

Legislative Council

Thursday, 7 June 1990

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

REPORTS - TABLING

HON J.M. BERINSON (North Metropolitan - Leader of the House) [2.32 pm]: I present the following papers -

The report of the State Government Insurance Corporation, annual review 1988-89;
Western Australian Electoral Commission 1989; State general election results, volume 1, Legislative Assembly;

In response to the eloquent and persuasive request made by Hon Bill Stretch yesterday I also present the following report -

Power Options for Western Australia

Again in response to Hon Bill Stretch's request, I indicate that printed copies of this report will become available on Monday or Tuesday next week and will be distributed to all members.

[See papers Nos 301, 302 and 304.]

ACTS AMENDMENT (SIMULTANEOUS DISSOLUTION) BILL

Introduction and First Reading

Bill introduced, on motion by Hon E.J. Charlton, and read a first time.

MOTION - SMITH, MR ROBERT

Perjury Charge - Commissioner of Police

HON N.F. MOORE (Mining and Pastoral) [2.34 pm]: I move -

That the Minister for Police, not later than three sitting days from the day on which this order is passed, inform the House what action has been taken, or is proposed to be taken, by the Commissioner of Police on a reference to him from the Attorney General relating to laying a charge against Robert Smith for alleged perjury committed before a Committee of Privilege of this House.

Members will be aware of the background of this motion. My original motion in relation to the question of perjury requested that the Attorney General take certain action, and he has essentially complied with that request. The Attorney General advised the House in a statement on 29 May that he had referred the matter to the Commissioner of Police. In my view provision needs to be made to ensure that this House is kept informed of progress on this matter and that we get some sort of time frame in which action can be taken. Members may recall that in the debate on my original motion it was agreed that the House should set a time frame for the Attorney General to take certain action. That motion also required the Attorney General to take action to launch a prosecution if he felt that a capacity existed for that to be done.

I support the course the Attorney General has taken, which is to refer the matter to the Commissioner of Police. However, it seems to me that by means of a resolution of this House we need to put in place certain requirements so that, firstly, we know what is happening so far as the House is concerned and, secondly, that a time frame exists for action to take place. The motion says that the Minister for Police must advise the House what action has been taken or is proposed to be taken in respect of this matter not later than three sitting days from the day on which this order is passed. If this motion is passed today, that will leave next week, when the House is not sitting, and the three sitting days which occur the following week. If one adds those days together, the Commissioner of Police will have something like a month in which to make progress and advise the House accordingly.

This motion is not meant to be a reflection on anybody; I am not suggesting that anybody is dragging his feet or that I am unhappy with the progress made. By passing this motion a mechanism would be provided by which the House could be advised of what is happening. The issue at stake is a question of the privilege of this House. I raise the matter not just because it is something I was involved in, but because the House should ensure that its rules are complied with. The second reason for the motion is to establish a time frame - the matter should not go on forever and ever, as indicated by the Attorney - because the earlier publicity involved with this matter affected the subsequent trial of Mr Smith. The issue should be dealt with as expeditiously as possible. I ask the House to agree with the motion, which requires the Minister for Police to inform the House what the Commissioner for Police is doing to resolve this matter.

Debate adjourned, on motion by Hon Fred McKenzie.

CRIMINAL LAW AMENDMENT BILL

Second Reading

Debate resumed from 6 June 1989.

HON MAX EVANS (North Metropolitan) [2.42 pm]: This Bill amends the Criminal Code, the Bush Fires Act, the Coroners Act and the Justices Act. It was introduced during the last session of Parliament and my recollection is that the clause notes were not issued at the time; however, I have seen them today - not being here yesterday - and I cannot see a problem with them. I shall speak to only one aspect of the Bill, as I am not an expert in criminal law and, unfortunately, this is not part of my professional life. The Secret Commissions Act, which I studied many years ago, was incorporated in the Criminal Code, and the Act was drafted in a specific manner to provide penalties. The amendment I will move has been tabled and relates to the removal of the Statute of limitations in relation to the Criminal Code. Limitation exists in the Act in its present form. Section 544 of the Criminal Code deals with this matter and states -

No prosecution for an offence under this Chapter shall be commenced after the expiration of two years next after the commission of the offence or six months after the first discovery thereof by the principal or the person advised, as the case may be, whichever expiration happens first.

In simple language, that relates to the time limitation on a offence of a accepting a secret commission or a gift of money or goods in return for specific favours in business. For members of the Public Service this is official corruption. This Statute involves the business world, where financial favours may be given from one party to another - unknown to other parties - for financial benefit. The problem of this limitation is that if the matter does not come to trial within two years of the crime being committed, no trial will be held and the person will be let off. If the case is not brought to trial within six months of the event being committed, once again the court case lapses. Two cases of this kind have occurred during the last two years. I have had discussions with a Crown Prosecutor and the police regarding these cases because I took an interest from a commercial point of view.

In 1988 a block of land in Kewdale was sold by party A to party B for \$500 000 and was then on-sold to party C for \$850 000. The initial deal involved a secret commission of \$172 000. When the case came to court the issue was whether the six months had expired from when the fact was known. As a result of the evidence given - it is not for me to say whether it was right or wrong - it was determined that the event took place a few days outside the legal time frame. It was established in the court that the \$172 000 secret commission took place, but the trial could not go ahead because of a matter of a few days.

The second case involved the Swan Building Society, when two executives of the society were charged with stealing in the course of business conducted on behalf of the building society. It was established during the trial that these men had received \$10 000 each; however, because the fact was not made known to the police until the six month time period was up, the men could not be charged. The board had known about the incident but apparently had not told the police until the six months had expired. The matter went to court as the police attempted to charge the men for the business deal in which they had loaned a large sum of money, and the money was eventually lost. The two men were convicted and

they appealed against the stealing charge, and the case went before the appeals court. The men were let off. After the original four-day trial the men were gaoled for two years, and at the trial the prosecuting council kept referring to the secret commission because that was the only way reference that could be made to it - a separate trial could not be held. The appeal was upheld and the Chief Justice said -

... the conviction should be quashed as a view of the evidence was that the \$10 000 payments were not part of the transaction from the outset but a mere afterthought.

The receipt of the \$10 000 by Dobson was probably the offence of receiving a secret commission or stealing the sum - but he was not charged with those crimes ...

The legislation should be changed to remove the time limitation; the limitation does not apply in any other major part of the Criminal Code, although the Attorney General may prove me wrong on this point at a later stage because I am not an expert on the Criminal Code. However, it seems wrong that in the last two years two major crimes - in both cases the defendants never denied that a secret commission took place - should not have been prosecuted because of this provision.

In neither case was it denied that commissions were sought, but nobody could be charged in respect of those amounts. I have been advised that the amendments have been submitted to the Government and have received the Government's consent. I am surprised in that case that the Attorney General did not include the amendments in this Bill. He has an amendment under chapter LV which is to delete section 545 of the Criminal Code, which reads -

No prosecution for an offence under this Chapter shall be commenced without the consent of the Attorney General.

That may have some relevance, but since the beginning of time the Attorney General has not refused consent for a case to be brought to trial. I understand the amendment has been recommended because, with the appointment of a Director of Public Prosecutions, cases will not need to be referred to the Attorney General.

Hon J.M. Berinson: The amendment is consistent with our approach to the DPP, but it goes beyond that to say that prosecutions in all respects should be at the discretion of the prosecuting authorities, not the Attorney General.

Hon MAX EVANS: I agree with the Attorney General's actions. The Criminal Code contains some very old provisions which have not been examined for a long time. However, I was disappointed that the Attorney General did not consider making the amendments to which I have referred. Therefore, I will help him out, having talked to practitioners in this area of the law who feel that changes must be made. The Opposition is offering bipartisan assistance to the Government on this issue. The next proposed amendment relates to section 529, which has the following side heading -

Receipt or solicitation of secret commission by an agent a misdemeanour

The last line of that section reads -

... he shall be guilty of a misdemeanour.

That means that a person who has received a secret commission is guilty of a misdemeanour. I refer also to section 530 and quote the side heading -

Gift or offer of secret commission to an agent a misdemeanour

Again the last line reads -

... he shall be guilty of a misdemeanour.

It has been suggested to me that the word "misdemeanour" should be deleted and replaced with the word "crime". These two sections of the Criminal Code relate to crimes concerning major amounts. In the two recent cases I mentioned, amounts of \$20 000 and \$172 000 changed hands for favours to perform business dealings unknown to third parties. Requests have been made to me to see if amendments can be made to the Criminal Code to ensure that such actions are regarded as a crime.

Another recommendation was made in respect of section 538 which at present states -

Any person, on conviction of a misdemeanour under any of the provisions of this Chapter, shall -

- (a) be liable, if a corporation, to a penalty not exceeding one thousand dollars, and if any other person, to be imprisoned for any period not exceeding two years, with hard labour;

Under that section, if a corporation were involved in a secret commission of \$172 000 the fine would be \$1 000 because a corporation cannot be imprisoned; therefore that corporation would make a net profit of \$171 000. If a natural person committed the offence he could be imprisoned with hard labour for a period not exceeding two years. The legal practitioners who work in this area recommended that those penalties be changed; they said that a corporation should be liable to a fine of \$100 000 and a natural person should receive the same penalty as that imposed for the crime of stealing as a servant. The Attorney General's amendment seeks to increase from seven years to 10 years the penalty for stealing as a servant, depending on the magnitude of that crime. The Opposition recommends that the penalty for a natural person, receiving a secret commission be imprisonment for not more than 10 years. One wonders why the fine for a corporation, receiving a secret commission is not unlimited. The Attorney General may wish to examine this proposal before the Bill reaches the third reading stage. Perhaps the fine could be set at twice the amount of the secret commission.

Hon J.M. Berinson: You were not present yesterday during discussions about another large batch of further amendments under consideration to finalise the implementation of the Murray review. One of the matters is the deletion of any maximum limit on fines. That would apply in this area and in all others. That is not a definite position but is certainly being seriously considered.

Hon MAX EVANS: Had the Attorney made those comments yesterday, the amendments could have been introduced into this Bill.

Hon J.M. Berinson: No, the amendments are very comprehensive and a comprehensive Bill will be introduced as a number of important issues are outstanding which will all be included at one time.

Hon MAX EVANS: With the effects of inflation on crime, \$10 000 was a fair penalty 85 years ago, but \$10 million is nothing today.

Hon J.M. Berinson: The current maximum fine in the Bill is \$250 000, which is not much.

Hon MAX EVANS: What is that for?

Hon J.M. Berinson: It is for any offence where a maximum fine is not specified.

Hon MAX EVANS: We should consider the relativity of the penalty to the crime committed. Why can we not bring part of that into this legislation? It will be needed very soon. Why cannot the Attorney General include an amendment in this Bill? It is important in relation to the large amounts of money that have been stolen in recent times.

Hon J.M. Berinson: There is another arrow to this bow these days, which is the Crimes (Confiscation of Profits) Act. That also allows the proceeds to be confiscated. Nonetheless, your suggestions could quite appropriately be considered by the committee to which this Bill is likely to be referred.

Hon MAX EVANS: Is the confiscation of profits Act now in force?

Hon J.M. Berinson: Yes.

Hon MAX EVANS: Does that apply to crimes under the Criminal Code and other codes?

Hon J.M. Berinson: It is a general criminal provision.

Hon MAX EVANS: I have mentioned the main points the Opposition wishes to make in respect of amendments to this part of the Criminal Code because, in the present climate, secret commissions are being taken in a number of different ways. I have also been told - I cannot quote the exact legal jargon - that retrospectivity is not a consideration unless somebody is charged at the moment. I gather this Bill is not retrospective but if a person has been caught, retrospectivity would not apply. I understand that in future all who are caught and convicted can be so charged. I refer to two cases in which I have had an interest where persons have been let off the hook.

There is a great deal of doubt about whether the later case relating to the Kewdale land was

outside the six months' period, and it could not be proved. The other case involving the Swan Building Society was held up by the board, and the police were not told about this matter until six months later. I am not saying it was held up for that reason, but the fact that the police were not notified in time precluded any later charge of accepting secret commissions being laid against the two men. When these two men were first charged and found guilty of stealing, I did not think that was correct because they had not stolen or received money from the deals undertaken, but they had received secret commissions. That is not included in the definition of stealing as a servant, which was the offence for which they were originally charged. The Opposition would like the Government to give serious consideration to that point so that these matters can be put right before any further cases arise. In many cases the taking of a secret commission is a far more serious crime than stealing as a servant. In the latter case the employer and employee are in a fairly open situation and the employer is in a position to know, and should know, what is going on. However, secret commissions involve collusion behind someone's back and the deals in these cases are usually to the detriment of the injured or third party, and result in huge financial losses to that party. Those losses to a third party usually relate directly to the secret commission and the benefit obtained by those committing the offence. I support this Bill.

Adjournment of Debate

HON E.J. CHARLTON (Agricultural) [3.03 pm]: I move -

That the debate be adjourned.

Question put and a division taken with the following result -

Ayes (2)		
Hon E.J. Charlton		Hon Murray Montgomery (Teller)
Noes (27)		
Hon J.M. Berinson	Hon Tom Helm	Hon W.N. Stretch
Hon T.G. Butler	Hon Barry House	Hon Bob Thomas
Hon George Cash	Hon B.L. Jones	Hon Derrick Tomlinson
Hon Cheryl Davenport	Hon Garry Kelly	Hon Doug Wenn
Hon Reg Davies	Hon P.H. Lockyer	Hon D.J. Wordsworth
Hon Graham Edwards	Hon Muriel Patterson	Hon Fred McKenzie (Teller)
Hon Max Evans	Hon P.G. Pandal	Hon Margaret McAleer (Assistant Teller)
Hon Peter Foss	Hon Sam Piantadosi	
Hon John Halden	Hon R.G. Pike	
Hon Kay Hallahan	Hon Tom Stephens	
Pairs		
Hon N.F. Moore		Hon Mark Nevill
Hon J.N. Caldwell		Hon J.M. Brown

Question thus negatived.

Debate Resumed

HON E.J. CHARLTON (Agricultural) [3.09 pm]: I advise members who may query why the National Party moved to adjourn debate, that it is consistent with the National Party's public position and its wish to demonstrate to the Government and the public of Western Australia that the National Party does not wish to debate any legislation introduced in this House until the Government agrees to set up a Royal Commission. I accept that a decision has been made on the adjournment of this debate, and I wish to add some comments in support of the points put forward by Hon Max Evans.

The terms of this Bill, as outlined by the Attorney General, are agreed to in principle, but we think a couple of other angles need to be considered by the Government in order to ensure that no anomalies are left in the legislation to give a let out for those who play for time. Our attitude towards this legislation was explained by Hon Max Evans prior to the Bill's introduction and we will have further comments to make during the Committee stage.

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.10 pm]: I note that general support for the Bill has been expressed, but a number of procedural questions have arisen which are worth pursuing in some detail. This is especially the case because this Bill in a sense is historic as it is the first occasion on which an indication has been given that the new Standing Committee on Legislation will have a Bill referred to it. A few hiccups have occurred along the way, and perhaps that is surprising, considering how long this Bill has been available for study. I suppose I should indicate that, although Hon Max Evans said that his amendments had been circulated, unfortunately that was not the case. Nothing hangs on that and no harm is done, precisely because we would not in any event intend to move to the Committee deliberations now.

Hon Max Evans: I tried hard.

HON J.M. BERINSON: Nonetheless, the non-availability of those amendments has limited my capacity to prepare some sort of background for a reply to his specific comments.

Both Mr Foss and Mr Evans dealt with the question of time limitations as they apply to some corruption provisions. In checking the background to this matter I find that the corruption provisions really arose for consideration in the current Bill mainly as a result of my interest in repealing all provisions requiring the Attorney General's personal consent to prosecutions on certain matters. That was picked up in going through from section 200-odd to section 500-odd, and dealing with all those provisions requiring the Attorney General's consent. At the same time it is only fair to indicate that the Murray review draws attention to the time limitations and suggests that they should be either amended or repealed very much along the lines of the general arguments which Hon Peter Foss and Hon Max Evans have suggested. That is in the list of matters which I have indicated are currently under consideration for a further and hopefully major Bill involving amendments to the Criminal Code. That does not mean it would be out of place to look to a further amendment in this Bill, and it is, of course, open to the Committee to turn its mind to that.

I indicated earlier that the way in which this debate proceeded raised some questions in my mind about the new process. I suppose that they were sparked off by the brevity of Mr Foss' speech last night. I immediately add that I do not want that to be taken as an encouragement to Mr Foss to make his speeches all of his usual length, but it was surprising that in a Bill as comprehensive as this one, Mr Foss really spoke quite briefly. If I understood him correctly, although he saw the need for a number of amendments to the detail of this Bill, he thought that consideration of those amendments would best be left to the Committee stage - as indeed they must be, whether under the old or the new system - but he refrained thereafter from giving the House some indication of where his concerns lay and where his possible amendments might be directed.

Hon Peter Foss: I support the Bill in principle. The only hesitation I have is as a result of the points raised by the Law Society. They were drafting amendments, but they are of no very great significance.

HON J.M. BERINSON: That covers that point as well. I still think it is worth making the point that in spite of the quite significant change to our committee procedures, there is a need to maintain the role of the second reading stage. If I may be selfish enough to put forward a ministerial point of view, it is most important that members who have proposals which are likely to come up in the Committee stage should be signalling them so that advance consideration can be given to them and decisions expedited. I do not believe any member is interested in what in other circumstances might be called ambush tactics during the Committee stage.

Hon Peter Foss: Do you have the Law Society's memorandum?

HON J.M. BERINSON: Yes. In fact I have prepared amendments which may well coincide with matters Hon Peter Foss has in mind.

Hon Max Evans: You have further amendments to this Bill to come?

HON J.M. BERINSON: I have prepared amendments which I held in reserve pending the second reading debate in case something came out during that debate which would encourage me to further amendments.

Hon E.J. Charlton: In ambush?

Hon J.M. BERINSON: No, they would be circulated in advance. My procedure in Bills as comprehensive as this has always been to have a break between the second reading and Committee stages so that we have the benefit of the second reading speeches to consider amendments and so that they can be circulated well in advance of the Committee stage. That has been my consistent practice, and on the whole it has worked well.

It is very important to understand that we must maintain the role of the second reading debate to obtain a clear understanding from any member with an interest in the subject of his concerns and from where the possibility of moves for amendment might come. That will help us; it will also help the Committee of the Whole House, on the occasions that we continue to use the Committee of the Whole House, and it will also help our new Standing Committee on those occasions when Bills are referred to it.

There is another important reason for a comprehensive second reading debate where amendments are likely to arise. That is, I have always doubted that the new Standing Committee will have the capacity to replace, as opposed to supplement, the considerations of the Committee of the Whole House. I believe we will have many occasions when the Standing Committee will bring back its recommendations and we will have quite a comprehensive debate on those matters to which the Standing Committee has not addressed itself. For that reason as well it is important that all members - who will subsequently constitute the Committee of the Whole - have the benefit of as comprehensive a second reading process as we have normally adopted.

Mr Deputy President (Hon Garry Kelly), I have gone well beyond the bounds of the content of this Bill, but I think the way in which we deal with it is not unimportant. As this is the first time we are facing the proposed use of the new Standing Committee, I think it is in order to make those comments. For the rest this is another instalment of a long list of amending Bills; with the further Bill to follow, to which I have referred, we will reach at last the end of this comprehensive treatment of Mr Justice Murray's review of the Criminal Code. Along the way more recent events have coloured our approach to various questions, so that we have not always followed the recommendations of the review by any means.

Hon P.G. Pendal: We might eventually get it done by the time Mr Justice Murray makes a few decisions in the court on it.

Hon J.M. BERINSON: Mr Justice Murray's parting contribution before he went onto the Bench - and while he was still Crown Counsel - was to send me a note in the friendliest terms possible urging me to get on with the job. That I am happy to do.

Hon Max Evans: How long ago did you get that note? One year? Two years?

Hon J.M. BERINSON: I do not want to disappoint Hon Max Evans, but it was only a couple of months ago, before Mr Justice Murray's elevation to the Bench. Certainly that is a concern to me because I have been as anxious as anyone else to get through the whole review. I hope that certainly by this time next year, but with a bit of luck by the end of this year, we will have completed what has been a major exercise - the review of a very important Act which had its origins in 1913 and in which matters required much more comprehensive consideration than was given by amending legislation in the meantime. It is also true to say that the amending Bills which have emerged from that review have had substantial agreement and support on all sides, and that the satisfaction with which I look forward to the completion of this review will be shared by the Parliament as a whole. For the moment I will leave discussion at that point and commend the Bill to the House.

Question put and passed.

Bill read a second time.

Referral to Standing Committee on Legislation

HON PETER FOSS (East Metropolitan) [3.25 pm]: I move -

That the Bill be referred to the Standing Committee on Legislation for consideration and report no later than 28 June 1990.

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.26 pm]: I move an amendment as follows -

Delete "28 June" and substitute "21 June".

In other circumstances I might have been tempted to suggest that this was not a case for referral at all, given that this Bill, peculiar among all those we are handling, was tabled fully six months ago and deliberately left over for the fullest possible consideration and consultation by members. Nonetheless I agree, especially in view of the indication that a number of likely amendments are of a relatively technical nature and would be best dealt with by the Standing Committee we have set up, that in the ordinary course of events this sort of Bill would certainly go to a committee of that kind. However, given the time which this Bill has been available and the supporting explanatory material which has been available, and adding to that the fact that this is the first Bill to go to the committee - so there is no other added pressure of work on the committee members - and that next week we will have a recess -

Hon Peter Foss: That is the problem.

Hon J.M. BERINSON: I thought I was doing well until Hon Peter Foss said that was a problem.

Hon P.G. Pental: The fact is we will be out of town for most of next week.

Hon J.M. BERINSON: I will listen to what the problem is. I had hoped that the recess would assist rather than hinder this process. It concerns me that by postponing this for an additional three weeks after having had it for six months and then moving to make similar references on other Bills, we will quickly develop a log jam, which will delay the legislation to an undesirable extent. I am anxious to get this one through and I believe all members share an interest in doing that. In view of those circumstances I ask Hon Peter Foss to reconsider that date. If, as he said, it is not possible because of the absence of members over the recess, I will not pursue it. I would nonetheless even now add the hope in respect of future arrangements that all committees - and not only the Legislation Committee - would see the recesses as times for concentrated work. We are all aware of the problems committees have while Parliament is sitting.

Hon P.G. Pental: We might hold you to that and stop you going off to some of those conferences, because you might be involved in them too.

Hon J.M. BERINSON: Anything is possible. I do not believe it is in the interests of any of us to pursue such a line and to have this new committee system start off on a basis which does not command support and does not work effectively and expeditiously. It is really only with a view to trying to encourage that situation that I have moved this amendment. However I will wait on what Hon Peter Foss has to say in reply in case there are factors which make it impracticable.

HON PETER FOSS (East Metropolitan) [3.28 pm]: I oppose the amendment. Members on this side of the House have a longstanding commitment for the vacation week. Accordingly I do not believe it would be possible for us to meet during next week, so the suggestion that we should report back by 21 June is impractical, especially in view of the fact that we have to go through a closely typewritten, 10 page memorandum from the Criminal Law Association. Obviously it would be possible for the parliamentary draftsman to comment upon the comments of the Criminal Law Association so that the process could be sped up. However I do not see how we could practically be expected to get through that memorandum during a single week. From a practical point of view that is the problem. I oppose the amendment.

Hon J.M. BERINSON: I do not want this system to get off on the wrong foot. Rather than allow that to become a possibility, I seek leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Question put and passed.

ACTS AMENDMENT (CONTRIBUTIONS TO LEGAL AID FUNDING) BILL

Second Reading

Debate resumed from 15 May.

HON PETER FOSS (East Metropolitan) [3.31 pm]: This Bill deals with two distinct matters: The Legal Contribution Trust Act 1967 and the Law Society Public Purposes Trust

Act 1985. The second reading speech of the Attorney General indicated that the Legal Contributions Trust Act 1967 was included, to some extent, following a request from the Law Society of WA. The Opposition does not have any objection to that part of the Bill. The Opposition has difficulty with the first part of the Bill which deals with the Law Society Public Purposes Trust Act 1985. The Bill seeks to be retrospective in operation and is deemed to have effect from 1 June 1989. This has the effect of taking that 60 per cent of the moneys which have already been received, prior to the Bill being enacted, away from the purposes to which they have previously been designated and they will be committed to the payment of legal aid. That is a significant amount of money in terms of the trust which includes the time from 1 July 1989 to the present date. The fact that the Bill will be retrospective in operation is a matter of considerable concern to the Opposition. The reason the Bill needs to make this change has to do with the way the Federal Government has been withdrawing from legal aid.

Hon J.M. Berinson: It is also due to the rapid growth in legal aid costs; I think those two aspects are linked.

Hon PETER FOSS: Yes, that is true. The Federal Government gets out when it is too expensive. Legal aid in Western Australia has had a good reputation over many years. Legal aid was originally funded in this State by means of a voluntary system whereby the Law Society would administer legal aid. People in need of legal aid would be assigned to various lawyers and the lawyers then performed that work without charging a fee. The State Government then decided to set up a funded legal aid system in Western Australia and that proceeded moderately well. The Federal Government has since become involved in it. Western Australia had the unique situation of combining State and Federal legal aid provisions rather than having competing forms of legal aid.

Western Australia has been served well by its legal aid system. However, there are many problems in this system, not the least being the increasing complexity of our society, the increasing demand for legal aid and the increasing cost of providing legal work. This is combined with the fact that when the Federal Government, which obviously has the most money in the country - one can always tell the difference between a Federal department and a State department because there is always a lot more fat in the Federal department than the State department - starts to withdraw from the system, the squeeze is definitely felt within the States. It is then a matter of looking around for someone else to fund legal aid. What seems to have occurred in this case is that the Government recognised it had a source of money in the Law Society public purposes trust and decided to take a little bit more from that and assign 60 per cent to legal aid. That would have been wonderful if the money were coming from nowhere and not being taken away from something else. The inevitable consequence of giving more money to legal aid is to leave less money for other purposes.

The Law Society has been using this fund for a considerable number of public purposes, such as law libraries and legal education. These are important public purposes. I would be very reluctant to agree to this Bill if it did not receive the full support of the Law Society. My understanding is that, although a formal resolution has not yet been passed by the Law Council, the matter is one in which it has expressed considerable concern; it is actually opposed to this happening. I do not know what attitude the Law Society will take in approaching this issue. It may say, "Well, we are opposed to it but we can do nothing because this has to be done in order to permit legal aid to go ahead." It will be a difficult decision to make, but is one that must be made. Unfortunately, such a decision has not been made by the Law Society as yet.

However, I understand that the Law Society has made suggestions to the Attorney as to some other sources of funds that may be able to be relied upon, such as the trust funds of real estate agencies and settlement agencies. Perhaps settlement agencies would be the most appropriate avenue of all in view of the fact that settlement agencies have taken over a significant part of what was the bread and butter work of the legal profession. A cause of the increase in legal costs in this State may have something to do with lawyers' work being taken over by settlement agencies. Lawyers average out their overall costs across all of their work. Some work is more remunerative than other work. A lot of that remunerative work has been taken away and given to settlement agents. Therefore, settlement agents have substantial trust funds arising out of settlement of properties and it may be sensible that an arrangement be set up similar to that of lawyers' trust funds where the banks pay interest. A similar argument could be made in respect of real estate trust funds. This is certainly a difficult

problem and my sympathies are with the Government in its wish to find more funds and in its desire to maintain the quality of legal aid in Western Australia. The Opposition is not opposed to providing the money; it is opposed to the effect that taking that money will have on what it is currently being used for. It is the Opposition's concern that the Government should carefully investigate all areas prior to taking the step that it is planning to take under the Law Society Public Purposes Trust Act.

I want to be happy and satisfied that the alternatives, such as using real estate agents' and settlement agents' trust funds, provided interest is paid on these funds, are investigated. It will take time to draft and pass such legislation, certainly if the community is to be consulted appropriately. First, I would like to be absolutely happy that that possibility is closely considered before this Bill is passed. If such a direction is possible, I would be pleased if the Government would give an undertaking to proceed along this line. Secondly, I would like to know the views of the Law Society after it has discussed this legislation. Unfortunately the Law Society has not moved quickly enough to provide its views on the matter. I am afraid that all too many people in the community seem to put off making their remarks about legislation until the last possible moment. It is not until the inevitability of legislation being passed occurs that people suddenly find they must do something about it. That is an unfortunate habit in the community and one that this House is continually faced with. There is usually a last minute appeal from people saying, "Oh dear! We realise this legislation is about to be passed and we are not happy with it."

Hon J.M. Berinson: It has been aware of the legislation for about a year.

Hon PETER FOSS: My criticisms are carefully not directed at the Attorney General; they are directed at the people who have not made their comments. I do not wish to criticise the Attorney General for moving too quickly on the matter. On the other hand, my understanding is that the Law Society is not happy with the legislation, certainly not with its retrospectivity and the fact that money is being taken away. It is appropriate that this matter should be dealt with by the Standing Committee on Legislation; it is appropriate that it should be referred to that body so that public submissions can be taken from the Law Society and, if necessary, from the settlement agents and real estate agents.

I would like to hear from the Attorney General whether he believes it is practical to use those trust funds in the same way that the lawyers' trust fund is used. We must consult with the public because this is a serious and important matter; however, I can understand why a time limit must be placed on the acceptance of submissions - the Attorney General has my sympathy in this respect. A specific time limit must be given for the Real Estate Institute, the representatives of the settlement agents and the Law Society to present submissions, and I will be interested to hear what the Attorney believes is an appropriate time limit. Once these views are known the House will be in a better position to make up its mind what should be done. The Law Society has looked at the legislation and said that it appreciates its purposes even though it is upset that money will be taken away for these other purposes. However, legal aid must be given priority and if the Law Society should accept the Bill I would be happy to go along with it. If it wants alternative methods to be investigated, we should promote the examination of those alternative methods. The Opposition supports the proposition that legal aid funding should be kept up. We urge the Government to look at the alternative means of doing so without cutting back on funding to the public purposes trust. The Opposition is most unhappy with the section of the Bill which provides for the taking of that money retrospectively. Accordingly, I have pleasure in offering qualified support for the Bill; I support part 3, I disagree with certain provisions of part 1 and I hold judgment on part 2.

Adjournment of Debate

HON E.J. CHARLTON (Agricultural) [3.44 pm]: I move -

That the debate be adjourned.

Question put and a division taken with the following result -

Ayes (2)

Hon E.J. Charlton

Hon Murray Montgomery
(Teller)

Noes (25)

Hon J.M. Berinson
 Hon T.G. Butler
 Hon George Cash
 Hon Cheryl Davenport
 Hon Reg Davies
 Hon Graham Edwards
 Hon Max Evans
 Hon Peter Foss
 Hon John Halden

Hon Kay Hallahan
 Hon Barry House
 Hon B.L. Jones
 Hon Garry Kelly
 Hon P.H. Lockyer
 Hon Muriel Patterson
 Hon P.G. Pendal
 Hon Sam Piantadosi
 Hon R.G. Pike

Hon Tom Stephens
 Hon W.N. Stretch
 Hon Bob Thomas
 Hon Derrick Tomlinson
 Hon Doug Wenn
 Hon D.J. Wordsworth
 Hon Fred McKenzie
(Teller)

Pairs

Hon N.F. Moore
 Hon Margaret McAleer
 Hon J.N. Caldwell

Hon Mark Nevill
 Hon Tom Helm
 Hon J.M. Brown

Question thus negatived.

Debate Resumed

Sitting suspended from 3.47 to 4.00 pm

[Questions without notice taken.]

HON J.M. BERINSON (North Metropolitan - Attorney General) [4.37 pm]: If I remember Mr Foss' terminology correctly, he indicated that he gave qualified support to the second reading of this Bill. In turn I offer him my qualified thanks. At the end of the day, this Bill will be acceptable to all sides because it is based on extremely practical considerations. As Hon Peter Foss indicated, there are two aspects to this Bill; one concerns the legal contribution trust and one concerns the Law Society public purposes trust. Mr Foss dealt very briefly with the legal contribution trust, mainly on the basis that the proposals in that respect had the support of the Law Society. I want to deal with that aspect of the Bill in a little more detail because it is linked with the considerations that the public purposes trust involves as well. It arises in this way: The two main beneficiaries of the legal contribution trust are the solicitors' guarantee fund and the Legal Aid Commission. In the past, the balance of advantage, so to speak, in terms of distributions, has gone to the Legal Aid Commission. However, in more recent times, the Law Society, with the very best reasons in the world, has become concerned about the level of funds in the solicitors' guarantee fund. That that concern is well based came home to me in a very striking way when I was at a recent meeting of Ministers on the National Companies and Securities Commission.

Coincidentally, on the day of the meeting the Press in Melbourne carried a story of a defalcation by a solicitor in Victoria which amounted to \$26 million. That was an amount that had to be found from the Victorian fund, which is the equivalent of our solicitors' guarantee fund. It goes without saying that given the size of the population and range of transactions taking place in Victoria, the risks are far greater there than they are in Western Australia. Nonetheless, by any measure the reserves available to the solicitors' guarantee fund in the past have been grossly inadequate. In fact, they have amounted to less than \$1 million. As a result, and in agreement with the Law Society, I exercised certain authorities which I have under the Legal Contribution Trust Act and in February 1989 I agreed that funds should be increased to \$1 million immediately and to \$1.5 million by 30 June 1990 and to \$5 million as rapidly as possible after that date. Prior to that I had indicated my concern that the funds should be built up to a more adequate level - certainly \$5 million would be the very minimum that one could consider appropriate.

The new emphasis on the need to build up the solicitors' guarantee fund has had an immediate and direct impact on the Legal Aid Commission fund. That is perhaps most easily demonstrated by the fact that the distribution from the legal contribution trust to the solicitors' guarantee fund increased from \$162 000 in 1987-88 to \$708 000 in 1988-89; that is an increase of four or four and a half times by a sum approaching half a million dollars. As there are only two main beneficiaries, and as the income is relatively stable - although it is higher than in recent years as interest rates have increased - it follows virtually

automatically that the beneficiaries of the solicitors' guarantee fund receive payment at the cost of the legal aid fund. That is a point worth making because it allows me to indicate that it is not a matter of two simple problems as Mr Foss indicated; there are three, and perhaps four, problems coming together at once: Firstly, the growth in demand for legal aid service; secondly, the increased cost of providing the legal aid service; thirdly, the reduction in the Commonwealth contribution to the Legal Aid Commission; and fourthly, the drain from legal aid funds which follows from the deliberate decision to increase the allocation of legal contribution trust funds to the solicitors' guarantee fund. So, it is a combination of four factors coming together. In that sense it deals with both the legal contribution trust and the public purposes trust and this has greater significance than might be realised on preliminary consideration.

Having indicated the need to increase the sources of legal aid funds, I refer now to the second part of the Bill which deals with the proposal that there should be a substantially greater contribution to legal aid from the Law Society public purposes trust. In some respects I may be able to correct an impression apparently held by Mr Foss about the way in which public purposes trust funds have been allocated in the past. I preface these comments by indicating that I have had close association with the public purposes trust of which I am a great supporter. I encouraged the establishment of the trust, and - although I could be corrected on this - I believe it was my own specific suggestion that the original trust deed should include a 10 per cent limit on the funds available for distribution to the Legal Aid Commission. My concern at that time was that since the demand for legal aid is limitless and funds are limited, and if a position was allowed to develop in which the trust was either obliged, or even able, to give a substantial part of its income to legal aid the pressure would continually grow on the directing of funds that way. That was a consideration which was especially relevant in the early days of the trust. I believe the Law Society would also agree with that proposition. If it was not implemented at my initiative, it certainly was done with my strong support. I indicated also that the trust should approach the initial distribution of funds on the basis that a quite limited proportion of its income should be distributed, and that a substantial portion of its income should go to establish reserves. That was to ensure the long term availability of assistance to a range of measures which the public purposes trust is able to support. This was done with a deliberate view to creating a position in which even if pressure came to bear on future income, the trust would be able to build a reserve of funds capable of generating funds to continue its work.

I draw attention to what is a significant aspect of the Bill in the allocation of 60 per cent of income to the Legal Aid Commission refers only to recurrent income in the solicitors' trust accounts. This does not relate to income earned on the reserve, and the reserve is now in the order of \$2 million or \$3 million; I may stand corrected on this, but I believe it is around \$3 million. So, a substantial amount of permanent income is assured to the public purposes trust and this was deliberately contemplated when the trust was established. In the early days very special reasons existed for establishing substantial permanent sources of income, but these have much less relevance today.

Consideration to this trust was given at a time when there was considerable difficulty in placing law graduates into articulated clerk positions. The Law Society and others were giving consideration to the possibility of establishing a legal workshop along the lines that exist in Canberra, Melbourne and perhaps other places. In Victoria, the legal workshop - I do not recall its title - is funded from reserves which the legal profession in Victoria has established over many years. The early thought here was that, given the difficulty of finding articulated clerk positions, we may well have to look to something in the nature of a legal workshop to enable our graduates to span the gap between their degree and admission to practice.

Hon Peter Foss: It will return if there is a recession.

Hon J.M. BERINSON: It may return, but as I understand the position so far and in spite of a huge percentage increase in the number of graduates being turned out -

Hon Peter Foss: The recession has not beaten the law firms yet, but it will.

Hon J.M. BERINSON: I have a reasonable level of confidence in the legal profession to profit even in adversity, so to speak. If it is not as fully occupied as it might once have been on company formations, it would not on current indications be short of work in other matters relating to corporate law. However, Mr Foss is quite right. Future conditions might change.

The truth is, we had a very substantial growth in the number of graduates, and not only have these readily found positions but also there is positively a race on to attract them.

I confess I was rather surprised some time ago to hear that this had reached the point where there was some sort of agreement within the profession that recruitment of graduates would not take place before a certain time so that consideration by all firms and all graduates could be on some sort of level playing ground. It reminded me of those old wild west films where the horses and wagons would line up -

[Quorum formed.]

Hon J.M. BERINSON: I was getting nostalgic again. I last did it in reference to Senator McCarthy. It brings back even fonder memories to recall those Saturday afternoon matinees where one could see a film where the horse-drawn wagons were lined up for the land boom and when the gun went off the wagons would go at the one time. A somewhat similar position appears to be operating in the legal profession owing to the great pressure of demand for graduate services and employment.

Hon Peter Foss: Even during the recession, when people were putting off articulated clerks and they were not able to find positions, the top group were still being competed for. The competition is still for top graduates. There are still many people in the lower half who have to do quite a bit of searching for a job. The competition exists because people want to get the best ones and in hard times that becomes more the case. You want to get the good ones but there is less work for the not so good ones.

Hon J.M. BERINSON: I do not deny any of that. The fact remains that all graduates, in spite of their greatly increased numbers, are being placed and there seems to be a good level of confidence that that will remain.

All of this is by way of background. The other possibility has emerged of a return to the five-year articulated clerk system. There is no commitment to its permanence or to its repetition, but nonetheless it has shown itself to be a continuing possibility. In any event, I am happy to say that the public purposes trust has reached the stage of having in hand a substantial reserve providing an assured future income.

With that on the one hand and the sharply increased needs in legal aid on the other hand for the reasons that I have indicated, it has been reasonable and timely to look to some greater distribution from the public purposes trust in favour of legal aid.

In that respect, I make a couple of points related to Mr Foss' concern that more money for legal aid means less money for other purposes. That stands to reason in the same way as my earlier proposition that more money for the solicitors' guarantee fund means less money for legal aid out of the legal contribution trust fund. Both of those propositions are self-evident if we look at it in global terms without looking at the specifics. In relation to the specifics, the fact that the public purposes trust has aimed deliberately at building up the reserves has meant that, for practical purposes, it has not exceeded 40 per cent of its recurrent income in the totals of its allocation; it is very close.

Hon Peter Foss: Are you saying that 40 per cent is being expended?

Hon J.M. BERINSON: Do not hold me to that exact percentage.

Hon Peter Foss: Are you saying that the effect of this will be that the reserve ceases to increase as opposed to the annual distributions dropping?

Hon J.M. BERINSON: That is precisely what I am saying. I might be one per cent or two per cent out either way, but I am putting that general proposition and I think I am correct.

I say that also against a background of a couple of years where quite exceptional allocations have been made by the public purposes trust. It is in the current financial year, for example, making a very heavy commitment to the legal resources scheme in the order of \$500 000. I am hopeful that it will also make in this year and next year or over a three-year period a substantial commitment to the library at the new Murdoch Law School just as it made a substantial distribution to the University of Western Australia Law School in previous years.

All three of those distributions, however, were of an exceptional order and while they might be repeated over one or two years are not intended to be permanent features of the public

purposes trust fund and really would be inconsistent with the aim, which is to assist a wide range of associations. The long and short of what I am trying to say is that I believe the real change to the public purposes trust which will be brought about by this Bill is, as Mr Foss said, an inability at least over the next two or three years to add further to their reserves. It should not reduce the past level of distribution, or if it did it would be to a very minor extent.

Another point which is self-evident but is worth emphasising is that all the money accruing to the public purposes trust is public money. It is the same as all the money going to the legal contribution trust - it is public money. It is not as though it is the legal profession's money or individual firms' money; it is income derived from money held in trust for clients. Under a very complicated and difficult administrative system, it might be possible to ensure that every individual client would receive the benefit of the interest on those trust funds. In fact, it has been accepted almost universally I would think - not simply in Australia, but everywhere - that it is a proper use of those trust balances to attract income to be put to public benefit.

Hon Peter Foss: The question is: What public benefit?

Hon J.M. BERINSON: Yes, that is right and I would say very high in the order of priority of public benefit would be the Legal Aid Commission.

Hon Peter Foss: What about the alternatives?

Hon J.M. BERINSON: That really is the argument. I am saying this is a proper use for it and legal aid assistance is a proper use of public funds for public purposes.

The question was raised some time ago by the Law Society as to why there should be a draw on the public purposes trust for the reasons I have suggested and why there should not be a draw on the funds which have been built up by analogous funds held as a result of the activities of real estate agents and settlement agents. I have told the Law Society, and I am happy to confirm to the House that I have raised the matter with the responsible Ministers, and I believe attention will be given to the possibility of providing other uses for the income from those funds than the relatively restricted use in the past. Although I cannot remember which fund it is, there is very little draw on one of them and it continues to grow. However, the point at which consideration is given to them together does not really help us to arrive at any decisions. Our immediate area of concern is that there is nothing to say, given a different distribution for public benefit of the funds accumulated in other trust areas, that those funds should go to legal aid. The money could go to other areas of public benefit and, for example, it could go, depending on the source, to assistance to people in difficulties with housing or other matters.

Hon Peter Foss: Settlement agents are carrying out what is strictly speaking legal work.

Hon J.M. BERINSON: Yes, but I do need to stress the point that they are not legal practitioners to whom in one way or another the distribution of those funds will come. I am referring to solicitors' trust funds, accumulating interest, being put to the public benefit and to a considerable extent funding the services which legal practitioners provide by way of legal aid.

Hon Peter Foss: You would never give that as the grounds for doing it.

Hon J.M. BERINSON: No. I am not questioning that for a moment and I do not question that we should be looking to a different sort of distribution of the publicly funded trust funds held as a result of real estate activities in the same way as we are looking for a different distribution in this area. All of those avenues should be pursued and they are being pursued, but I do not believe one can reasonably be made conditional on the other. Therefore, I would not support a view which says we can only pass this Bill if another one is introduced to do the same thing although perhaps directed into different areas.

A question has been raised as to whether the Law Society agrees with, or at least accepts, the redistribution of funds in the way this Bill proposes. I can only say I have put this proposition to the Law Society for at least the past year. I will not go so far to say it agrees with it or welcomes it. I do go to the point of saying that I have never been given in at least the last year that this matter has been considered any indication that the Law Society does not accept it. I believe it does accept it and even as recently as last week when I had a further approach on the matter from the society, the issue it came down to was whether the legislation would apply to this year's funds or prospectively from next year's funds.

Hon Peter Foss: It could be retrospective.

Hon J.M. BERINSON: Hon Peter Foss raises the question of retrospectivity and we could argue about that depending on the actual wording. It might be said that the Bill says it affects income earned from 1 July 1989. We might say it refers to income earned in the year ended 30 June 1990 and in that respect it is not retrospective.

I told the Law Society it was actually proposed the Bill be introduced last year in the pre-Christmas session, but it did not work out because of the legislative program. I am concerned that the society has put to me that I may have said something to lead it in the meantime to the view I was not proposing to continue with that timetable. I have to apologise to it if something I said was to that effect or gave it that impression. The fact is the proposal was always approached on the basis I indicated that it would have, in fact, been in place six months ago and the funds made available this year.

I have tried to give as comprehensive account of the situation as I can now for the reason I suggested earlier today; that is, if this is to go to the Standing Committee I would like it to have a full account available to it of the reasons which led to the Bill and of the background to it. I stress again that I strongly support the creation of the public purposes trust and I have been closely associated with it. In fact, my approval is necessary for each individual allocation and there has never been any question of disagreement between the trustees and me on that matter. When questions have arisen, they have always been resolved by agreement. The last thing I would be interested in is weakening the trust and the purposes it is designed to satisfy. This Bill will not affect it in that way, and I would not have promoted it if it had.

Question put and passed.

Bill read a second time.

Referral to Standing Committee on Legislation

HON PETER FOSS (East Metropolitan) [5.11 pm]: I move -

That the Bill be referred to the Standing Committee on Legislation for consideration and report no later than 28 June 1990.

In moving that motion, I am mindful of the comments made by the Attorney General, but I wish at least one further piece of information to be investigated - that is, the opinion of the Law Society - by the Legislation Committee. Also the other two avenues mentioned, the trust funds, should be investigated so that that information is available to members in this House before they make a decision in the Committee stage.

I also raise the question of the proposed time by which the committee must report of 28 June 1990. Members will note that this date is the same date proposed with reference to the previous Bill. It is probably appropriate to comment at this stage that this House should consider the consequences of the Standing Committee system it has set up, and the problem Hon Joe Berinson mentioned of not wishing to delay legislation by referring it to the committee system.

It may be appropriate for the House to consider how it will accommodate the new Standing Committees. Perhaps Standing Committee days could be assigned in the calendar of this House so that people plan for those days, to avoid the need for committee members to arrange suitable times among themselves. If committee days were planned in advance it is more likely that members would set them aside and be available on those days. The other suggestion raised during the moving of the motion to establish these Standing Committees, was to set a Select Committee day which would take up one of the days normally allocated to a sitting of this House.

In mentioning the date of 28 June 1990, I am mindful of the point raised by the Attorney General that if we are not careful we may end up with a log jam. I urge members to give some consideration to formalising the way these Standing Committees are to meet to ensure they are as effective as we wish them to be, and to make the time spent in this Chamber more effective.

Question put and passed.

DIRECTOR OF PUBLIC PROSECUTIONS BILL*Second Reading*

Debate resumed from 29 May.

HON PETER FOSS (East Metropolitan) [5.14 pm]: This is the second time the Bill has been before the House. Accordingly, I do not intend to speak on it in quite the same detail that I did on the first occasion it came before the House. Firstly, I indicate quite clearly that not only does the Opposition support the concept of this Bill, but also it has been very much involved in promoting the concept. For some time the Opposition has suggested that it would be appropriate for this office to be created. The strong reason for doing so is that it has been seen to be effective in other places to have a person independent of the Executive responsible for administration of the prosecution which is part of the justice system in this State. It is not merely a matter of appearance, but also a matter of reality, that a person who is separate from the Executive is probably better able to make the sorts of decisions that are necessary in order to administer justice properly in this State. Two successive Attorneys General have obviously come to this conclusion, because in an informal manner they have sought to establish that type of independence in their departments. Hon Ian Medcalf was the first Attorney General to do that, and the present incumbent has followed, and perhaps developed, that separation.

On the question of real independence, there is no substitute for giving people the legal and proper way of declaring their independence. It may be very nice for an autocrat to say that he allows the person under him to do anything, even if it upsets him. However, the person who is the servant of the autocrat knows ultimately that it is possible his future will be affected if he offends the autocrat. Probably the worst thing one could have is, not the interference from above or the stepping in by the autocrat to say what should or should not be done, but the withholding of action by the person who is the subject of the direction on a voluntary basis because he fears what would happen. It is necessary to set up a legal framework to establish true independence.

The Opposition has been very much in favour of that, and this measure of independence led to the area of dispute between the Government and the Opposition. It has been recognised in Australia that a problem has existed with regard to the directors of public prosecutions and the particular case I refer to is that of Mr Ian Temby, QC, the first Federal Director of Public Prosecutions. He was appointed, in the same way as judges are appointed, by the Executive; however, because of the nature of his job it was thought appropriate to appoint him for five years. I do not quarrel with that. If the person appointed to this job is to be chief executive of the department, and he must not merely make decisions in a judicial manner but also be responsible for the active and live administration of a department, inspire his troops and make sure the work is done efficiently and with enthusiasm, a different sort of appointment is needed than when appointing a member of the judiciary. It is appropriate to appoint people for five years if they are to have that form of verve and incentive to lead their department.

As has been picked up in the Government legislation, a problem arises with that system. It occurred in the case of Ian Temby because at the end of the five years he wished to renew his appointment but the Government decided not to do so. All sorts of statements may be made about why that occurred, and many thought it was because he upset the Government by prosecuting people such as the late Mr Justice Murphy and Mr Neville Wran. Perhaps he did not get on with the Minister who was in charge. Whatever the reason, it is quite clear that it was not because of incompetence on the part of the Director of Public Prosecutions or reluctance on his part to continue in the job. Perhaps for political reasons, in a loose sense, or administrative reasons, unconnected with his proper performance in the job, he was not permitted to continue. If a person knows that at the end of five years there will be an absolute right to continue or not to continue the job, he will be beholden to the person who will reappoint him and immediately we will lose the independence that is necessary.

The solution offered by the Government is to appoint the person for life. We agree, and have no doubt, that would guarantee the person's independence, but our concern is that it would also mean that there would be no way that that person would have the necessary obligation to continue as an actively involved, lifetime leader of his department. So what is the solution? Were the appointment to be for five years, the appointee will be beholden to the Executive which appointed him. Were the appointment to be for life, that would be the wrong type of

appointment for a person who is to be a chief executive officer. No-one would think of appointing a person for life as head of a large corporation or a Government department. What we need is a person who is appointed for a limited period but is not beholden to the Executive. His not being beholden to the Executive is the most important part because problems can occur in the administration of justice when the people against whom that administration needs to be directed are members of the Government. In all other areas there really does not seem to be a possibility that the people who are in charge will have a conflict of interest with the person who has to administer the justice.

Hon Derrick Tomlinson: You are not arguing against the continuation of appointments, if that is the choice?

Hon PETER FOSS: Definitely not. If a person performs adequately, shows that he is an excellent leader, and is willing to continue with his appointment, then I certainly hope he would be reappointed.

We propose, as a means of overcoming this problem, to have an independent panel. It would not be correct to appoint an independent single person because even were we to choose a person from another part of the administration of law - for example, the Chief Justice of Western Australia - he would see things from the point of view of the judiciary. I would not want to see a Director of Public Prosecutions who was entirely dependent upon the whim of the Chief Justice of Western Australia. On the other hand, the Commissioner of Police would have a slightly greater alignment with the Director of Public Prosecutions because in both cases their aim is to see that prosecutions are made. However, that is not the appropriate alignment, because the role of the Crown in public prosecutions has always been to take a neutral attitude; to put forward to the court the facts, almost as a friend of the court, and to seek neither a conviction nor a dismissal, so that the court and the jury can make up their own minds. The role of the Crown is not to pursue or to persecute but merely to prosecute. The President of the Law Society of WA and the President of the Western Australian Bar Association could be useful in providing input but I would not wish to see the person being totally beholden to the other members of his profession, because at times it might be necessary for him to take measures that would not be popular within the profession.

However, take all those together and I believe what we will end up with is a system where each of the views will be properly represented, and that person will be able to be supported appropriately if he has been doing his job well. That group of people will be eminent people, who have reached senior positions in their professions, and I believe that by meeting together as a group they will be able to come up with a fair result. Our proposition is that if we are to secure the appropriate independence of the Director of Public Prosecutions, he should be appointed by a panel, the panel should be constituted by these people, and that panel should also be capable of extending the period of time in office of the Director of Public Prosecutions.

We consider it important also that there be some versatility in the conditions of appointment. A person who is appointed as a judge will usually experience a substantial drop in salary, but on the other hand his working conditions change. He is given a secure position for the remainder of his life, and excellent superannuation, which is taken out for him at a time when, if he had to take it out for himself, because of the age of the person appointed, it would be extremely expensive. A certain status also goes along with that appointment. So for many people, taking a position on the bench has attractions other than the money, and this could be a way of attracting people to this position. People who are appointed to the bench are normally not still heading up the difficult road of their professional career. They have achieved a measure of success and are levelling off. They are still, of course, developing their professional abilities and experience, and everything else, but they are changing the direction in which they are going. They are no longer fighting to make a career for themselves or to earn themselves a reputation. They are developing the skills they have gained during their professional career, maturing them, and using them in a different fashion.

Hon Derrick Tomlinson: They are preferably not people who are coasting down hill.

Hon PETER FOSS: Definitely not. I purposely did not say that. One of the important things about judges is that they are developing a new skill, which uses the abilities they have developed during their lives. A Director of Public Prosecutions requires different skills. The skills we will probably be looking for are those of a senior silk, who is still working hard and

putting a lot of effort into trying to get to the peak of his professional career as a silk. We will be looking for a person who can lead by example by appearing in court, by exercising his forensic skills, by showing to the troops behind him his ability, and by leading them on. In the legal world, if we wish to command the respect of our fellows we have to show ourselves doing the job that we want them to do. If we do not have a good leader at the top whom we can respect for his professional skills and ability, we find that the morale of the group as a whole drops and we do not achieve what we want. That applies to any group. We need to be inspired by our leaders. We need to see that they are doing something to which we also wish to aspire.

The sort of person we will be looking for to fill the position of Director of Public Prosecutions will be someone who probably will be earlier on in his career than someone who is thinking of going to the bench, and who would be looking to take on a job for five or 10 years and then move on to something else. Under those circumstances he probably would not be prepared to take on the sorts of things that may be attractive to a judge. So there may need to be some flexibility. I am not saying we must pay him more money, but there needs to be some flexibility in the terms of his engagement so that we get the right person for the job by offering the right sort of salary and remuneration package. It may very well be that the person will be more interested in receiving cash in hand than superannuation, and there must be the flexibility to enable that to be done.

The third area where we differ with the Government is in respect of the employment of other people. We would not like to see in the DPP's office a Public Service-type of employment, not because we have got anything against the Public Service but because we believe that the type of engagement that should be there is one where, for a start, the DPP can go out and use counsel. That has already been done by the Crown Law Department. Ron Davies, QC has left the Crown Law Department and set up on his own, and is available to be briefed by the Crown Law Department as a prosecutor.

We would like to see a little more of this policy of barristers being briefed from outside; the ability for prosecutions to be spread around a little more. In England, for instance, eminent criminal counsel may appear one day for the defence and the next for the prosecution. Unfortunately under our present system it is normal for people employed by the Crown Law Department to appear only for the prosecution, and for those in private practice to be involved only for the defence. That is bad for the quality of their work. It is no criticism of the people themselves; it is a fact that one needs to have the variety of approaching a proposition from both sides, otherwise one becomes stale. It is professionally not as challenging to take only one side of any case on a regular basis.

What we have sought to do here is to try to build up within the Office of Director of Public Prosecutions the sort of traditions which England has had for some considerable time and which we would like to see here. I hasten to add that I am not criticising the Crown Law Department, but we have an opportunity here to learn from what is happening elsewhere; we have an opportunity to give a greater challenge to the lawyers involved in this area and to make a quantum leap in the service provided to the State by this very important element of the judicial system. These are the three areas in which we have narrowed down the differences in approach between the Government and the Opposition.

I would like to criticise a remark made by the Attorney General as reported in the newspaper. I believe there was a suggestion by the shadow Attorney General that it would have been more helpful to have had a Director of Public Prosecutions in a particular instance, and the Attorney General said that it would have been had it not been for the fact that the Opposition had delayed this Bill in this House. I take exception to that remark. This Bill was introduced by the Attorney General during the last session. Shortly after that I gave notice of a number of amendments, and the Bill promptly went to the bottom of the Notice Paper, or very near to the bottom of it. I have nothing to do with the order of Bills appearing on the Notice Paper; that is entirely in the hands of the Attorney General. He is the person who chose to put the Bill at the bottom of the Notice Paper, not I. The Opposition did not seek to adjourn the debate. In fact I was so keen to see the matter brought forward that I specifically went to see the Attorney General and we had a discussion. I asked whether it would help if I explained the reasons behind the Opposition's requirements in order that he might fully understand them and so that he could bring the matter on and deal with it. I asked him, if he had any problems of a practical nature, whether he would tell us and we might be able to do

something about them. I asked him at least to get the thing going. I left the matter with the Attorney General, and he was going to look at a few things, but nothing more happened.

It is quite unfair in those circumstances to accuse the Opposition of delaying this Bill. Quite the contrary; the matter was totally in the hands of the Attorney General. He was the man who could have got the thing going. I was the man who approached him. It is less than just for the Attorney General to make this accusation in the circumstances prevailing in this House. The public does not realise that it is the Government which governs the Notice Paper in this House, and it is the Government which decides whether Bills are brought on for debate. I emphasise it is not the fault of this side of the House that this Bill was not dealt with in the last session.

In referring to the matters which the Opposition requires to change in this Bill, I should point out the source of some of the points we have put up. We gathered together a number of lawyers and put the proposition to them. The result is the amendments we have now proposed. It is interesting that the Law Society has a subcommittee dealing with criminal law, and independently of us it met and came to exactly the same conclusion. It is a fairly reasonable assumption from that that if we tackle this problem logically and follow it through, the course proposed by the Opposition is a logical way to deal with this Bill. However, it is important that those comments be put on the record. I shall be submitting later that this Bill should also be referred to the legislation review committee.

Several members interjected.

Hon PETER FOSS: I would like to disabuse Hon Tom Helm's mind as a result of his unfortunate remark. This is a Bill which the Opposition is keen to see pass through this Parliament. I reaffirm my commitment to the fact that it is an important Bill and I believe a number of important contributions can be made by members of the public affected by the administration of justice, and that statement should be on record.

Hon Tom Helm: Will we delay it while we do that?

Hon PETER FOSS: The important thing is to get it right. We could if we wanted vote in Committee on our amendments and punch the Bill through and say that is what it is going to be.

Hon Tom Helm: Because you have the numbers.

Hon PETER FOSS: It is appropriate that we give people who have views on this matter - people who can help the Parliament - an opportunity to forward put their views. One of the most important things we must recognise is that we do not come into this Chamber and make our decisions in a complete vacuum. We do not reach up into the air above us and pull down a principle and say we will apply it to this piece of legislation. It is important that we as legislators have the facts.

Hon Tom Helm: You have the numbers. What about the people in Fremantle and Maylands? Did they not give you a message?

Hon PETER FOSS: If that is the attitude of Hon Tom Helm, that is fine. I shall make my speech and the member can talk about the brutality of numbers. If we wanted to use the brutality of numbers we could go into the Committee stage now and move the amendments. We could then say, "That is it", bang!

Hon John Halden: Unfortunately this Bill has to go to the other House.

Hon PETER FOSS: I know, that is right, it has to go to the other House. The Attorney General appeared to be somewhat disturbed about our proposition, and that is why I spoke to him, because it seemed to me that this was not a partisan matter; it was a question of our trying to arrive at a reasonable solution. I know that he has concern, because he is concerned to preserve the prerogative of the Executive. I understand that concern. I was trying to persuade him that we had worked hard on this Bill and come to the conclusion that we did not like life appointments; we had a better way to achieve the desired result. We believe it is important that the public be consulted, particularly those people who are capable of making a useful contribution. Any legislator trying to make up his mind - and I hope the Government does not have a closed mind on the subject -

Several members interjected.

Hon PETER FOSS: It has to go to the other House, and that House must decide whether it agrees with the Bill.

Several members interjected.

The PRESIDENT: Order!

Hon PETER FOSS: Hopefully, somewhere along the line, the two groups will put their minds to the problem and decide what is the important issue. That is the approach that we should adopt. There is no political kudos in having these people I have suggested as a panel to appoint the Director of Public Prosecutions. We will not get anything out of that.

Hon T.G. Butler: Whom are you suggesting?

Hon PETER FOSS: We are suggesting the Chief Justice of Western Australia, the Attorney General, the Commissioner of Police, the President of the Law Society and the President of the Western Australian Bar Association. We do not get any political brownie points for suggesting those names. We suggested them because we, as legislators, believe that is the appropriate answer. Members opposite may not agree with me and I am seeking to persuade them that that is the answer. I am using my best endeavours, as I tried to do when I spoke to the Attorney General to persuade him that that is the right answer, because ultimately I believe for the benefit of the people of Western Australia we must resolve this matter. After having worked on this question with considerable sincerity, we believe that is the answer. We do not score any political points by suggesting this change and there is no political benefit to us. The only benefit we can see is that we believe the public will benefit from it. We believe we have come to that conclusion appropriately, putting our minds to the subject and consulting the right people. I believe this House, and I hope the other Chamber also will look at the report, will benefit from seeking the views of people who are in the profession and are able to contribute, and I hope a committee comprising Liberal, Labor and National Party members will come back with a unanimous report which is useful to this House. That is the reason I am suggesting it, and it is an important point.

I hope the House will appreciate that that is one of the big benefits the Legislation Committee will bring - it will give the public an opportunity to contribute what they have to contribute, because we as legislators do not operate in a vacuum. We must operate in the matrix of the real world. I commend the Bill to the House.

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

HEPBURN HEIGHTS RESERVE BILL

Second Reading

HON REG DAVIES (North Metropolitan) [5.42 pm]: I move -

That the Bill be now read a second time.

In reintroducing my Bill I will be brief, as most members will be conversant with the intent of this Bill, which I originally introduced only last session, in December.

What the Bill seeks to achieve is a positive reinforcement of the Government's stated commitment to the environment. I am asking for legislation which realises the preservation of native parkland in the northern suburbs in its natural state for the benefit of future generations of Western Australians. Hepburn Heights is one such small piece of natural bushland located in the northern suburbs. It is home to various species of flora and fauna which may offer only relative significance to some, but what it represents in reality is more than just a piece of natural bushland. It is an awakening - a new realisation of the need to consider maintenance of precious resources like this expanse of virtually unadulterated bushland. Small pockets of natural bushland need to be protected so that in turn our natural environment and ground water resources remain relatively unpolluted. If we do not concern ourselves with our environment, if we do not really try to effect changes now, just what sort of legacy will we leave to future generations?

I previously introduced my Bill in 1989, when there was an attempt to undermine my credibility by a personal attack being launched against me. The argument attempted to condemn my understanding of the issues in order to distract us from the real issues. I ask that members bear with me while I explain the correct position.

Firstly, the Wanneroo City Council's position regarding the development of Hepburn Heights is that the area be retained in its natural state. The City of Wanneroo received a petition from around 14 000 residents calling for the area to be protected in its natural state. After speaking with senior staff at the Wanneroo City Council, it appears that there is some confusion over the location of the 53 hectares at Hepburn Heights. I say this as it is claimed that residents around Hepburn Heights have demonstrated antagonism towards the establishment of a mosque on the local land. The locality which actually opposed the establishment of a mosque was an area in Greenwood, where the dispute centred around accessibility, not racism, and certainly there was no campaign against religion. I would say that there are many people of that faith living in that area.

It was also alleged during that debate that the Environmental Protection Authority had commissioned an internal report which was undertaken by Mr W.G. Martinick. My information is that the report was commissioned by the developer, LandCorp, and not by the EPA, and was paid for by the developer, with an obvious and predictable outcome. The report refers to various sorts of uses and abuses of this area of land, which include the formation of tracks. Yes, locals, including classes of school children and teachers from the local school, like to frequent the bushland for nature study classes and for recreational purposes, and burning of native flora is often the way in which this type of plant life rejuvenates and propagates. Clearly the area needs to be protected against wanton abuses which might have been perpetrated in the past but about which the public is currently aware and which public scrutiny itself will now no longer tolerate. Here I refer to the dumping of rubbish and to timber cutting, two features of the report. It is interesting to note that over the period during which this area has come under scrutiny, people around the Hepburn Heights area have really come to appreciate this land which some appear to regard as valueless, except of course for its real estate worth.

At this point I would draw attention to Councillor Norma Rundle who has waged a sustained and thorough battle to see that Hepburn Heights does not fall to the auctioneer's hammer. I congratulate this lady on her selfless efforts on behalf of all the people of the northern suburbs and I trust she will now be in a position, as a councillor of the City of Wanneroo, to influence the outcome of other areas worthy of preservation. Some locals of the area have actually saved native shrubs and trees from other areas which have already fallen to developers' bulldozers, and intend to plant and care for them in the Hepburn Heights reserve which has so far been spared.

The report of the Kings Park and Botanic Garden experts quoted during the last session in my previous second reading speech saw small excerpts taken out of context. Just to clarify what this report concluded about the 53 hectares of Hepburn Heights, I would like to read the following from the report -

In a regional context the reserve as examined by the assessment team is of high conservation value because of its unique combination of relatively large size, biological condition, soil and topographical features.

The report also said that there was every evidence of rare species being present on that site.

The Government, through LandCorp, wants to use the land for low-cost housing. I contend that an alternative site, the 6WF transmitter site on Wanneroo Road, East Hamersley, would better suit the Government's proposal for both pensioner and Homeswest housing. As well, this area of 44 hectares is in relatively close proximity to the city. Local residents there are in favour of such a development, having signed a petition to this effect. Unfortunately I am unable to present these signatures to the Council today because the thrust of the petition calls upon this Parliament to intervene in a Federal matter. Many hundreds of signatures were placed on that petition to have the transmitter relocated. However, it has been demonstrated that an alternative and serviced site exists which may be used instead of destroying the 53 hectares of natural bushland at Hepburn Heights.

Contrary to the allegations made during the last session, there is no enclave of religious bigots attempting to prevent the establishment of a mosque. My understanding of events is that the petitioners offered a compromise of partial development allowing the establishment of the mosque, with the rest of the acreage to be left in its natural state.

Preservation of the small area of natural bushland will undoubtedly assist in maintenance of

precious underground water supplies. In a report issued by the Department of Planning and Urban Development - of which David Hatt, the former Director of LandCorp, is now the Executive Director - the experts state that it is vital that bushland reserves in the metropolitan area are preserved. This Bill should be regarded as environmentally constructive. It gives the Government the opportunity to stand up and be counted on the issue of environmental protection. We are all aware of the need to preserve natural bushland. At the same time there is an alternative site suitable for housing development.

I again call for the Government to substantiate any claim it might like to make on its commitment to the preservation of our environment.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Fred McKenzie.

ADJOURNMENT OF THE HOUSE - SPECIAL

On motion by Hon Kay Hallahan (Deputy Leader of the House), resolved -

That the House at its rising adjourn until Tuesday, 19 June.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON KAY HALLAHAN (East Metropolitan - Deputy Leader of the House) [5.51 pm]: I move -

That the House do now adjourn.

Adjournment Debate - "Mr Pike's Senate Bean Soup"

HON R.G. PIKE (North Metropolitan) [5.52 pm]: The House ought not to adjourn until I have given information on what I have entitled "The Senate Bean Soup" but, in as much as the matter looks like being a Clayton's recipe because it has been "leaked" to the *Daily News*, I do so with some hindsight.

Last week, because of some interest within the Labor Party members' ranks, a question was asked in the other place of the Minister for the Environment concerning an environmental assessment of meals in the Parliamentary Dining Room. These rumblings came about because of the inclusion on last week's menu of a course entitled "Mr Pike's Senate Bean Soup". It has never been my desire to assume a position of such inflated importance by appearing in print on the Parliamentary Dining Room menu, but I can assure both the Minister and other members and Ministers that this soup is indeed environmentally friendly, having been subject to monitoring for gas emission levels in the United States Senate's dining room since its introduction in that establishment in 1901 by Senator Fred Thomas Dubois of Idaho.

For the benefit of Labor members who, it will be appreciated, quite often find themselves in the soup, I repeat the recipe. I will give the actual recipe and the history. The history reads as follows -

Whatever uncertainties may exist in the Senate of the United States, one thing is sure: Bean Soup is on the menu of the Senate Restaurant every day.

The origin of this culinary decree has been lost in antiquity, but there are several oft-repeated legends.

One story has it that Senator Fred Thomas Dubois of Idaho who served in the Senate from 1901 to 1907, when chairman of the committee that supervised the Senate Restaurant, gavelled through a resolution requiring that bean soup be on the menu every day.

Another account attributes the bean soup mandate to Senator Knute Nelson of Minnesota, who expressed his fondness for it in 1903.

In any case, Senators and their guests are always assured of a hearty, nourishing dish; they know they can rely upon its delightful flavor and epicurean qualities.

I will now outline the recipe used by the American Senate dining room, which reads -

The Famous Senate Restaurant

Bean Soup Recipe

Take two pounds of small Michigan Navy Beans, wash, and run through hot water until Beans are white again. Put on the fire with four quarts of hot water. Then take one and one-half pounds of Smoked Ham Hocks, boil slowly approximately three hours in covered pot. Braise one onion chopped in a little butter, and, when light brown, put in Bean Soup. Season with salt and pepper, then serve. Do not add salt until ready to serve. (Eight persons.)

With some slight alteration I will now give the local recipe. Certain alterations have been made to protect the integrity of the original ingredients.

Recipe for Senate Bean Soup - 1901-1990

or Labor in the Soup

or Pro Bono Publico Soup (Refers only to last paragraph)

Take two Houses of Western Australian Labor Beings, wash, and run through the hot water of a P.I.C.L. scalding until they are utterly blanched. Put on the fire of public outcry with four quarts of hot water. Then take one and one-half pounds of smoked ham hack leadership, keep the cover up plot simmering and on the back burner for approximately seven years. Braise one chopped Lawrence onion (for crocodile tears purposes) in a little oil of appeasement, turn up the heat until onion becomes transparent, and add to Labor beings soup. Season with salt and Parker, then serve. Under no circumstances heat this soup on Grill.

Add "Barry Mac's Special Royal Commission salt" or be prepared to serve up another election to the general public. With "Barry Mac's salt", this recipe will serve over 1 million people, and is guaranteed to prevent any deferment of Supply.

The PRESIDENT: I remind honourable members that one of the reasons the House now adjourns at 6.00 pm on Thursday evenings is to allow country members to return to their electorates. I recommend that members think very carefully about the urgency of the subjects touched upon during the adjournment debate.

HON DOUG WENN (South West) [5.58 pm]: Because we are about to adjourn for one week, I wish to raise a matter about which I am very concerned - unlike the stupidity of the previous speech, which represents an absolute debacle and an abuse of the Standing Orders which give honourable members the right to speak on the adjournment motion.

The summary of the Harman report released yesterday contains matters of concern to me. The full report will not be available until Monday, and subsequent to that time I may make further comments. The report strongly recommends the use of gas as fuel for any future power station in Western Australia. The recommendations contained in the report concern me greatly and that is the reason I am on my feet at the moment. My main concern relates to the availability of gas. It has been stated that the Harman report makes only recommendations to the Government.

The Minister, Jeff Carr, yesterday issued a Press release stating that while the Harman report will become a focus in the energy debate over the next few months, it is not the end of the decision-making process. Members should bear that in mind because some members of the Opposition have used scare tactics by saying in public that the report is the be all and end all of the process. I strongly reiterate that SECWA will receive formal tenders until 16 July from groups interested in coal fired power stations at Collie or Jurien. I am concerned about this issue for a number of reasons: One is the availability of gas. The report states that the two major gas fields have significant quantities of gas - although I do not know how this is measured - yet it seems that the two gas fields will not be able to fuel a power station in the long term wherever it may be. The report then refers to four other gas fields, but it does not make any comment as to the quantity of gas in those fields. I share the committee's concerns about the quantities of gas available. We know through history that gas has been found through the search for oil - as happened in the North West Shelf - and this can be a bonus; however, the availability of gas could be a problem and I hope the Government takes note of that.

Hon R.G. Pike: You turned your backs on the Collie coalminers!

Hon DOUG WENN: A minority statement was released by Mr Kirkwood who was a member of the Harman committee. In his statement he makes the point about future power station fuels as follows -

It is important to acknowledge the limits which exist on the firmness of prices for gas and coal at this time, and the quantities which could be commercially secured on a firm basis - particularly gas.

Hon R.G. Pike: You will need to be absolute in what you are doing, for you are ignoring the Collie coalminers.

Hon DOUG WENN: Mr Pike spoke absolute rubbish for 10 minutes!

The PRESIDENT: Order!

Hon DOUG WENN: I was talking to people from the industry today and it was indicated that if the price of gas increases overseas, it will make the companies in Australia think seriously about exporting their gas for the larger returns. In the past we have seen a previous Government change from coal to oil burning powerhouses and when the cost of oil went out of proportion, it cost the State a great deal of money to change back to coal. I do not want to see that happen again. If the price of gas rises overseas, the companies will look at exporting large quantities, which will be good for the Australian economy; however, I wonder what the impact will be to local industries.

Hon R.G. Pike: Can you tell us how the Government will betray the Collie miners? You will do that one of these days.

Hon DOUG WENN: One of the issues raised in this debate is the environmental issue. I focused on this in my contribution to the Address-in-Reply debate. We have certain guidelines to use in the examination of emissions from the burning of gas and coal and technology has shown that coal can be burned in a very environmentally friendly manner.

Hon R.G. Pike: Tell us about how the Collie miners will not contribute to the Labor Party.

The PRESIDENT: Order!

Hon DOUG WENN: Such technology is used in powerhouses in Canada, America and Stockholm, which again I referred to in the Address-in-Reply debate.

Hon R.G. Pike: It does not matter what you say, you will betray the miners.

The PRESIDENT: Order! I suggest to the Leader of the Opposition that he speak to his members if he wants to keep them all in the Chamber. They appear to totally ignore my requests to be quiet while another member is speaking - perhaps they will listen to him.

Hon DOUG WENN: Thank you, Mr President. Scientists throughout the world cannot agree as to the extent of the damage being done by the burning of fossil fuels. The *Collie Mail* of 31 May 1990 contained an article which indicated that only eight per cent of the fossil fuels burned were responsible for greenhouse gases. This raises the question - particularly for those in the coal industry - of where the other 92 per cent comes from. I pointed out in my Address-in-Reply speech where these emissions may be coming from, and I will not go through that again; members who have shown an interest in the environment would be aware of those causes.

The newspaper report refers to work practices and to the fact that the coalmining company and unions joined forces to vigorously defend the industry against what they labelled "uninformed criticism". The mining unions have done a great job in extending their hours as they understand the need for productivity to be increased. The article states -

"While everyone else is talking us down, we've been getting on with the business of ensuring the State has a secure energy source at a competitive price."

That is a combined comment from the union and company representatives and they should be highly commended for their actions. The article continues -

They said changes are currently being introduced which are lifting productivity, and more improvements are on the way for coal operations.

The company and the unions have shown that the coal industry in Collie is extremely

positive in its approach to having the next power station located in Collie. The area has the structure, the land is available, the grid pattern is set - which makes it much easier to lock into - and the coal is available. Also, we know the extent of that availability of coal.

As I said in my Address-in-Reply speech, we should be looking at alternatives ranging from wind power to gas. I emphasise that I will never support uranium and will never be part of establishing a uranium power station. I urge the Government to look closely at this issue before a decision is made; it must look closely at the competitiveness of the gas and coal options. In saying that I do not refer just to the price of buying gas or coal, but also to where the fuel is to come from, how we are to lock into the grid, and the cost to the end user. In conclusion, I thank members for their time for what I believe to be a speech a little more sensible than the one which preceded it.

Adjournment Debate - Committee Work Day

HON E.J. CHARLTON (Agricultural) [6.08 pm]: As the House will not be sitting next week, it is obvious that the Standing Committee on Legislation - as well as other Standing Committees which have already been appointed in this House - will need to set aside time for consideration of operations. It boils down to having one day of our usual sitting period - either Tuesday, Wednesday or Thursday - set down for committee work. This proposal must be considered promptly, otherwise a backlog of material will accumulate towards the end of the session. That applies particularly to the Legislation Committee, but it also applies to other committees which will come into operation on 1 July because it appears that we will be here after that date. The parties in this House need to take on board the requirement to make a decision, after due consultation, as to the most appropriate day for the committees to meet. Perhaps Thursday may be the best day. If that is the case, everyone will know that that day is set aside for committee work and it will not be a matter of trying to bring people together at a day that is convenient for members and staff - this situation will be more convenient for all. I put that proposal to members and trust that it receives a constructive response.

Adjournment Debate - Presiding Officers and Clerks Conference - Australasian and Pacific Region

THE PRESIDENT (Hon Clive Griffiths): I remind members that over the weekend and next week Presiding Officers and Clerks will be in Perth for the annual Presiding Officers and Clerks Conference for the Australasian and Pacific region. Included will be visitors from the majority of the 22 Parliaments in the region. The conference will be held in the Legislative Assembly Chamber and all members are welcome to attend. Certainly, all members are welcome to take the opportunity of introducing themselves to some of our colleagues.

Question put and passed.

House adjourned at 6.11 pm

QUESTIONS ON NOTICE

GOVERNMENT DEPARTMENTS AND AGENCIES - OFFICE SPACE

Rent Guarantees

101. Hon R.G. PIKE to the Leader of the House representing the Deputy Premier:

Will the Minister provide details of -

- (a) the location of all the offices or office space under lease to the Government where the Government has guaranteed the rents;
- (b) the period for which the rent has been guaranteed for the above;
- (c) the total dollar amounts of the rent guarantees given in the case of each office or office space;
- (d) the m² guaranteed in each office or office space.
- (e) the percentage of rent guaranteed office or office space in each case that is occupied and unoccupied;
- (f) the total amount m² of office or office space occupied and unoccupied in each case;
- (g) the total amount of rent being paid for the occupied offices or office space; and
- (h) the total amount of rent being paid for the unoccupied offices or office space?

Hon J.M. BERINSON replied:

The Deputy Premier has supplied the following reply -

As this information covers all Government offices it will take some time to collate and the Deputy Premier will reply to the member in writing in due course.

LAND - REGISTER 2000 PROGRAM

Land Titles Office - Fees Surcharge

107. Hon BARRY HOUSE to the Minister for Lands:

- (1) What is the establishment cost of the Register 2 000 program?
- (2) Is there a surcharge on land Titles Office fees as a result?
- (3) If so, how much will that surcharge be?

Hon KAY HALLAHAN replied:

- (1) The establishment cost is currently estimated to be \$12 364 893.

(2)-(3)

An additional charge of limited duration is to be introduced on a range of Titles Office fees and similar fees under the Land Act. Regulations to give effect to the surcharge are currently being prepared.

GOVERNMENT AGENCIES - MEMBERSHIP

111. Hon BARRY HOUSE to the Minister for Lands:

With respect to the following Government agencies -

- (a) Government Domain Reserve Board;
- (b) Land Board;
- (c) Land Surveyors Licensing Board;
- (d) Parliamentary Reserve Board;
- (e) Pastoral Board;
- (f) Recreation Camps and Reserves Board; and

- (g) Zoological Gardens Board
 - (i) who comprises their current membership;
 - (ii) what are the functions of these boards; and
 - (iii) what remuneration do members of the boards receive?

Hon KAY HALLAHAN replied:

See Appendix A.

[See page No 2039.]

BARRY, MR RON - GOVERNMENT EMPLOYMENT

119. Hon P.G. PENDAL to the Leader of the House representing the Premier:

- (1) Is Mr Ron Barry still employed by the State Government?
- (2) If so, in what capacity and at what salary/allowances level?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

(1)-(2)

I am advised that Mr Barry is employed by Gold Corporation as manager, public affairs. The corporation's staff are not employed on Public Service levels.

STAMP DUTY - RETIREMENT VILLAGES

128. Hon P.G. PENDAL to the Leader of the House representing the Deputy Premier:

I refer to the Government's collections of stamp duty on real estate transactions and ask -

- (1) Does the purchaser of a unit within a retirement village pay for the stamp duty on entering such a transaction?
- (2) Does the same person pay the duty on selling out?
- (3) Does the law govern who shall pay in the circumstances outlined in parts (1) and (2) above?

Hon J.M. BERINSON replied:

The Deputy Premier has provided the following reply -

- (1) Yes.
- (2) No.
- (3) Under the provisions of the Stamp Act, stamp duty on the sale of property is payable by the purchaser.

UNEMPLOYED - YOUTH RATES

Kwinana Area

217. Hon P.G. PENDAL to the Leader of the House representing the Minister for Productivity and Labour Relations:

Will the Minister inform the House of the youth unemployment rates in the Kwinana area in each of the past five years?

Hon J.M. BERINSON replied:

Teenage (15-19 years) Full-time Unemployment Rates
Annual Averages (April to March)

	South-West Metropolitan Statistical Sub-Division (which includes the Town of Kwinana)	Western Australia
	%	%
1985-86	Unavailable	20.2
1986-87	24.6	20.2

1987-88	15.4	18.6
1988-89	17.3	15.6
1989-90	12.5	14.1

STAMP DUTY - STATE TAXATION DEPARTMENT
Assessment Delays

227. Hon PETER FOSS to the Leader of the House representing the Premier:

- (1) Why is it that despite the downturn in transactions the time taken for any assessment of stamp duty at the State Taxation Office, other than a 24 hour assessment, has gone from five weeks to 10 weeks?
- (2) Is the Treasurer aware that this delay is affecting commercial transactions and may lead to those transactions being cancelled?
- (3) What is the number of assessing staff positions at the State Taxation Office and how many of those positions are currently filled?
- (4) Is it correct that the State Taxation Office is not replacing assessing staff lost by resignations?
- (5) In view of the effect on cash flow of the State by reason of the extended time before an assessment is issued (and therefore payment becomes due) would the Treasurer consider taking action to increase the assessment staff at the State Taxation Office?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

- (1) The Commissioner of State Taxation reports that the delay is now a little over eight weeks but it is expected that this will be brought down to less than five weeks within next month.
- (2) I am advised that, although there has been a significant decrease in the number of property conveyance and other routine instruments submitted for immediate, 24 hour or postal assessment, there has not been a significant decrease in the number of complex instruments which are left with the stamp duties division. I am not aware of this happening and there is no reason why it should. The State Taxation Department has always made it clear that priority would be given to stamp duty assessments which were required urgently.
- (3) There are 23 such positions of which six are vacant; however, four of these six are occupied on an acting basis.
- (4) That is not correct; three positions were advertised last month and a further two are about to be advertised.
- (5) Approval was given earlier this financial year for the creation of seven additional assessing positions. The State Taxation Department has also reviewed its assessing procedures and changes are being implemented with a view to achieving greater efficiency.

JUVENILE OFFENDERS - JUSTICE SYSTEM
Community Confidence Restoration

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

I refer to the Premier's statement in *The West Australian* of May 15 1990 in which she is quoted as having said that she believed that the community had lost confidence in the juvenile justice system and there was a need to restore that confidence. Will the Premier outline the plan intended to be initiated to restore that confidence?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

I refer the member to the answer to Legislative Assembly question 595.

UNITED NATIONS CONVENTION - RIGHTS OF THE CHILD

260. Hon M.S. MONTGOMERY to the Attorney General:

- (1) Has the Attorney General or the State replied to a letter from the Federal Attorney General relating to the Convention on the Rights of the Child?
- (2) If so, what was the reply?
- (3) How did the Minister ascertain community feeling on the matter?

Hon J.M. BERINSON replied:

(1)-(3)

In a letter dated 8 August 1989, the Commonwealth Attorney General requested agreement to the convention being listed for consideration by the Standing Committee of Attorneys General, and details of any State laws or practices which might be inconsistent with the terms of the convention. My reply indicated agreement on the former matter and enclosed comments on the latter by relevant State Ministers. The convention remains on the agenda of the Standing Committee.

HOTELS - GOVERNMENT SALE

Auditor General's Report

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

- (1) Which hotels have the Government sold totalling \$29 million as mentioned in the report of the Auditor General?
- (2) On what date/s were they sold and what were the terms and conditions of each sale?
- (3) What was the purchase price of these hotels?

Hon J.M. BERINSON replied:

The Treasurer has provided the following reply -

- (1) Hotels sold by the Government Employees Superannuation Board for a total of \$23.925 million included Derby Overland, Kununurra Hotel, Kununurra Overland, Broome Overland, Hedland Overland, Karratha Overland and Newman Overland.
- (2) Settlement occurred on 29 June 1989. A deposit of \$1.3 million was received on settlement, with the balance receivable on 29 June 1994. Interest is chargeable at the rate of 6 per cent for the first 18 months and seven per cent thereafter. A first mortgage over the properties was executed in favour of the vendor (Government Employees Superannuation Board) securing the amount receivable.
- (3) Purchase price and other capital costs incurred by the Government Employees Superannuation Board totalled \$26 794 million.

LONGYEAR, MR GEORGE - WATER AUTHORITY OF WESTERN AUSTRALIA, DERBY

Work Status Change

283. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Water Resources:

- (1) Is the Minister aware that Mr George Longyear does not want, nor has he applied for, a change in his work status in Derby?
- (2) As it has been made clear by the Minister, Mr Longyear has committed no misdemeanour, why then is he being forced to accept a change in work status?
- (3) Will the Minister instruct WAWA to reinstate Mr Longyear to his former position in Derby?
- (4) If not, will the Minister detail the reason why it is in the best interests of WAWA to alter Mr Longyear's work status?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response -

(1)-(4)

The management of the authority and Mr Longyear are having ongoing discussions on this issue. I will advise the member in writing when the matter has been resolved.

**BUILDING OWNERS & MANAGERS ASSOCIATION OF
AUSTRALIA PTY LTD - LUNCHEON**

Government Property Involvement and Private Investor Policy

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

I refer to the Premier's speech given at a recent luncheon conducted by the Building Owners' and Managers' Association and ask: Will the Premier confirm her comments that it is the Government's new policy not to become involved in the property industry and to compete against private investors?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

The question is not understood as I did not make the comments referred to in the member's question.

WESTRALIA SQUARE - PURCHASERS

Interests Sale

304. Hon MAX EVANS to the Leader of the House representing the Deputy Premier:

- (1) On the Westralia Square site - will the Government as an unpaid vendor (\$180 million still owing), allow the purchasers to sell part of whole to overseas purchasers?
- (2) Does the present purchaser have to advise the Government of a pending sale of interest?
- (3) Has any such request been made?
- (4) Have the present owners sold any part or whole of their interests?
- (5) If so, how much - to whom - and when?
- (6) If so, have the terms of payment been altered?
- (7) If not, why not?

Hon J.M. BERINSON replied:

The Deputy Premier has provided the following reply -

- (1) The SGIC and GESB hold security to the Westralia Square properties and any sale would be subject to the security remaining.
- (2) No, the purchaser must notify the vendor.
- (3) Not applicable.
- (4) Yes.
- (5) The site for Westralia Square development - Building No 1 sold to the SGIC and the GESB in December 1988 for a total amount of \$55 million.
- (6) No.
- (7) Other conditions to the original sale agreement were amended.

TIPPERARY DEVELOPMENT PTY LTD - ROTHWELLS LTD

Government Guarantees, Indemnities or Undertakings

305. Hon MAX EVANS to the Leader of the House representing the Deputy Premier:

What guarantees, indemnities or undertakings has either the SGIC or GESB or

the WA Government given to Tipperary Development Pty Ltd, or Mr Warren Anderson or others with respect to the amount owing to Tipperary Development Pty Ltd of \$50.6 million by Rothwells Ltd at November 3 1988?

Hon J.M. BERINSON replied:

The Deputy Premier has provided the following reply -

The GESB and SGIC have given no such guarantees, indemnities or undertakings.

UGLE, MR L. - EX GRATIA PAYMENT REFUSAL

309. Hon BARRY HOUSE to the Attorney General:

On what grounds was an application for an ex-gratia payment for Mr L.D. Ugle refused?

Hon J.M. BERINSON replied:

On the basis of advice from the Crown Prosecutor, the circumstances of this case were not considered to justify an ex gratia payment. The retrial of Mr Ugle, as ordered by the High Court, did not proceed solely because the complainant lives overseas and was not available to give her evidence.

HOSPITALS - COOLGARDIE HOSPITAL

Farrell, Mr J.R. - Renovations Contract

323. Hon N.F. MOORE to the Minister for Planning representing the Minister for Works:

I refer the Minister to the contract awarded to J R Farrell, Building, for renovations to the Coolgardie Hospital and ask:

- (1) Is the Minister aware that Mr Farrell has allegedly not paid a number of accounts to subcontractors and other suppliers in Coolgardie?
- (2) Is the Minister satisfied with the progress being made in the hospital renovations?
- (3) Does J R Farrell have any other Government contracts and if so, what are the details of these contracts?
- (4) What action does the Government take to ensure that contractors who are awarded Government contracts are able to carry them out?
- (5) Was Mr Farrell the only tenderer, and if not, was he the lowest tenderer for the Coolgardie job?

Hon KAY HALLAHAN replied:

The Minister for Works has provided the following reply -

- (1) Yes.
- (2) No. The project is 50 per cent complete and should be 80 per cent complete.
- (3) Yes. Wagin District Hospital renovations - contract value \$414 000 and is 50 per cent complete.
Laverton Police Station and lockup additions and alterations - contract value \$412 000 and is 60 per cent complete.
- (4) Contractors must be registered within the terms of the building contractors categorisation scheme operated by the Building Management Authority. This requires supply of financial and company information. Contractors are also monitored for workload and performance.
- (5) J.R. Farrell's tender of \$596 000 was the lowest tenderer of three. The second lowest tender was \$610 374.

HOMESWEST - EXMOUTH

Home Construction - Accommodation Waiting List

324. Hon P.H. LOCKYER to the Leader of the House representing the Minister for Housing:

- (1) How many Homeswest homes will be built in Exmouth in 1990?
- (2) How many people are on the waiting list for accommodation in Exmouth at the present moment?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply -

- (1) 3x3 bedroom town houses (construction due to start next week).
6x1 bedroom pensioner units in a joint venture with shire.
- (2) 1 bedroom - 10 people
2 bedroom - 24 people
3 bedroom - 23 people
4 bedroom - 2 people

TOURISM - NORTHERN AREAS

Government Support

325. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Tourism:

What steps are being taken to give extra support to the North of our State to offset the severe downturn in tourist numbers?

Hon GRAHAM EDWARDS replied:

The Minister for Tourism has provided the following response -

Following the special allocation of funds from the Commonwealth Government, the Western Australian Tourist Commission has taken a number of steps to give extra support to the north of the State, including -

- (1) Support to the Federal tourism promotional campaign with principal orientation towards tropical resorts. Particular products featured in the campaign were Broome and Kimberley holiday packages.
- (2) Northern Summer campaign: To persuade intrastate travellers that the summer season is the ideal time to travel in the north west.
- (3) Breakaway campaign: Eastern States television and Press campaign to promote Broome and Kimberley holiday packages.
- (4) Getaway campaign: A Western Australian print campaign to promote Broome and Kimberley holiday packages.
- (5) Drive North campaign: This campaign will highlight the option of driving to the north emphasising the major attractions of all northern regions.

The Tourism Commission has also undertaken additional promotion of the north west region via consumer exhibitions, window displays, brochure material and public relations.

LONGYEAR, MR GEORGE - WATER AUTHORITY OF WESTERN AUSTRALIA, DERBY

Wyndham Transfer

326. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Water Resources:

- (1) Has Mr George Longyear of Derby WAWA been offered a position at Wyndham Water Authority?
- (2) Is this position similar and equal to his present position?
- (3) What are the consequences if Mr Longyear does not accept this position?

- (4) What is the reason that Mr Longyear is being shifted from Derby and why has this reason not been conveyed to him?
- (5) As Mr Longyear has spent some 35 years with WAWA, can he expect the courtesy of an explanation of the circumstances of his transfer?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response -
Please refer to parliamentary question 283.

QUESTIONS WITHOUT NOTICE

LOCAL GOVERNMENT ELECTIONS - IRREGULARITIES

Police Investigations - Perth City Council Meetings

229. Hon GEORGE CASH to the Minister for Police:

- (1) Has the Minister had meetings with any councillors of the City of Perth to discuss investigations by the police into the irregularities alleged to have taken place at the recent local government elections?
- (2) If so, will he provide details of those meetings?

Hon GRAHAM EDWARDS replied:

(1)-(2)

No. Of course, it is not appropriate for me to become involved in investigations that the police handle in the normal course of their operations.

LOCAL GOVERNMENT ELECTIONS - IRREGULARITIES

Two Police Officers - Investigation

230. Hon GEORGE CASH to the Minister for Police:

- (1) Is it true that only two police officers are currently investigating reported complaints of irregularities alleged to have occurred at the recent local government elections?
- (2) Is the Minister aware of any complaints which are not being actively investigated by the police because of the pressure of work caused by the inordinate number of complaints of irregularities at those elections?

Hon GRAHAM EDWARDS replied:

(1)-(2)

Once the police have received a complaint it is up to them how they pursue it. I do not keep tabs on the police.

HARMAN REPORT - MT LESUEUR COAL DEPOSIT

Hill River Mine

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

- (1) With regard to the Harman report on the power needs of the State, can the Leader of the House indicate the Government's position regarding any announcements about the Mt Lesueur coal deposit?
- (2) Has he any comments on the statements made by CRA regarding the Hill River mine that the company seems so confident will proceed?

Hon J.M. BERINSON replied:

(1)-(2)

It has been made clear that the Harman report consists of a series of recommendations and not Government decisions. The report will be considered in the usual way and decisions will later emerge.

The same applies to the Hill River proposal. It is an active proposal which has been thoroughly pursued by its proponents, and they have recently met the requirements placed upon them for the preparation of an environmental

review and management proposal and a draft environmental impact statement. Both of those have been made available, they have been thoroughly procedures which environmental impact considerations involve. That will necessarily take some time. In the meantime the company is quite justified in pursuing its proposals as vigorously as it thinks fit, and its proposals will be taken into account, together with the responses which emerge from a consideration of the documents already provided. There is no doubt about the seriousness of the company in regard to this proposal. It has invested very large sums of money in preparing preliminary information, and it would be premature at this stage to take the matter further, either in respect of the Hill River project or the Harman report, other than to indicate that both are currently subject to normal and proper assessment procedures and they will be seen through.

AUSTRALIAN SECURITIES COMMISSION - CHANGE PROPOSALS

Organisation Discussions

232. Hon MAX EVANS to the Attorney General:

Further to the Australian Securities Commission, did the Attorney General's meeting with the Law Society and the Institute of Chartered Accountants result in discovering any problems which might be anticipated in the proposed changeovers in the next six months? If not, could he look into the matter?

Hon J.M. BERINSON replied:

I have had regular contact with a representative group of the various professions and industries involved. I include in that the Stock Exchange. It is fair to say that I was instrumental in first drawing these bodies together and impressing upon them the need to act in a coordinated manner. Their spokesman is normally Mr Laurie Shervington, and he has been kept fully informed of developments as they emerge, and of a number of proposals which go very much to the heart of the interests of those organisations relating to the service which regional offices of the Australian Securities Commission might provide.

Hon Max Evans: We are really interested in the present status.

Hon J.M. BERINSON: I believe Mr Shervington would have met recently with the Corporate Affairs Department, certainly within the last week.

HARMAN REPORT - HILL RIVER FEASIBILITY STUDY

233. Hon E.J. CHARLTON to the Minister for Resources:

Bearing in mind the fact that approximately \$35 million was mentioned as having been expended, did the Government encourage the Hill River feasibility study to take place?

Hon J.M. BERINSON replied:

The honourable member will be aware that I was not involved with this portfolio in the early stages of consideration of the project by the company, but my understanding is that this is a project, as are others, where the proponents themselves decide to what extent they will go with their preliminary work and assessment. From my own recent knowledge of events, the companies have had every assistance from the Department of Resources Development in terms of making clear to them the requirements which would have to be met, and in providing them with any information which the companies on the one hand sought and which the department on the other was able to provide.

LAND - LEACH HIGHWAY

Fremantle Cemetery Board - Future

234. Hon P.G. PENDAL to the Minister for Planning:

Could the Minister advise the House of the Government's intention in regard

to the land currently vested in the Fremantle Cemetery Board which until recently accommodated the old wool sheds abutting Leach Highway?

Hon KAY HALLAHAN replied:

The land in question is proposed to be used for housing for retired and elderly Western Australians. I do not have the current proposals with me, but I would be happy to obtain further information for the member. Is it the use of the land the member wants information on?

Hon P.G. PENDAL: I would like you to be more specific than that, but I have a couple of other questions.

LAND - LEACH HIGHWAY
Fremantle Cemetery Board - Future

235. Hon P.G. PENDAL to the Minister for Planning:

I thank the Minister for her response, and I ask -

- (1) Has the Minister discussed the future of this land with the relevant local authority?
- (2) Will she consider the requests of local residents who desire to see this land reserved for passive recreation?

Hon KAY HALLAHAN replied:

(1)-(2)

As I indicated, I do not have the current proposals with me. Now that the member has mentioned passive recreation, I think there may be accommodation for that in the proposals but I would need to check.

PRISONS - FREMANTLE PRISON
Future

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

- (1) Is the Minister aware that I asked a question on notice of him last week about the future of Fremantle Prison?
- (2) If so, does he recall that he could not inform me of the outcome of the inquiry because the report of the reviewing committee was not yet available?
- (3) Will he ascertain why the Premier was able to speak about the prison's future in the *Fremantle Focus* last week, and why the same information at the same time could not have been released in the Parliament in response to that parliamentary question?

Hon J.M. BERINSON replied:

(1)-(3)

As Minister for Corrective Services I am responsible for Fremantle Prison while it remains a prison. As the Minister for Corrective Services I am not responsible for future plans for that area when the prison is decommissioned. My answer was based on information I then had, but I am not concerned with the committee dealing with that. If the Premier was in later or closer touch with that committee than I was, I have no doubt that would explain her knowledge of matters at a time they were not available to me.

PRISONS - FREMANTLE PRISON
Future

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

I thank the Minister for that answer and ask a supplementary question. Is it not the case, however, that the Premier would have been advised by the same people who would have drafted the answer to my question asked in Parliament last week?

Hon J.M. BERINSON replied:

I have no idea.

HERITAGE BILL - NEW LEGISLATION

238. Hon P.G. PENDAL to the Minister for Heritage:

Can the Minister say whether it is her intention to proceed with the long awaited heritage Bill in this current session of Parliament?

Hon KAY HALLAHAN replied:

Yes.

HERITAGE BILL - NEW LEGISLATION

Advice Tabling

239. Hon P.G. PENDAL to the Minister for Heritage:

I thank the Minister for that answer and direct another question on the same matter to her. Is the Minister prepared to table in this House all the advice she has received from within the Government service on the content of the heritage Bill?

Hon KAY HALLAHAN replied:

That is a most unusual request, and I would have to give it careful consideration.

HARMAN REPORT - GAS RESERVES ASSESSMENT

240. Hon E.J. CHARLTON to the Minister for Resources:

Bearing in mind that the Harman report on the future energy needs of Western Australia advocates gas as a preferred option, and the fact that information given to me indicates it takes 12 months to assess properly any reserves of gas in a specific area, does the Government intend to encourage that assessment - particularly in the Perth basin - in order to ensure that any future gas power station would be supplied from that area?

Hon J.M. BERINSON replied:

Although Hon E.J. Charlton put it as one question he really asked two separate questions. The first question was whether the Government intended to encourage the identification and development of gas reserves; the second question was whether gas would be the fuel employed for the next major power station.

Hon E.J. Charlton: You cannot have one without the other.

Hon J.M. BERINSON: Yes, one can. One can certainly have more gas without a power station using the gas. In fact in advance of any question arising for final determination on the energy source for the next power station, the Minister for Mines made it clear that Western Australia was reaching the point with the market for available gas that the Government would encourage further prospecting for gas. The Minister held out a bright future for companies able to provide gas. That encouragement was given in advance of any particular consideration of the power source for a new station. In that sense I suggest that Hon E.J. Charlton really asked two questions rather than one. I believe I have answered them both.

LANDS BOARD - CHAIRMAN VACANCY

241. Hon BARRY HOUSE to the Minister for Lands:

With reference to question on notice 111, which was answered today, wherein I sought information on the functions, current membership and remuneration of members of a number of Government agencies, I notice that the chairmanship of the Lands Board was vacant.

- (1) Why is that position vacant?
- (2) How long has the position been vacant?
- (3) When does the Minister intend to make an appointment to that position?

Hon KAY HALLAHAN replied:

(1)-(3)

If the member cares to put that question on notice, I will have the accurate information available for him after the recess week.

ARALUEN PARK - GOVERNMENT INITIATIVES

242. Hon DERRICK TOMLINSON to the Minister for Planning:

In respect of Araluen Park, I refer the Minister to the answer she gave to a question I asked earlier, wherein she said it was not possible for the Government to buy Araluen Park. I note also that in the past few days a Press statement indicated that the Government was looking into that possibility. Given that a private individual has made an offer to purchase Araluen Park, could the Minister advise what sort of initiatives the Government is investigating?

Hon KAY HALLAHAN replied:

I am not in a position to do that except to say that the statement in the newspaper was in response to a question from a reporter who had an interest in it. Although I have to say there is a shift from the answer I gave the member earlier -

Hon George Cash: To the right or the left?

Hon E.J. Charlton: That is one of the advantages of being flexible.

Hon KAY HALLAHAN: Indeed. If there is good cause one can continue to try to find a solution. I cannot outline a solution for the honourable member or for the other members of this House today but I hope that some solution may be possible. I cannot be more categorical than that but the matter is being looked at fully with a view to having a different outcome from the one I indicated to the member. At the time that answer was quite as the facts appeared, but on pushing people to look at further ways of seeing whether we could do something about it, it seems to me a pathway can be found. I certainly will let the member know. It may well be that will be the case anyway by the time we resume the session. However, I cannot be more specific today. A lot of significant support is coming; for example, the Armadale City Council had a motion on its books the other evening to rezone the area. The Mayor of Armadale and one of the new councillors have been taking a close interest in this matter, as have other councillors. I understand that Councillor Roger Stubbs put up a motion; the decision of the council was to send the matter back to its town planning committee, not on the basis that the council was not supportive, but that it should be considered in that committee and then dealt with in full council. I think that was the technicality. That indicates significant support exists within that council for doing something about Araluen as well. There is a growing wave of support for trying to find some way to preserve Araluen in the public domain.

RESERVES AND LAND REVESTMENT BILL - LEGISLATION REPETITION

243. Hon BARRY HOUSE to the Minister for Lands:

With reference to the Reserves and Land Revestment Bill, which reached the second reading stage in this place yesterday, would the Minister explain the real reason it was necessary to bring this legislation before the House again this session after it had been fully debated here last year?

Hon KAY HALLAHAN replied:

I am most happy to do that. As members know last session we debated this Bill very fully for over five and a half hours. We had a lot of wonderful discussion on a few contentious clauses and we reached a pretty agreeable position on the legislation. Everyone seemed to be accommodated. The Bill was despatched from this House to the Assembly. As I understand it, the Assembly was not sitting to receive the message and in that technical gap -

for want of a better word - the Bill had to be brought back to this House. It could have been expedited through this House yesterday.

Hon Barry House: That is not the point.

The PRESIDENT Order!

Hon KAY HALLAHAN: That is the reason that the Bill is still on the Notice Paper.

Hon George Cash: Why didn't you bring it in a month ago?

Hon KAY HALLAHAN: It will sit there for the rest of this week and during the recess and on the Wednesday following that we will apparently be eligible to start debating it again because the Opposition is not interested in efficiency and serving the people well.

The PRESIDENT: Order! I remind the Minister about the rules relating to brevity when answering questions.

Hon KAY HALLAHAN: I thought I had been given an open invitation to spell out the situation regarding that Bill, and we can thank the members opposite for that.

LAND - LEACH HIGHWAY *Fremantle Cemetery Board - Future*

244. Hon P.G. PENDAL to the Minister for Planning:

- (1) Can the Minister say whether a decision is imminent on the future of the large tract of land near Leach Highway which recently contained the woolsheds?
- (2) Will the Minister assure the House that the Fremantle Cemetery Board, under whose jurisdiction that land belongs, is willing to give up that land for development?

Hon KAY HALLAHAN replied:

- (1)-(2) The fact that honourable members have asked more than one question on this topic indicates that it is a contentious issue.

Hon George Cash: Is that a criterion for a contentious issue?

Hon KAY HALLAHAN: The Fremantle Cemetery Board is not under my jurisdiction. I am not in a position to know the board's activities these days, but I will follow up the matter and obtain the information for the member.

WIDOWS - FEDERAL TERM OF REFERENCE *State Endorsement*

245. Hon MURIEL PATTERSON to the Minister representing the Minister for Community Services:

The Federal Government, through the Department of Social Security, uses the term "widows" correctly in its official application form for widows with no children. However, it refers to a widow with children as a sole parent, placing her with unmarried and de facto mothers. Does the State Government use this term when referring to widows and, if so, does the Minister consider the term incorrect and discriminatory?

Hon KAY HALLAHAN replied:

The honourable member and I had a brief discussion on this matter and I indicated that the definitions to which she referred are established by the Federal Government. If she wished the matter to be followed up she should put the question on notice because it does come under the portfolio of the Minister for Community Services.

Hon Muriel Patterson: Does the State Government use this term and endorse it?

Hon KAY HALLAHAN: The matter should be referred to the Minister for Community Services because that is the area from which the State Government makes funding available. He will need to look at the definitions

and categories of people requiring assistance. The question should be put on notice for that Minister who will be able to speak on that matter.

ARALUEN PARK - FOREIGN INTERESTS

246. Hon E.J. CHARLTON to the Minister for Lands:

In relation to previous questions asked by Hon Derrick Tomlinson regarding Araluen, speculation has occurred that foreign interests are inquiring about the area. Would the Government vigorously oppose any action by the such interests, particularly the Japanese, to acquire that land?

Hon KAY HALLAHAN replied:

I am unaware of any foreign interest in Araluen. A particular community group has shown intense interest in acquiring Araluen so that it can be saved for public use and enjoyment. That is the only expression of interest of which I am aware.

STATE PLANNING VALIDATION BILL - LAND SKETCHES

247. Hon GEORGE CASH to the Minister for Planning:

I refer to the State Planning Commission (Amendment and Validation) Bill introduced into this House recently. I appreciate the Minister's having provided a schedule of the various land, the subject of the Bill. Will she please provide sketches of the various pieces of land and the total area involved to enable a committee of the Opposition to properly consider the matter?

Hon KAY HALLAHAN replied:

I must say -

Hon George Cash: Well, the Minister is anxious to bring the Bill on.

Hon KAY HALLAHAN: I am anxious to have this Bill listed at the beginning of the Notice Paper.

Hon George Cash: The committee says it needs plans.

Hon KAY HALLAHAN: I understand the members of the committee could not even get together to meet and discuss the issue. I understand they will have a briefing on 20 June at 6.30 pm because the Opposition is visiting Geraldton next week. I am very upset about that. I have said that my staff will provide clarifying notations on the information that I distributed. That will take time, but I will obtain it for the honourable member. If the Leader of the Opposition would indicate which areas his members would like to see sketches of I could obtain those particular ones. However, obtaining sketches on all of them is out of the question. I mean, who would want a sketch of a road reserve? Some of them are road reserves.

Hon George Cash: The committee would like sketches of all the reserves. I can only pass on its request. If the Minister will not agree to the request, she should say so.

APPENDIX A

NAME OF BOARD	FUNCTION	CURRENT MEMBERSHIP	REMUNERATION
Government Domain Reserve Board	A board of management under the Parks and Reserves Act to control and manage Class "A" Reserve 1149 - Government House.	President and Official Secretary: Mr J. McCausland Members: Mr N.J. Smyth; Mr D. Blight	Nil
Land Board	To determine the allocation of land when there have been two or more applicants for the same piece of land	Chairs: Vacant Members: (a) Shire President or his nominated representative (b) Department of Land Administration Officer or State Government public servant with particular professional skills pertaining to the release in question	Chairman: \$97 for half day sitting, \$145 for full day. Shire representative: \$73 for half day, \$108 full day. All members receive travelling allowance in accordance with the Public Service Miscellaneous Allowances Award No 14 of 1982 when appropriate.
Land Surveyors Licensing Board	The Land Surveyors Licensing Board of Western Australia is constituted under the Licensed Surveyors Act 1909-76 to provide for the registration, regulation and supervision of persons who undertake authorised surveys and to assist the profession in the control of matters incidental thereto.	Chairman: Mr C.A. Grant Members: Mr D.C. Brown; Mr B.E. Campbell; Mr B.G. Cribb; Mr E.A. McKinnon; Mr O.G. West	Non-Government members are Messrs Brown, Campbell and McKinnon, who receive \$73 per half day sitting and \$108 for full day sitting as per the standard rates
Parliamentary Reserve Board	A board of Parks and Reserves constituted to control and manage Class "A" Reserve No 1162	Chairman: Hon M. Barnett, MLA Members: Hon C. Griffiths MLC; G. Kelly MLC; C. Davenport MLC; E. Charlton MLC; R. Pike MLC; Messrs M. House MLA; W. McNee MLA; N. Catania MLA and Dr J. Watson MLA	Nil
Pastoral Board	The board provides advice to the Minister regarding pastoral capabilities of the land, approvals to sell and transfer, and other relevant matters affecting pastoral leases.	Chairman: Mr L.M. Kelly Members: Mr T.E. Carleton; Mr J. De Pledge; Mr S.J. Tonkin. Deputy members for Messrs De Pledge and Tonkin are respectively Mr R. Northcott and Mr J.M. Price. Their terms of appointment expire simultaneously with those of Messrs De Pledge and Tonkin.	Chairman \$40 per hour (with a limit of 14 hours per week) Members: Tonkin and De Pledge \$108 for full day, \$73 half day. Travelling allowance in accordance with the Public Service Miscellaneous Allowances Award No 14 of 1982 when appropriate.
Recreation Camps and Reserves Board	To control and manage recreation camps and reserves vested under the board	Chairman: Mr J.G. Busch Members: Mr J.F. Fuhrmann and Mr K.A. Watts	Nil
Zoological Gardens Board	To guide the development and operation of the zoological gardens	President: Mr B. Collier Vice President: Mr Bant Members: Dr B. Wilson; Mrs V. Payne; Mr R. Anderson; Mr L. Hitchen and Mr F. McKenna	President: \$1 275 per quarter (\$5 100 per annum including expenses) Mr R. Anderson, Mr L. Hitchen and Mrs V. Payne receive \$73 for half day sitting fee rates