: I think there is support for that idea over there too.

Hon J.N. CALDWELL: He is back with a vengeance.

Hon P.G. Pendal: I would be happy to take another five weeks off.

Hon J.N. CALDWELL: I am glad the honourable member came back to move this motion that this Bill should go to the Legislation Committee. That committee was formed to look at Bills which were giving this House problems. In every case so far, when that committee has looked into Bills, they have come back to this House much better than when they went out. In fact in every case the Bills have passed through this House without many problems.

Hon Tom Stephens: How many cases has that involved?

Hon J.N. CALDWELL: Two or three. I cannot add them up yet. There may be four or five by the end of the session.

Hon T.G. Butler: With good luck it could be six or seven out of about 30.

Hon J.N. CALDWELL: One of the difficulties with this Bill is the length of it and the complicated wording. One of the clauses involves something like seven pages, and that has caused many people who have read the Bill some trouble. Hon Phillip Pandal said that even the Government advisers have had difficulty understanding the Bill because of the drafting. That is where the Legislation Committee would be able to sort out the situation. The available drafting personnel can make recommendations to the committee, suggesting ways to simplify legislation. That is how the Legislation Committee has operated and will continue to operate when considering the Heritage of Western Australia Bill. The problems appear to lie with the compensation provisions proposed by the Opposition.

During the second reading debate I said that I would keep an open mind on the question of whether compensation should be paid. Witnesses can be called to give the committee some direction in that regard and ultimately the committee will return the legislation to the House in an improved form.

I support the motion.

HON GARRY KELLY (South Metropolitan) [5.41 pm]: I do not rise to oppose the referral of the Bill to the Legislation Committee. I agree with the opening comments by Hon P.G. Pandal that it is not unexpected for the Bill to be referred to the committee. I do, however, wish to make a few cautionary comments about the referral of Bills. The Legislation Committee comprises five members. Considering the procedure involved, it takes some time to address each referred Bill. We could reach the stage where in attempting to resolve difficulties with each piece of referred legislation the five committee members are effectively asked to do what 34 members of Parliament are charged to do.

Hon Kay Hallahan: That is right.

Hon GARRY KELLY: In judging the performance of the Legislation Committee - and it has performed very well to date - any method of assessment should be based on the quality of the work rather than the quantity of it. There is a limit to the depth of matters the committee can consider and to the diligence with which the committee can approach its work if Bills are constantly being referred to it. In some cases, these matters could be handled if not better at least as well by the Committee of the Whole. The time could come when the Legislation Committee will remain in continuous session. During consideration of the Criminal Law Amendment Bill I referred to the committee as the Berger's Paint committee because we kept on keeping on; we were sitting every other day and the meetings kept rolling on.

Hon Derrick Tomlinson: That was the nature of the Bill.

Hon GARRY KELLY: It was the first Bill we considered. As many members have said about the committee system, we are on a learning curve. However, the real danger is that a special Bill could be introduced by the Treasurer in the other place - such as a supplementary Appropriation Bill - to provide self-contained living units within the precincts of Parliament to accommodate the members of the Legislation Committee so that not only would we work here -

Hon Barry House: Country members would have first priority.

Hon GARRY KELLY: I am talking about the Legislation Committee. Such accommodation would be for the members of that committee who could then not only work here but also live here. Committee members could roll straight out of bed and continue to work.

Hon Kay Hallahan: They would make very strange bedfellows.

Hon Derrick Tomlinson: They do not sleep together, despite what the Minister suggests.

Hon GARRY KELLY: I appreciate the assistance by all members with my contribution to debate. The House should be reasonable and temperate in deciding the number of Bills it refers to the Legislation Committee. The committee has three Bills to attend to already.



Consideration of the Tobacco Bill is drawing to a close. Referral of this heritage legislation will increase that number to four.

When the Tobacco Bill was referred to the committee, I stated that, under Standing Orders, Bills do not necessarily need to be referred following the second reading stage. They can be referred at any stage after that. Any Bill can be considered by the Committee of the Whole, the difficulties explored and progress made. Subsequently, at any point, such a Bill could be referred to the Legislative Committee.

Hon P.G. Pendal made reference to Bills which present unresolvable difficulties in the House. In this case, and perhaps in previous cases, perhaps in its eagerness to test the new committee system, I do not think the House has tried hard enough to reach a solution. I ask Opposition members primarily, but members generally, who want to refer any piece of legislation to the Legislation Committee to not necessarily do that as soon as the Bill has been given a second reading. It might be appropriate to consider most sections of the Bill in the Committee of the Whole. Perhaps only one or two clauses need be referred to the Legislation Committee. That procedure would expedite final consideration of the Bill immensely. In the case of the heritage legislation it might be possible to do that because as far as I can glean the main contention with that Bill is compensation or incentive arrangements regarding the listing of buildings on the heritage register when the owner of the building may wish to do something with the building. Ways can be found to preserve such a building without disadvantage to the owner. The problem area is that of compensation or incentives which can be offered to owners which allow buildings to be conserved without costing the public purse a fortune and without putting a value on preservation which militates against the development or use of a building as a living example of heritage.

I must emphasise that Bills do not necessarily need to be referred to the Legislation Committee immediately after the second reading; the House could move into Committee. It is too late to move in that direction with the heritage legislation, but perhaps the House could give thought to the relative strengths of the Legislation Committee with five members and the House with greater membership, and consider a situation where the Committee of the Whole makes an effort to resolve any difficulties and refers only part of a Bill on which agreement cannot be reached instead of requiring the Legislation Committee to consider the entire Bill.

In conclusion, the Legislation Committee will turn its mind to the Bill - after it is referred - and produce a report which will go a long way towards presenting a Bill which is long overdue in arriving and long overdue in being effective in the preservation of the heritage of this State.

**HON KAY HALLAHAN** (East Metropolitan - Minister for Heritage) [5.50 pm]: I am one of those people who indicated a dissatisfaction with the Standing Committee on Legislation because I saw it as slowing down Government business and I believed that matters could be debated on the floor of the House; that has always been the way it has been done in my time in the Parliament up until this year. Last week a meeting was held with the Building Owners and Management Association of Australia Ltd which was attended by Hon Peter Foss from the Opposition and an officer from the Government. It was a most constructive meeting. I came to the view that I would not have the capacity to persuade sufficient members not to refer the Bill to the Legislation Committee. However, the spirit of cooperation which was present at the meeting indicated that the committee might be quite useful in this case. However, given Hon Phil Pendal's comments this afternoon, it can be seen that the opinion was formed in his absence - it was possibly due to his absence.

**Hon N.F. Moore:** It is not like you to be so aggressive.

**Hon KAY HALLAHAN:** I was aggravated by Hon P.G. Pendal's comments that the Bill had been around since 1976. This is a difficult Bill.

**Hon P.G. Pendal:** We agree on that.

**Hon KAY HALLAHAN:** The honourable member believes that he can open and shut his mouth and issue Press statements on the issue at will, yet he has no idea about the Bill.

**Hon P.G. Pendal:** It is entirely necessary to put paid to your misinformation and "porky pies", as Hon Phil Lockyer would say.

Hon KAY HALLAHAN: I want it placed firmly on the record of the House that no misinformation has been put out by the Government, by any of its officers or by my Press secretary. I regret the allegations made in this place by Hon Phil Pental on this matter. I regret that he raised the subject of the Kalgoorlie reporter as the reporter was young and did not deserve the mauling he was given by Mr Pental. If the Liberal Party wants to lift its stakes it will have to try to curb Mr Pental's habit of abusing people who do not agree with him.

Karrakatta was a good example of how this Bill will work and how heritage values will be established.

The DEPUTY PRESIDENT (Hon D.J. Wordsworth): Order! The member should be speaking about why we should pass the Bill to the Standing Committee on Legislation and she should not be discussing Karrakatta or whatever.

Hon KAY HALLAHAN: Indeed. I heed your direction, Mr Deputy President, but heritage values will be very important in the consideration of developments. I want it known by members of the Legislation Committee, as I said in my speech today, that the legislation will not stifle development. It will not sterilise property. Members of the committee must understand that principle. Passing this Bill and listing and extending the heritage value on property, which will protect the value of the buildings, will result in environmental and other considerations being involved in determinations on whether a development or the shape of a development can proceed. This Bill does not seek to sterilise sites. It is very important that members of the Legislation Committee understand that. During the Karrakatta debate it was alleged by the Opposition spokesman for this Bill that the listing would sterilise the property and nothing could happen. There is nothing further from the truth and that principle is constantly being misrepresented by members opposite.

I can see why the Deputy President is wondering how this is related to referring the Bill to the Standing Committee on Legislation.

The DEPUTY PRESIDENT: I was wondering.

Hon KAY HALLAHAN: It is important that the committee understand the principle that the Government has not acted in an irresponsible way. We have preserved Araluen, yet many other places which appeal to people's hearts may go under redevelopment plans even when this legislation is in place. That will be possible.

The DEPUTY PRESIDENT: Order! I am trying to make the best use of the remaining five minutes, but the debate should concern why the Bill should go to the Standing Committee on Legislation. It should not be a lecture to the committee members.

Hon KAY HALLAHAN: I take the point, but other members have had licence with that.

Hon P.G. Pental: You have to be accommodating to the Deputy President - I was.

Hon KAY HALLAHAN: Hon Phil Pental makes great glory out of a personal accommodation to give his second reading speech before he went overseas. I was happy to do that. However, I am not happy to accommodate his unwarranted criticism. While this Bill has been before the House negotiations have been taking place in an attempt to overcome the impasse which has existed with this legislation since 1976. It is time for members opposite to stop blaming the Government for trying seriously to address the Bill in a responsible manner. It may be that Hon Phil Pental has no experience of progressing complex legislation. Many hours of negotiation are spent outside this Chamber with members opposite, and with members of organisations in the community and others to obtain the successes we have achieved on a great deal of complex legislation.

I am not opposing the Bill's being passed to the Standing Committee on Legislation because in this instance it may well be a forum in which we can find a way of producing a very good piece of legislation.

Hon P.G. Pental: Hear, hear!

Hon KAY HALLAHAN: The Government does not oppose the referral and has high hopes for the outcome of the considerations of that committee.

Question put and passed.

## ADJOURNMENT OF THE HOUSE - SPECIAL

HON J.M. BERINSON (North Metropolitan - Leader of the House) [5.57 pm]: I move -

That the House at its rising adjourn until Sunday, 21 October at 4.00 pm, and thereafter the House shall stand adjourned until Tuesday, 30 October 1990 at 7.30 pm.

*Adjournment Debate - Centenary of the State Constitution - Joint Sitting*

HON D.J. WORDSWORTH (Agricultural) [5.58 pm]: I was not here last Tuesday afternoon when message No 71 reached this House. For those members who are not aware, this message concerned the joint sitting of Parliament to celebrate the centenary of the State Constitution.

Hon Tom Stephens: They tell me that you were here for the sitting which we are now celebrating!

Hon D.J. WORDSWORTH: I thank the member.

I was out of the Chamber and the message was dealt with instantly. The Leader of the House moved that the resolution contained in the message be agreed to. A short debate ensued in which the Leader of the Opposition pointed out that he was not used to handling messages at such short notice and that he did not have the opportunity to consider the proposal, after which the motion was passed.

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! Is the member speaking to the adjournment motion?

Hon D.J. WORDSWORTH: I am speaking to the adjournment motion because it relates to the joint sitting of Parliament. I am speaking about whether we should adjourn to the date of this joint sitting.

The message came from the other House unexpectedly and was handled instantly. Under Standing Orders things cannot be done in such a hurry.

Hon Kay Hallahan: Do not let us do things in that much of a hurry!

Hon D.J. WORDSWORTH: Under Standing Orders leave should not be granted for the House to handle the matter at that time when it did.

*Point of Order*

Hon TOM STEPHENS: The member is reflecting on a decision of the House. The House has made a decision on this matter and it is not open for the member to debate this issue in the context of this adjournment.

The DEPUTY PRESIDENT (Hon Garry Kelly): I will take the comment of Hon David Wordsworth as a passing reference and I am sure he will not dwell on the decision.

*Debate Resumed*

Hon D.J. WORDSWORTH: The reason I am concerned that we have suddenly agreed to a joint sitting of the two Houses is that we are setting a precedent. There is no provision in the Constitution for a joint sitting of the Houses other than on the special occasion to elect a senator. Suddenly we find ourselves, at the behest of a message which was dealt with without practically any debate in this House, going into a joint sitting. We are setting a difficult and dangerous precedent.

Hon T.G. Butler: We can get around it by electing a senator.

Hon D.J. WORDSWORTH: That might be the solution.

Hon P.G. Pandal: What about six Labor ones?

Hon D.J. WORDSWORTH: One can joke about this, but it concerns me that we will be going into that other place without an agenda. Any motion could be put forward at that joint sitting.

Hon P.G. Pandal: Like the removal of Hon Joe Berinson.

Hon J.M. Berinson: What effect would that have?

Hon D.J. WORDSWORTH: It has been suggested the Government might move for daylight saving.

Hon J.M. Berinson: Now you are talking.

Hon P.G. Pendal: We might move to expel Hon Joe Berinson.

Hon D.J. WORDSWORTH: I raised the point that the political view of joint sittings of the Parliament is that they are the way to resolve difficulties between the two Houses where they cannot agree. We are setting a precedent by suddenly going off to a joint sitting. We should not take the matter lightly. On top of that I rather object to the Parliament sitting on a Sunday, if nothing else.

Hon Tom Helm: We are going to do that every 100 years as well.

Hon D.J. WORDSWORTH: I thought there would surely be something in our Act to say that we could not sit on Sunday! I thought the trade unions would have written that in, but it was not. I gather that Westminster set a precedent by sitting on a Sunday; that is why we have the ability to sit on a Sunday. If that is the precedent, goodness knows what precedent we are setting by going off to the Legislative Assembly next Sunday.

Hon J.M. Berinson: We should adopt the precedents of the House of Commons - the Prime Minister can appoint members to the House of Lords.

Hon D.J. WORDSWORTH: In that regard we are already there.

Hon Tom Helm: They have been there for 100 years too!

Hon D.J. WORDSWORTH: I agree that we should celebrate the centenary, and I am sure that we will. Indeed, it was this House that gave the Legislative Assembly its hundredth anniversary year. I am concerned about the manner in which the joint sitting was arranged. It would have been far better to have had a meeting.

Question put and passed.

*House adjourned at 6.04 pm*

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## QUESTIONS ON NOTICE

## MINISTERS OF THE CROWN - MINISTER FOR THE ENVIRONMENT

*Minister for Transport Title - Environmental Issues*

634. Hon GEORGE CASH to the Minister for Planning representing the Minister for the Environment:

- (1) Is it correct that the Minister, when previously the Minister for Transport and the Environment, signed letters relating to environment issues under the title of Minister for Transport?
- (2) If the answer is yes, did the Environmental Protection Authority seek Crown Law opinion to determine what action it could take to prevent him signing environment letters under the title of Minister for Transport?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

- (1) Not to my knowledge.
- (2) Not applicable.

## MARINA - EXMOUTH

*Work Commencement and Completion*

901. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Transport:

- (1) When will the Government commence work on the marina in Exmouth in line with an election promise given in 1989?
- (2) How much money will be expended in 1991 on the project?
- (3) When is the anticipated completion date?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Peripheral work has already commenced on this project. In particular this work entailed the construction of a special rural subdivision in order to relocate lessees currently occupying land required for marina construction.
- (2) This is dependent upon budgetary considerations in conjunction with other important marine projects.
- (3) Four years after commencement of construction on the marina proper.

## TOURISM - PUBLIC SECTOR TOURISM FACILITIES

*Development Grant Applications*

914. Hon J.N. CALDWELL to the Minister for Police representing the Minister for Tourism:

- (1) Can the Minister advise how many applications were received from local government authorities and other non-profit incorporated organisations for development grants to help fund public sector tourism facilities in 1987-88; 1988-89 and 1989-90?
- (2) Of these applications, how many were approved?
- (3) What was the Government's financial contribution?

Hon GRAHAM EDWARDS replied:

The Minister for Tourism has provided the following response -

(1)-(3)

Grant applications received by the Western Australian Tourism Commission are generally developed in association with the respective regional tourism managers. As a consequence very few projects reach

formal application stage without already being accepted as meeting the necessary criteria. The consultation process generally eliminates, at an early stage, those projects which the Tourism Commission would not financially support.

Grants are usually on a \$1 - from the Western Australian Tourism Commission - to \$2 - from local government authorities/non-profit organisations - basis.

In 1987-88 the following Government grants were approved/paid -

(Depending on the completion date of the project, variations are either a carry over from the previous year or carried forward to the next year.)

	Approved		Paid	
	No	Amount \$	No	Amount \$
Local government grants	19	320 823	21	328 403
Non-profit organisation grants	9	73 711	9	51 909
In 1988-89 -				
Local government grants	21	305 436	14	197 282
Non-profit organisation grants	8	90 568	8	88 276
In 1989-90 -				
Local government grants	25	277 155	21	212 198
Non-profit organisation grants	9	120 186	8	149 386

#### LOTTERIES COMMISSION ACT - LOTTERIES COMMISSION RESIDUAL MONEYS

##### *Consolidated Revenue Fund*

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

With reference to the Lotteries Commission Act 1990 -

- (1) Are residual moneys remaining from the sale of Lotteries Commission products, after allowing for prize and other statutory distributions, able to be paid into the Consolidated Revenue Fund?
- (2) If so, will the Minister give an unequivocal assurance that such residual moneys will not be paid into the Consolidated Revenue Fund as such moneys could then be used for purposes not approved by the Lotteries Commission Act?
- (3) Will the Minister give the same assurances in respect of the current Lotteries Commission Act?
- (4) If not, why not?

Hon GRAHAM EDWARDS replied:

The Minister for Racing and Gaming has provided the following response -

- (1) No.
- (2) Not applicable.
- (3) Yes.
- (4) Not applicable.

**PORTS AND HARBOURS - ROUS HEAD BOAT HARBOUR LAND**  
*Cargo Handling and Storage Use*

965. Hon GEORGE CASH to the Leader of the House representing the Minister for Transport:

- (1) Is the Minister aware that the land at Rous Harbour which is currently proving difficult to lease, could be used for cargo handling and storage purposes such as sheep and vehicles when used in association with No 1-2 berths?
- (2) Is the Minister aware that Victoria Quay land which is currently used for these purposes, has an immediate value for redevelopment purposes which significantly exceeds the value of the Rous Head industrial land?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) The Fremantle Port Authority is satisfied that the leasing program for the Rous Head Industrial Park is progressing to expectations despite the economic downturn in the property market.

The development and use of Rous Head land for cargo such as sheep and/or vehicles is not necessary or appropriate.

- (2) I refer to previous answers relating to the role which Victoria Quay currently plays in port operations and to the potential future congestion if Victoria Quay cargo handling and shipping is transferred to North Quay.

**PORTS AND HARBOURS - FREMANTLE TERMINALS LTD**  
*Independent Consultant's Report - Victoria Quay Under-utilisation*

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

Further to question on notice 699 of 28 August 1990, is the Minister aware that -

- (1) The main thrust and conclusions of the independent consultant's report is not that Fremantle Terminals Limited should remain a monopoly but that Victoria Quay is a completely under-utilised asset?
- (2) Fremantle Terminals Limited have simply facilitated a model which enables a rational exploration of possibilities and the report acknowledges that whilst a large range of alternative scenarios remain to be explored, preliminary modelling work supports the conclusion that Victoria Quay is surplus to requirements, provided the North Quay berths are reallocated wisely and efficiently?
- (3) The model has shown that expenditure of funds on No 9 berth and No 3 berth to be unnecessary whilst Victoria Quay remains in service?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) No.
- (2) It has been made very clear that the conclusions of the report are being used in an attempt to demonstrate that Victoria Quay shipping and cargo handling can be transferred to North Quay provided that North Quay planning does not allocate facilities to a second competitive terminal operator.
- (3) The report is currently being examined and the Department of Transport and the Fremantle Port Authority are to provide me with detailed comment and advice on its conclusions.

However, I have preliminary advice that while the computer modelling undertaken has provided a useful insight into the capacity of the inner

harbour, it cannot be regarded as conclusive because the computer model established is not accurate.

**PORTS AND HARBOURS - FREMANTLE PORT AUTHORITY**  
*Container Rail Traffic Costs - Westrail Quotes*

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

Further to the Minister's answer to question on notice 782 of 30 August 1990 which sought advice on railway issues linked to the Fremantle Port Authority's landbridge concept, will the Minister advise whether -

- (1) Westrail have as recently as July 1990 given written quotes of approximately \$1500 to rail a container (20 tonne) from Fremantle to Sydney?
- (2) If Westrail are aware of relative shipping costs out of Singapore to these two ports?
- (3) If Westrail have concerns that much time is being wasted on the concept?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Westrail is constantly quoting container freight rates for consignments of various sizes and conditions to Sydney. These rates are commercially based.
- (2) Westrail has examined shipping costs, freight charges and transit times.
- (3) Landbridging has the capacity to bring great benefit to Westrail, other Australian railway systems and the Western Australian economy. It is usual practice to research and plan for new and expanding business such as landbridging, to ensure that it is presented as a viable commercial proposition.

**PORTS AND HARBOURS - VICTORIA QUAY, FREMANTLE**  
*Redevelopment - Fremantle Port Authority Property Leases*

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

- (1) How many property leases has the Fremantle Port Authority entered into on Victoria Quay since the Government established its task force which was charged with examining the possibility of redeveloping Victoria Quay?
- (2) Is the Minister aware that previously, such leases were considered appropriate?
- (3) Will the granting of such property leases on Victoria Quay by the Fremantle Port Authority create obstacles in the way of the potential redevelopment of Victoria Quay?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Current leases and dates of commencement in relation to Victoria Quay are -

Tenant	Property	Commencement
Ship Agencies Aust Pty Ltd	Pt D Shed	1 June 1990
Patrick Stevedoring	Victoria Quay	1 October 1989
	Gear Store	

- (2) There has been no change in Government or Fremantle Port Authority policy in relation to entering into leases on Victoria Quay.
- (3) No.



**PORTS AND HARBOURS - VICTORIA QUAY, FREMANTLE**  
*Fremantle Port Authority Shipping Policy - Cargo Vessel  
 Statistics*

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

- (1) Has the Fremantle Port Authority adopted a policy of directing shipping to Victoria Quay in an attempt to justify the retention of Victoria Quay?
- (2) Would the Minister provide a detailed comparative break down of the number and type of cargo vessels assigned to the North Quay and Victoria Quay for the financial years 1988-89 and 1989-90?
- (3) Would the Minister advise whether Rous Harbour could be used to accommodate the fishing vessels currently assigned to Victoria Quay?
- (4) If not, why not?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) No, all vessels entering the port are programmed to berth at the berth best suited to meet the special needs of the individual vessel.
- (2) The detailed breakdown of the number and type of cargo vessels assigned to North Quay and Victoria Quay for the financial years 1988-89 and 1989-90 are as follows -

Type of Cargo Vessels	1988-89		1989-90	
	Victoria Quay	North Quay	Victoria Quay	North Quay
Car carriers	20	3	16	Nil
General	10	39	9	56
Livestock	93	13	72	26
Container/Multipurpose	17	337	15	432
Roll on/Roll off	Nil	73	1	33
Dry Bulk Carrier	9	Nil	8	Nil
Liquid Bulk	4	20	6	28
Fishing Vessels and Miscellaneous	250	2	254	Nil
Total	403	487	381	575
Percentages	45%	55%	40%	60%

(3)-(4)

No, it would take a substantial injection of capital to put in place the interface required to accommodate the number of vessels involved - approximately 200 to 250 per annum. As the fishing fleet visits are a seasonal operation, late October to February, and can involve up to 20 to 25 vessels at a time, Rous Harbour is not the appropriate location to accommodate this number and size of vessel.

Victoria Quay can accommodate all the vessels at any given time and meets all the requirements of the port user for commercial interface with the business in the City of Fremantle.

**PORTS AND HARBOURS - FREMANTLE PORT AUTHORITY**  
*Small Boat Crews - Covered Parking Bays Demand*

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

- (1) Did the Fremantle Port Authority receive demands on threat of industrial action from its small boat crews to provide under cover parking for approximately eight private cars?

- (2) If so, has it acceded to these demands?
- (3) What did these covered facilities cost?
- (4) Did the port authority receive requests from the estimated 100 other more senior staff members for similar facilities?
- (5) If so, will their request receive the same consideration?
- (6) What is the total annual cost of operating and maintaining the port authority's small craft fleet and could significant economies be achieved by combining the resources and functions of Marine and Harbours and Fremantle Port Authority small craft fleets?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1) Yes.
- (2) The authority has provided cover over eight parking bays used by shift workers. The only area reasonably available for secure parking during hours of darkness is immediately below the railway bridge. The cover was provided to prevent metal filings from train wheels and tracks from damaging employees' vehicles.
- (3) \$3 500 approximately.
- (4) There have been other limited requests for covered parking.
- (5) Each application received is investigated, assessed and acted upon according to merit.
- (6) Financial year 1989-90 figure is \$1 348 000.

Consideration has been given to any economies that could be achieved by combining the resources and functions of Marine and Harbours and Fremantle Port Authority small craft fleets, although to date this has not been practical.

Further considerations will be given over the coming months in light of waterfront reform and restructuring.

**PASTORAL BOARD - DEPOT SPRINGS, PINNACLES, DANDARAGA  
PASTORAL LEASES**

*Range Land State and Management Concern*

978. Hon P.H. LOCKYER to the Minister for Lands:

Is the Pastoral Board satisfied with -

- (a) the state of the range land; and
- (b) the management of the range land

on pastoral leases at -

- (i) Depot Springs;
- (ii) Pinnacles; and
- (iii) Dandaraga

in the Murchison and north east goldfields?

Hon KAY HALLAHAN replied:

The Pastoral Board has areas of concern with regard to -

- (a) the state of the rangeland; and
- (b) elements of the current management on pastoral leases comprising -

Depot Springs;  
Pinnacles; and  
Dandaraga.

The Pastoral Board has considered range condition reports on each of the properties and reached the following conclusions -

The condition of parts of the properties has been degraded by historical overuse.

Infrastructure is reaching the end of its useful life.

Feral goats are a significant problem on each of the properties.

The current lessee has been advised of the adverse reports and requested to address the problems.

#### REAL ESTATE AND BUSINESS AGENTS SUPERVISORY BOARD - FUNCTION

995. Hon N.F. MOORE to the Minister for Police representing the Minister of Consumer Affairs:

- (1) What is the function of the Real Estate and Business Agents Supervisory Board?
- (2) Does the board have the authority to conduct investigations with respect to complaints lodged by a consumer against real estate and business agents?
- (3) Does the board have the authority to question individual real estate and business agents with respect to complaints lodged relating to professional conduct?
- (4) If a consumer is not satisfied that a complaint has been thoroughly investigated by the board, to whom do they report this?

Hon GRAHAM EDWARDS replied:

The Minister for Consumer Affairs has provided the following reply -

- (1) The board is the licensing and supervisory authority under the Real Estate and Business Agents Act and has the powers conferred on it by that Act which include powers of investigation and inquiry.
- (2) Yes. The board can direct that an inspector undertake investigations.
- (3) The inspector has this authority.
- (4) Investigations are generally undertaken on behalf of the board by officers of the Ministry for Consumer Affairs and complaints can be made to the chief executive officer or to the Minister for Consumer Affairs or the Parliamentary Commissioner for administrative investigations.

#### LOCAL GOVERNMENT DEPARTMENT - WRIGHT, COUNCILLOR KEITH *Shire of Wyndham-East Kimberley Inquiry*

1026. Hon P.H. LOCKYER to the Minister for Planning representing the Minister for Local Government:

- (1) Has the Department of Local Government investigated a matter brought to its attention with regard to Councillor Keith Wright from the Shire of Wyndham-East Kimberley?
- (2) What was the result of this investigation?

Hon KAY HALLAHAN replied:

The Minister for Local Government has provided the following response -

- (1) The department's investigation into a number of matters relating to the Shire of Wyndham-East Kimberley is continuing.
- (2) Not applicable.

**COMMUNITY SPORT AND RECREATION FACILITIES FUND - REVIEW**

1028. Hon Murray MONTGOMERY to the Minister for Police representing the Minister for Sport and Recreation:

- (1) Has the review of the community sport and recreation facilities fund been completed?
- (2) If the answer is yes, when and what action has been taken on the report?
- (3) When will the Minister be calling for applications for funding from this year's Budget allocation?
- (4) Have any funds from this year's Budget allocation already been spent or committed?
- (5) If the answer to (4) is yes, when, for what purpose and how, was the allocation made if not through the normal application process?
- (6) Have any funds from this year's Budget allocation been spent on or committed to works or projects done in 1989-90?
- (7) If the answer to (6) is yes, for what purpose and by what means was the application for such funding determined?

Hon GRAHAM EDWARDS replied:

The Minister for Sport and Recreation has provided the following response -

- (1) Yes.
- (2) The report has been considered and noted by Cabinet.
- (3)-(7) \$2.4 million has been allocated to the community sporting and recreation facilities fund in the 1990-91 Budget. This is to provide funding for committed projects, some of which have already commenced.

**QUESTIONS WITHOUT NOTICE**

**UNITED CREDIT UNION LTD - GOVERNMENT INVESTMENT FUNDS**

731. Hon GEORGE CASH to the Leader of the House representing the Minister for Finance and Economic Development:

Some notice has been given of this question. What funds has the Government or any of its agencies or statutory authorities currently invested on deposit or in the share capital of United Credit Union Ltd?

Hon J.M. BERINSON replied:

I thank the Leader of the Opposition for some notice of this question. The Minister for Finance and Economic Development has provided the following reply -

This information would take some time to collate. If the member could be more specific, and place the question on the Notice Paper, I will be happy to respond. The member may also care to examine question 1419 asked in the other place concerning United Credit Union Ltd.

**MINERALS - DOWNSTREAM PROCESSING**

*Government Initiatives*

732. Hon GEORGE CASH to the Minister for Resources:

What initiatives is the Government implementing to encourage further downstream processing of minerals in Western Australia?

Hon J.M. BERINSON replied:

The Government regards the downstream processing of minerals as of the greatest importance and every effort is made to encourage opportunities in that respect. I do not think that anyone needs to be persuaded - least of all, the officers of the Department of Resources Development - about the need to add value to our basic resources. Every opportunity is taken, both with current producers in the minerals area and a wide range of companies expressing interest in investment here, to not only direct them to the existing opportunities but also to assist them in every way possible to encourage a positive decision.

That might take, for example, the form of assistance in discussions with the fuel and energy authorities, the Environmental Protection Authority, the Aboriginal heritage authority and many other bodies with an interest in many of the areas involved. They can together constitute quite a hurdle for potential investors who may not have previous experience of the various requirements that have to be satisfied. It is important that they be guided through those as expeditiously as possible. I think the question is in such general terms that I am hardly able to respond other than in general terms, but I assure the House that no effort is spared to encourage development in the area referred to by the Leader of the Opposition.

#### TRANSPORT CO-ORDINATION ACT - SECTION 21(1)

##### *Fee Determination*

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

This is the same question that I asked yesterday as the Attorney General said he would look into the matter and notify the House of his answer today. How is a ministerial determination promulgated under section 21(1) of the Transport Co-ordination Act?

Hon J.M. BERINSON replied:

I did say that I would look into the matter and as evidence of my intention to pursue that expeditiously I have in my right hand filing cabinet both the question and answer from yesterday's *Hansard*. Unfortunately I have had no more than five minutes to -

Hon George Cash: What you need is daylight saving.

Hon J.M. BERINSON: I think a lot of people need daylight saving. I was rather distressed - not that I wish to be detracted from the discussion at hand - at the way in which the Opposition's approach to the refusal of leave had the effect of gagging whichever of its members may have intended expressing a different view.

Several members interjected.

The PRESIDENT: Order!

Hon J.M. BERINSON: It would be as clear to you, Mr President, as it is to me that that interjection was not completely relevant to the issue with which I am dealing. I again assure Hon D.J. Wordsworth that I have both his question and answer in mind and will take the first opportunity to pursue the matter further.

#### DAYLIGHT SAVING - FURTHER BILL

734. Hon E.J. CHARLTON to the Leader of the House:

When will the Government introduce another Bill to bring in daylight saving?

Hon J.M. BERINSON replied:

The Government's position is quite clear.

Hon E.J. Charlton: It has changed from yesterday.

The PRESIDENT: Order!

Hon J.M. BERINSON: As have the events of this week. The Premier indicated early in the piece that she could see no point in introducing this Bill unless there was some indication of the possibility of support in this House which would allow it to pass. That would require no more than one independent spirit on the other side. Statements by a number of members -

Hon George Cash: Name the members.

Hon J.M. BERINSON: Mr Minson was not entirely misrepresented when he indicated the position was not clear.

Hon George Cash: Who else?

Hon N.F. Moore: It was as clear as a bell.

The PRESIDENT: Order! Let the Minister answer the question.

Hon J.M. BERINSON: I am quite happy to provide transcripts of various radio interviews which I have and which indicate it should not be taken for granted that the possibility of one or more members - and I repeat we only need one - changing their positions cannot be contemplated.

Hon George Cash: Name the members.

Hon J.M. BERINSON: I will provide the Leader of the Opposition with transcripts. We are back not simply to square one; I think we are further back than that and that we are in a position that is seriously detrimental to the best interests of this State. I can hardly recall any occasion on which I have had such unanimity of support for a proposition as I have for this one from commercial and industrial groups.

We had a very long series of speeches last night on the very important question - and I acknowledge it to be important - of the rural economy. But the rural economy cannot be isolated from the general economy of this nation. The last thing we should be doing is either supporting or putting up with measures which can constitute a barrier to the efficient performance of our economy. As it happens, the absence of daylight saving hours is not on my account but on the account of the major bodies of commerce and industry in this State -

The PRESIDENT: Order! I have some sympathy with the Leader of the House, bearing in mind the question he was asked. However, he cannot debate a decision which has already been made in this House in regard to any matter, including daylight saving. The merits or otherwise of daylight saving are not within the scope of an answer to that question.

Hon J.M. BERINSON: My second reading speech would have been much better.

Hon George Cash: Not much.

Hon J.M. BERINSON: It seems that it must go into the category of our best speeches, which are those we have not had the opportunity to deliver.

#### DAYLIGHT SAVING - FURTHER BILL

735. Hon E.J. CHARLTON to the Leader of the House:

I ask the Minister to answer the question.

The PRESIDENT: Order! You cannot ask the same question twice.

#### POLICE BOARD - POLICE FORCE CORRUPTION REDUCTION *Ombudsman's Report*

736. Hon TOM STEPHENS to the Minister for Police:

Has the Minister had the opportunity to consider the editorial in today's *The West Australian* printed under the heading "Damning delay in graft fight"?

Hon GRAHAM EDWARDS replied:

Yes, and I am very concerned at the content of the editorial. In my view it is misleading and, what is more, incorrect. It is based on a misconception that

the Ombudsman advocated that a police board would fight corruption. He did not. His report to Parliament on 6 December 1989 contained a number of recommendations, one of which was that a police board should be considered. The functions he identified for such a board were primarily in the area of administration. The corruption fighting role was not referred to, but the Ombudsman did add that a board, if established, could evaluate what progress had been made with investigations directed at reducing corruption in the police service.

The Ombudsman was referring to the fact that during his inquiry he had been made aware of the fact that the internal affairs unit was investigating 58 matters, some serious, involving 45 officers, past and present. As a result of this knowledge he recommended that the internal affairs unit be expanded, and this recommendation has been met in full.

The Ombudsman recommended that the Government consider the establishment of a police board. He referred specifically to the New South Wales Police Board and described its role by saying, "Except in relation to appointments, the board acts mainly in a planning, monitoring and advisory capacity." He went on to observe that the time may well be appropriate to consider the restructuring of the police service by the establishment of a police board similar to that in New South Wales. He also observed that if such a board were created it could, after a few months in operation, evaluate what progress had been made with investigations towards reducing corruption in the police service.

This answer is lengthy, but I hope the House will accept that this is a matter which needs responding to.

Unfortunately the editorial has created a misleading impression that a police board was recommended by the Ombudsman as an integral and essential element in the investigation of possible corruption in the Police Force. This is simply not so. It is, in my view, irresponsible to give that impression. The Ombudsman's recommendation was to consider the establishment of a police board which he identified as having an essentially administrative function. This is actively being done.

In the short time - less than 12 months - that I have been Minister for Police, I have travelled throughout the State to familiarise myself with the Police Force, policing and police/community relations, and I have formed some views about the administration of the Police Force as a result of my experiences. I have also noted some events which have occurred in New South Wales, despite that State's having a police board. I do not find myself persuaded at this stage that the establishment of a police board in Western Australia would be of benefit. I am less persuaded that it is imperative, as implied in the editorial.

My preliminary view - and I stress that it is just that - seems to be supported by the Leader of the Opposition, Mr MacKinnon, who, in December 1989, said in the Legislative Assembly, "I am of the opinion that if the Government went down the line of appointing a board it would represent a massive vote of no confidence in the commissioner." Also in December 1989, the Leader of the Opposition in this House, Mr Cash, said, "Personally I do not believe a police board is necessary in Western Australia. My view - one formed over the four years I have been shadow Minister for Police and Emergency Services - is that there is no need for a police board so long as there is a strong and effective leader as Commissioner of Police."

The question of whether a police board should be established is an important one, amounting as it does to nothing less than a restructuring of the police service. I do not take the question lightly. The arguments for it are not compelling. On the face of it, the experience in New South Wales is not convincing. Leaders of the Liberal Party have placed their scepticism on the public record and I shall certainly not be rushed into a decision by the

Ombudsman's report or by a newspaper editorial. It is my duty to act in the best interests of the community I serve, and I can best do that by dealing with this matter in a calm and considered fashion, and that is the course I intend to follow.

The PRESIDENT: Order! I did not interrupt the Minister, but honourable members must understand that questions without notice time should be used for that purpose. I suggest that what the Minister did then was make a ministerial statement, and that is what he should have done instead of waiting for the fortuitous question which Hon Tom Stephens asked. The fact of the matter is that if he wants to give that information the way to do it is by way of a ministerial statement, because that is the sort of statement which would warrant being made. It is just coincidental that Hon Tom Stephens asked the question.

Hon Graham Edwards: I appreciate that.

**POLICE - INTERNAL POLICE INQUIRIES**  
*Effective Procedures Guarantee*

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

Is it a fact that the present investigation procedures in the Police Force dealing with inquiries into the police themselves - in other words, internal police inquiries - are clearly and publicly perceived to be and are in fact from Caesar to Caesar and in the main are ineffective?

The PRESIDENT: Honourable members are not allowed to ask for an opinion, but the Minister may be able to answer the part which is not seeking an opinion.

Hon GRAHAM EDWARDS replied:

It is the police who conduct such inquiries. I do not know who else it could be. In my view the inquiries which are conducted by the internal affairs unit are far from being as described by the member opposite.

**POLICE - INTERNAL POLICE INQUIRIES**  
*Effective Procedures - Ministerial Guarantee*

738. Hon E.J. CHARLTON to the Minister for Police:

Would the Minister give an unequivocal guarantee to members of this House that he is absolutely confident that all action which should be taken has been taken in regard to the internal inquiries into the Police Department?

Hon GRAHAM EDWARDS replied:

I respect the need for the Police Force in this State to have a great deal of integrity and accountability. The Police Force has that integrity and accountability. It is unfortunate that within any organisation carrying out activities such as those conducted by the police from time to time some people succumb to temptation. That is the case in our Police Force, just as it is in any other. However, I am completely confident that the procedures in this State address those matters effectively, and that when the need arises for investigations those investigations are thorough and carried out in a totally professional manner. I have faith in the system. Indeed, I have faith in the ability of the Commissioner of Police to oversee those operations. I can assure all members and the public of Western Australia that if I did not have such faith I would not hesitate to ensure that alternative investigation arrangements were put in place.

**PRISONS - FREMANTLE PRISON**  
*Future Use Report*

739. Hon P.G. PENDAL to the Minister for Corrective Services:

- (1) Can the Minister advise whether the report of the departmental committee inquiring into the future use for cultural purposes of the Fremantle Prison is available?



- (2) If so, will he arrange for the report to be made available to the Opposition or to have it tabled in this House?

Hon J.M. BERINSON replied:

(1)-(2)

I am not aware of progress in that matter. I believe that I would have previously indicated to the House that my responsibilities for Fremantle Prison really only go to its current functioning and will stop as soon as it is decommissioned.

Hon Kay Hallahan informs me that the matter falls within the portfolio of Minister Buchanan, who chairs that committee. If the member would care to put the question on notice I will refer it.

#### "LES MISERABLES" - GOVERNMENT UNDERWRITING

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

- (1) Does the State Government have any underwriting commitment to the Perth season of "Les Miserables" via the Perth Theatre Trust or directly?
- (2) If so, could the Minister report to the House on the nature and extent of any such underwriting?

Hon KAY HALLAHAN replied:

(1)-(2)

It would be useful if the member put the question on notice. No underwriting arrangement is in place, but given the detail of the question I would need notification.

#### ARTS - BUDGET INCREASE

##### *Library Board of Western Australia - Funding Reduction*

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

- (1) Is the Minister correctly reported as saying that the Arts portfolio budget has been increased generously in the present State Budget?
- (2) Is it correct that the Library Board of Western Australia has experienced a nine per cent reduction in its funding across the State?
- (3) Will the Minister say whether all municipal libraries in Western Australia will have their services reduced as a result of that reduction in funding?

Hon KAY HALLAHAN replied:

(1)-(3)

I do not have my Press statements with me. I have been saying that the Arts portfolio held its own in the recent State Budget. The Library Board will have a reduction to some extent in its book purchasing allocation but its services will remain as vibrant as ever. The library service in this State is remarkable. The other side of that, of course, is that exchange rates play a significant role in the exact purchases made; windfalls could be experienced, as could disappointing exchange rates. In general, the Arts portfolio has held its own - as have other areas of Government. Out of the Arts portfolio will come some further innovations in the year ahead.

#### LIBRARY BOARD OF WESTERN AUSTRALIA - BOOK PURCHASE PROGRAM FUNDING CUT

##### *Municipal Library Services Effects*

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

My supplementary question relates to the same matter. I understand from the Minister's previous answer that it is the book purchase program which is to suffer as a result of the eight or nine per cent cut. Can the Minister give us a fuller understanding of the way that reduction will affect municipal library services throughout Western Australia, because of course those libraries receive books from the central library?

Hon KAY HALLAHAN replied:

We have a very impressive purchase arrangement and distribution of books throughout Western Australia.

Hon P.G. Pental: It is less impressive this year.

Hon KAY HALLAHAN: People like the member can make such statements. As he is a member of the Opposition one would not find that too incongruous. I counsel the member to be careful about such statements. I said some reductions would be made. We will be looking at budgets in detail next week and that information can be made available then. I cannot say that the reduction in allocations for library services will be out of the one account. My recollection is that some reduction will be made but it will not markedly affect the availability of books throughout the State.

Members all have constituents who use various libraries and services extensively. I cannot state the reduction in percentage terms but such a reduction will not diminish in any marked way those services -

Hon P.G. Pental: The reduction will not be eight per cent?

Hon KAY HALLAHAN: The budgets will be considered next week. I do not agree the reduction will be eight per cent, by the way; previously the member mentioned nine per cent. We are entering an auction situation; are there any further suggestions? Next week we will consider the detail involved. I will inform members at that stage.

#### EAST PERTH PROJECT - PUBLIC CONSULTATION

743. Hon SAM PIANTADOSI to the Minister for Planning:

Can the Minister advise what public consultation will take place about the recently announced East Perth project?

Hon KAY HALLAHAN replied:

I thank the member for some notice of the question. I know the member has some concern about the matter, as have a number of other people, because the project is so large and complex. People wish to take the opportunity for public input. Considerable input has been made to the proposals which resulted in a document being released last week. Nevertheless, further input will be an important feature of the ongoing development of the project.

The development plan was launched last week. Copies have been sent to each political party so that all members will have access to the document. I am sure members will find it thorough and detailed. It is available for discussion at the Department of Planning and Urban Development. Staff have been trained in order to answer detailed public questioning about the project. A complementary brochure has been produced and is readily available. Public input to the proposals will close on 21 December. After that date the comments received will be incorporated in the proposals for the formal development scheme. I ask that members request people who have an interest in this matter to submit their responses to that development plan.

Hon E.J. Charlton: I am interested in where the money is coming from.

Hon KAY HALLAHAN: An allocation of \$7.4 million has been made in the State Budget. It is most important for people with concerns or interests to respond. It is a very exciting project and it will revitalise the city area. I hope that members will stimulate public interest in the development. We would like to have those responses in the quieter period after the Christmas break - as far as community activities are concerned. Departmental officers could make the assessments on the submissions and incorporate them in the final development plan. The East Perth project is a wonderful innovation and I look forward to receiving the support of all members as we progress with the development.

## QUESTIONS - UNANSWERED

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

I refer the Leader of the House to today's Supplementary Notice Paper Questions and Answers which contains 110 postponed questions of which at least 55 are mine. Would the Leader of the House indicate why there is undue delay in answering these questions in view of the Premier's recently stated comments on the need for higher standards in the Parliament and the need for prompt answers to parliamentary questions?

Hon J.M. BERINSON replied:

I do not accept that there is undue delay, except perhaps -

Hon George Cash: Some go back to July.

Hon J.M. BERINSON: Fortunately I got in the phrase, "except perhaps". To continue: - except perhaps in relation to the first four questions which go back to the 500s and 600s. As it happens Hon Fred McKenzie, the Government Whip, drew my attention to those four questions yesterday and I have asked for particular attention to be paid to them. For the rest, the fact is that we are dealing with questions at an unprecedented rate, and while today we have a substantial list held over, at least half of them number from question 1 000 onwards. This is an indication of the pressure which has been put on this part of the parliamentary and ministerial system. For myself I am reasonably confident I would not have more than about two questions outstanding.

Hon George Cash: It appears that the Minister for Transport is the major offender in not answering questions.

Hon J.M. BERINSON: One would have to examine the questions which are being held up before talking in terms of fault or offending. There is also the question of the flow of questions to particular Ministers, and the fact that there have to be limits on the capacity of us all in respect of responses. The policy of the Government remains as the Premier has put it: To respond as promptly as possible. I am sure that we are all attempting to do that, and if occasional questions fall through the hole and escape our prompt attention, I believe that all Ministers would be prepared to make every effort to expedite them.

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