

# Legislative Council

Wednesday, 19 September 1990

THE DEPUTY PRESIDENT (Hon J.M. Brown) took the Chair at 2.30 pm, and read prayers.

## POLICE AMENDMENT BILL

### *Introduction and First Reading*

Bill introduced, on motion by Hon Peter Foss, and read a first time.

## LEAVE OF ABSENCE

*Griffiths, Hon Clive - Wordsworth, Hon D.J.*

On motions by Hon Margaret McAleer, resolved -

That leave of absence for three sitting days be granted to Hon Clive Griffiths (President) due to public business overseas.

That leave of absence for three sitting days be granted to Hon D.J. Wordsworth (Agricultural) due to urgent business.

## MOTION - BELL GROUP SHARES

*National Companies and Securities Commission Inquiry - Documents Tabling*

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [2.38 pm]: I move -

That this House requires the Attorney General to table the following documents within two sitting days of the day on which this order is passed -

1. The letter or other communication provided by the WA Government to the National Companies and Securities Commission explaining the Government's reasons for not insisting on the imposition of a \$1 million fine on Bond Corporation for its actions in relation to the purchase of Bell Group shares by Bond and the State Government Insurance Commission such \$1 million fine having been recommended by the National Companies and Securities Commission.
2. Any written communications or transcripts of evidence provided to the National Companies and Securities Commission as part of the Government's and the State Government Insurance Commission's responses to the National Companies and Securities Commission investigation into the Bell Group share purchases.

I refer members to debates in this House last week and the week before when the Opposition set out a case which clearly showed that discussions had taken place by the SGIC and Bond Corporation with the NCSC about the purchase by both the SGIC and Bond Corporation of certain shares in Bell Group Ltd. Members will be aware that during early 1988, when both the SGIC and Bond Corporation were considering the purchase of certain shares from Mr Robert Holmes a Court, a number of allegations were made that both Bond Corporation and the SGIC had acted in concert and as such were associates under the terms of the Companies (Acquisition of Shares) Act and Codes. That obviously caused both the State Government Insurance Commission and the Bond Corporation significant concern because had it been proven, one of the remedies available to the NCSC would have been to order the forfeiture of those shares. The Attorney General has been at pains to advise this House that a settlement was agreed to by the NCSC, and the Attorney General further advised the House that he took some part in the arrangement which was negotiated by the NCSC, Bond Corporation and the SGIC. However, many questions remain to be answered, particularly by the Attorney General. These relate to his role in the total purchase of those shares by the SGIC, and, more importantly, to the involvement of the Government generally.

I refer members to the published report of the National Companies and Securities

Commission regarding the acquisition and disposal of certain securities in Bell Group Ltd and into the agreement to underwrite certain convertible bonds to the Bell Group. This is a public document; however, if members want it tabled, I am sure that would not create a problem. By way of background, I advise that on 23 May 1988 the NCSC decided to hold a hearing, pursuant to section 36 of the NCSC Act, and corresponding State and Territory legislation; and I quote from the terms of reference -

- (a) to determine if the conduct complies with the law, whether it is against the public interest, and if, as a consequence, there should be any changes in the law; and
- (b) to determine if the conduct is or is not acceptable within the meaning of that expression in section 60 of the Companies (Acquisition of Shares) Act and Codes and, if not, what remedial action is appropriate.

It is now history that the commission held its inquiry and that representatives from the SGIC, Bond Corporation and no doubt representatives of the Bell Group and Government officers gave evidence to that inquiry. I indicated earlier that the principal concern of the inquiry was to ascertain whether the SGIC and Bond Corporation had acted independently of each other in the acquisition of their respective parcels of Bell shares. It is interesting that in the public report a number of references were made to evidence given. I suggest that the NCSC was at pains to publish some of the evidence to justify the conclusions it drew and the settlement arrangement and the terms of settlement which were agreed to by the parties. It was clear - as was indicated in evidence given - that the SGIC and Bond Corporation at all times sought to represent an independence between the respective organisations and a lack of connection between the negotiating parties. Indeed, the SGIC asserted this independence in response to information made available to the commission on 5 May 1988. In that request the commission asked for a variety of information including "details of any contact between members of staff of the SGIC and Mr Bond, Mr Skase or any other party representing those persons, or any other person concerning the shares in the Bell Group or Bell Resources or any person associated or related to the company in relation to any negotiations or discussions with Mr Holmes a Court and his representatives during the period leading up to the acquisition".

This is taken from the NCSC report. The report also contains the reply to the request. On 6 May, after detailing the purchase at which representatives of the SGIC and Mr Holmes a Court provided the relevant documents, the NCSC arrived at the following conclusion -

[t]he State Government Insurance Commission negotiations and discussions with Mr Robert Holmes a Court for the purchase of the subject shares were conducted by it independently of any other party, and there was no contact as referred in relation to any such negotiations or discussions.

Regarding the response by the SGIC to the NCSC, it is clear from answers given to this House, and other answers and statements made in the Legislative Assembly, that what is claimed is in fact false. That is in view of the published evidence to date in respect of the discussions which have occurred between the SGIC and Bond Corporation, some of which have been alluded to by the Attorney General. It is interesting that Mr Rees, who was the Chairman of the SGIC at the time, and Mr Kevin Edwards, who was the Acting Chairman of the SGIC and, indeed, an officer of the Ministry of Premier and Cabinet, purchased the shares and went out of their way to make it clear that they believed that all of the dealings between the SGIC, Bond and the Bell Group had been conducted independently. They also indicated that no inference should be drawn and no evidence was available that they could have acted in concert. A close reading of *Hansard* over recent weeks, and a close reading of the documents which have been tabled in this House indicate that the evidence given by the SGIC to the effect that it had acted independently with no contact with those other parties, was not able to be sustained; indeed, it was false.

Paragraph 23 of the NCSC report questions the evidence that was given by the SGIC. It does so in the following terms -

Documents were also produced by the National Australia Bank to whom the Bond Corporation had applied for funds to finance its acquisition. These documents suggest that there had been contact between the SGIC and Bond Corp.

Paragraph 24 of the report states -

After a careful review of all of the evidence including that summarised above, the Commission had come to the tentative view that there might have been some understanding between the SGIC and Bond Corp in relation to the future management control of BGL, in particular, that Bond Corp would assume that control with at least the tacit acquiescence of the SGIC.

After the NCSC had concluded that there had been contact between the two parties another interesting statement appears in paragraph 26; it states -

In the event that the tentative view of the Commission was not altered or modified as a result of submissions made or further facts led, the Commission may well have made declarations pursuant to section 60 of the Code.

It should be pointed out, however, that no final views had been formed. The importance of that paragraph is that the commission had formed the tentative view that there had been an association between the SGIC and Bond Corporation in respect of its further purchase of the Bell Group shares, but that, if it pursued the matter and decided under the authority that it had to make certain declarations, one of the declarations that it could have made under the code was to order the forfeiture of the shares. Members will be aware that the shares cost both parties in excess of \$160 million for their interests. That would have caused a terrible financial crisis at the SGIC, but more than that, it would have given Bond Corporation a fatal body blow. It was therefore necessary, in view of the fact that the NCSC had formed its tentative view, that the parties come to some sort of arrangement or settlement to ensure that the NCSC did not pursue the matter any further. That is the point of ordering the forfeiture of the shares.

As a result of the statements that were made by the NCSC and the views formed by the SGIC, Bond Corporation and officers of the Government - I refer to the role played by Hon Joe Berinson as Attorney General and as a member of the Ministerial Council and I refer to the comments that I made last week in this Parliament about Hon Joe Berinson's part in negotiating the settlement that was finally agreed to - it is important now to recognise that we have reached the stage where the NCSC may have declared that the shares be forfeited; and the SGIC, Bond Corporation and its representatives, Hon Joe Berinson and officers of the Government were keen to have a settlement brought about.

In the other House the other day, Mr Richard Court, the member for Nedlands, set out clearly a number of meetings that took place to reach a settlement that was finally agreed to by the NCSC. In general terms, members will recall that, at the time - I am talking about mid-1988 - Bond Corporation entered into an agreement to offer the balance of shareholders in the Bell Group Ltd a price for its shares.

Hon Max Evans: The price was \$2.70.

Hon GEORGE CASH: Hon Max Evans has confirmed that the price was \$2.70. The SGIC agreed that it would not require that commitment for its shares because it had other agreements in respect of Bond Corporation's indemnifying the SGIC for any losses it might sustain on its share purchase, and the settlement was put into place.

It seems to me and to others who have followed closely the events of that time that the NCSC was most unhappy with the association that it believed had developed between the SGIC and Bond Corporation in respect of the share purchase.

As part of the settlement arrangements, the NCSC insisted that Bond Corporation should pay a penalty of \$1 million for the part it played in the acquisition of the shares. It is now history that that \$1 million penalty or fine or levy - call it what you like, Mr Deputy President - was recommended by the NCSC to be paid by Bond Corporation. However, Bond Corporation at the time the final settlement was reached refused to pay the \$1 million. In fact, it has been said that, during the final negotiations, representatives from Bond Corporation laughed at the idea that the corporation should pay the \$1 million and that somehow - I have yet to determine how it got around paying it - Bond Corporation put pressure on the State Government to write to the NCSC and not insist on the payment of that \$1 million. However, the bottom line is that no-one insisted that the \$1 million be paid. A contributing factor to that \$1 million not being paid was a letter sent by this Government to the NCSC which encouraged the NCSC not to proceed with the imposition of the \$1 million penalty, fine, levy or whatever.

Questions have been asked in this place about the contents of that letter. To date, the Attorney General, in his capacities as Attorney General and Leader of the House, has found it convenient to tell the House that the letter was written under the signature of a Minister in another place and that he would endeavour to advise the other Minister of the Opposition's wish to have a copy of that letter tabled. To date the tabling has not occurred. Last week, when this matter was discussed in the Legislative Assembly, the Deputy Premier, Mr Taylor, who was last week handling this matter on behalf of the Government, said during the debate that he would consider tabling the letter at the conclusion of his speech. It is clear to anyone who has read the *Hansard* and checked the records of that House that no tabling occurred even though the Deputy Premier was challenged on a number of occasions to table it. In fact, Mr Taylor issued a challenge to members of the Legislative Council to require the letter to be tabled in this House. It is partly as a response to that challenge that I have moved this motion today.

It is important to find out about the content of that letter. However, it is more important that we find out the reason for the Government of Western Australia advising the NCSC not to insist on what was a legitimate \$1 million penalty being levied against Bond Corporation for the part it played in the acquisition of certain shares in the Bell Group. I want to know why the Government wrote that letter. Why was the Government trying to protect Bond Corporation from having to pay that \$1 million penalty? What did Bond Corporation have on the Government which caused the Government to write such a letter? It is an extraordinary situation for a Federal commission, the National Companies and Securities Commission, to reach conclusions, part of which conclusions was the imposition of a \$1 million penalty, only to find that the State Government used its influence to deny payment of that penalty.

It is clear from the evidence of the National Companies and Securities Commission inquiry that there was a conflict between the evidence given by certain persons and what actually occurred in practice. That brings me to the second part of the motion which requires the Attorney General to table -

Any written communications or transcripts of evidence provided to the National Companies and Securities Commission as part of the Government's and the State Government Insurance Commission's responses to the National Companies and Securities Commission investigation into the Bell Group share purchases.

It is important that all documentation provided to the NCSC inquiry by this State Government - the State Government Insurance Commission or any other Government department - be tabled in this House so that members and the community will have the opportunity to test the evidence given by certain persons connected with the Government and the SGIC against the evidence of others that was given to the NCSC inquiry. The fact is that the NCSC came to the conclusion that both the SGIC and Bond Corporation had acted in concert and there had been contact between the two parties. Had the NCSC continued with its investigations it would have found that both the SGIC and Bond Corporation were deemed to have been associates under the relevant legislation and that would have required the shares to be forfeited. It is a serious matter and there is no doubt that the NCSC arrived at those conclusions and it was not until certain pressure was put on it by this State Government, by the representatives of Bond Corporation and others connected with the purchase of these shares, that the NCSC started to back off.

The House will decide in due course whether it will support this motion. If it does and the documents are tabled they will reveal a very interesting story that has not as yet come out in this Parliament. More than that, the NCSC has an obligation to make available some of its transcripts to the community and if it is said that the transcripts are of confidential evidence, they should be made available to an independent person to assess whether substantial breaches of the law occurred in respect of this share purchase. The saga that surrounds the purchase by the SGIC and Bond Corporation of those shares in the Bell Group will not go away.

What happened is now a matter of regret and the interesting thing is that when so many players are involved in a game all the records could not be destroyed even if one wanted them destroyed. Cheques were drawn and authorisation vouchers were signed and processed to enable certain payments to be made. It seems to me that within the SGIC and Government

there are sufficient records to show that there has been a breach of the law and that action should be taken against those people concerned. I could make the claim that some persons perjured themselves in the evidence they gave to the NCSC. I am not able to name those persons now because I do not have all the documentation to support such a claim and I will refrain from doing so.

Hon Tom Helm: You will refrain from stating it now?

Hon GEORGE CASH: I will.

The information that is now becoming available not only to the Opposition, but also to the community in general, will show that people have committed perjury in respect of the NCSC inquiry and in the end those persons should be properly charged for the perjury they committed.

HON MAX EVANS (North Metropolitan) [3.07 pm]: I formally second the motion and in doing so I acknowledge those persons who originally drafted the rules of this House to enable members to move a motion requesting the tabling of documents. I understand a motion of this kind was first moved in respect of the Burswood Casino inquiry by Hon Phil Pandal who requested information on a \$50 million payment. On 1 May this year I was successful in having documents pertaining to this matter tabled in this House. The information obtained from those documents has produced many stories and the jigsaw puzzle is now starting to come together. I hope we do not have to use this rule of the House very often and I certainly hope it will not be abused.

This motion concerns a deal to purchase Bell Group shares by the State Government Insurance Commission to the value of \$300 million. Originally it was to have been \$310 million. It appears that the National Companies and Securities Commission claimed that collusion occurred between the two groups. If that is the case, the shares should have been forfeited. Those of us with business knowledge and experience thought at the time they would have been forced to forfeit the shares and we were concerned why that did not come about. The McCusker report states that Elders Resources had shares in a company and those shares were eventually forfeited. In such cases the shares are sold and the proceeds go to Treasury and the company which owned the shares does not receive anything at all. That is what should have happened in this case. Approximately 160 million shares were purchased by the Government and an amount of \$180 million was paid by Bond Corporation - the shares were valued at \$2.70 each - and they should have been forfeited and sold on the market. It would have resulted in \$340 million worth of shares being available on the open market. I might add that those shares would not have attracted much more than Mr Aspinall paid in May this year - about \$5 million for 160 million shares. The shares were not sold at their full value.

Shares were traded on the market, as Mr McCusker has said, at \$1.60 or \$1.85 before the Government bought them out at \$2.50 a share. We want to know the truth about what happened inside the NCSC at the time it was forced to meet and consider those happenings. At that time a debate was being run in *The Australian* newspaper by Brian Frith, the editor of the business notes, who was pointing out each day what had happened and the game play on those shares. He pointed out how Mr Trevor Rowe was brought across to Western Australia to value the shares on behalf of the Government.

Mr Rowe was picked up at the airport by one of Alan Bond's men having been flown to Perth in an Alan Bond plane. He was then taken to the meeting. He was supposed to be an independent person, but was a direct connection of Bond's and came here at the beck and call of the SGIC but was connected with Bond Corporation. All this was denied in the Press, so Brian Frith had another burst in his paper at that time. Members may recall that it was stated in part of the Press that the Murdoch Press must have been running a vendetta against Bond and Holmes a Court. We found out later it was Brian Frith being the mouthpiece of the NCSC, which had limited resources. On "Business Sunday" at the end of June this year Henry Bosch appeared and explained clearly how he had lacked power and money and had used the media to force the position which brought in the NCSC and forced information to come out.

The situation then was that Bond Corporation had to pick up all the shares on offer to the public at \$2.70 a share. It picked up another 55 per cent of the shares, giving Bond

Corporation 75 per cent, SGIC 20 per cent and the public five per cent, which shares are now worth nothing. That is the sad saga of the SGIC and Bond Corporation coming together on this deal which resulted in the SGIC receiving an indemnity from Bond Corporation to be paid at a later date.

In March the next year the SGIC received a fee from Bond Corporation to make that bad deal into a good one. It will be interesting to see what the court says about this at the end of the day because the SGIC has a \$211 million claim against Bond Corporation which will take two years to be settled. What will Bond Corporation be worth by the time it is settled? We support the Leader of the Opposition on this matter as it is important to ascertain what cover-up has gone on and whether political influence was used. If it was not used why did Bond want out?

It is important for a Government to have integrity so that everyone knows everything is okay. This Government lacks integrity. The sooner we get these matters out in the open, the better. There will be more such motions in the next few weeks requiring similar information, because the jigsaw puzzle is starting to come together and important matters require clarification.

I support the motion.

Debate adjourned, on motion by Hon Fred McKenzie.

### MOTION - AUDITOR GENERAL, SMITH, MR ALAN

#### *Retirement and Appreciation - Replacement*

HON E.J. CHARLTON (Agricultural) [3.16 pm]: I move -

That this House -

- (a) records its appreciation of the work of Mr Alan Smith, who retires as Auditor General on 11 October; and
- (b) having regard to the importance of the role of the Auditor General; and
- (c) bearing in mind the tradition of the Auditor General being an officer of Parliament,

now requests the Premier, before making any recommendation to the Executive Council as to Mr Smith's successor, to consult the Leaders of the Opposition and the Leaders of the National Party in both Houses in relation to any prospective appointee;

requires the leader of the Government to convey to the House the Premier's reply to this resolution not later than three sitting days from the day on which it is passed.

This motion is self-explanatory and records the appreciation of members of this House for the work done by Mr Alan Smith, the Auditor General. Everyone, not only members of this place but also people in this State as a whole, should acknowledge that the Auditor General has done an outstanding job under the severe circumstances prevailing and in view of the workload imposed on him and the people in his office, which has been quite horrendous over the past year or two.

The Auditor General is responsible not only for all areas of financial auditing that readily come to mind but also for broader and more wide ranging matters. His duties include auditing the State's books, covering a broad spectrum of financial transactions of the State to minor areas that come readily to mind, and responsibility for large and intricate transactions that have a great bearing on the finances of the State. I do not need to elaborate on the responsibility of the work done by Mr Smith and the people in his department.

I wish to give recognition to the role of the Auditor General as his position is one where the office holder must not only carry out the responsibilities to which I have referred but also be answerable to the Parliament. The Auditor General takes total responsibility for auditing the books of the State. Although that is done with the support of his staff, in the final analysis his name appears on the report that comes before the Parliament. The Parliament has responsibility for accepting that report.

It is as a consequence of those matters that we wish to pay a tribute to the work done by Mr Alan Smith, who has played a distinguished role both in private and public life. It was

evident to all those who took an interest in the work he did leading up to his taking this position that he knew what he was about. I had the pleasure of having lunch with Mr Smith last week. As members know, he has announced his retirement to take place from 11 October this year.

One of the important things this Parliament should recognise is that any replacement will have to carry on the high standard of work done by Mr Smith and maintain the standards he has set. As the Auditor General's report and position are subject to Parliament, it is absolutely imperative in these times - when the credibility of personnel and the operations of Government and the performance of those not in Government are under scrutiny - to ensure that we carry out our responsibility correctly.

It is imperative that we ensure that Mr Smith's replacement as Auditor General is appointed in an accountable and open way which can be scrutinised not only by the Government and Opposition but also the public of Western Australia so that a person is appointed who is considered to be the best person to carry out the important and unique responsibilities of the Auditor General. It was with that consideration in mind we requested that before making a recommendation to Executive Council about Mr Smith's successor the Premier consult with us. It is obviously the Premier's responsibility to make the final decision.

I thank the Government for taking on board what we are suggesting as a very positive approach to ensure that the Government appoints a suitable replacement to carry out the job. We are suggesting that the Leader of the Opposition and the Leader of the National Party in both Houses should be told by the Premier who is the likely successor to Mr Alan Smith. That is not taking anything out of the hands of the Government; it is not impinging upon the responsibilities of the Government; it is simply putting in place a mechanism to ensure that the person promoted meets with the approval of those in responsible positions in Parliament, including the Government itself. In the circumstances, not only should it be seen as a logical conclusion, but it should also be a welcome proposal.

Those of us who have had the opportunity to discuss matters with Mr Smith - and possibly Hon Max Evans has had more opportunity than any other member - have the highest regard for him. It is important that the high standards he has set should continue, and should also be seen to be continued. The Auditor General is answerable to the Parliament, and that is where the Auditor General's report is tabled. It is the responsibility of the Parliament to respond to the Auditor General's report. It will be a very welcome document as far as the Standing Committee on Estimates and Financial Operations of this House is concerned. We have received a great deal of support, and the Auditor General has complimented us on setting up this committee. I have conveyed his comments to members of that committee, and I convey them to all members of this House. It is a requirement of this House to look not only at legislation but also the Auditor General's report when it comes before us; there must also be an ongoing liaison with the Auditor General in order to ensure that the House takes into account all the aspects of the auditing and financial transactions which take place throughout the year. We have been given to understand that we will be given every support by that department, and we have taken appropriate measures to ensure that support.

I trust that members on both sides of the House will support this motion recognising Mr Alan Smith's work. We hope that he will have a very happy retirement with a little less pressure than he has had in the past. We recognise the importance of the role of Auditor General, not only at this time but also in the future. We must bear in mind that the Auditor General is an officer of the Parliament, and we request the Premier to consult with members on this side of politics, both in this Chamber and in the other place, so that the credentials of any prospective appointee are put before us. We require the Leader of the House to convey this resolution to the Premier no later than three sitting days from the day it is passed. There is no point in moving this sort of motion if we do not know when we will have a response from the Premier. We are doing this because of the importance of the role of Auditor General, in acknowledgment of the work done by Mr Alan Smith, and the very important decision to be made in choosing his replacement.

**HON MAX EVANS (North Metropolitan) [3.26 pm]:** I thank the Leader of the Opposition for giving me the opportunity to second this motion. I had a long association with Mr Alan Smith before I came into the Parliament and long before he became Auditor General.

Consultation with the Leader of the National Party and the Leader of the Opposition in both

Houses will be important. The standing of the position of Auditor General has increased in magnitude since about 1984 or 1985, when Bill Rolston held that position. Before that there was a standard form of accounting which did not allow for many comments. There might have been talk of a small shortage of cash or something like that. In June 1986 the Financial Administration and Audit Act was introduced, and that brought with it a whole new method of reporting. It put new demands on chief executive officers, accounting officers and the Auditor General.

Bill Rolston did not stay in that post for very long; from memory he retired about March 1987. He would have found the work very hard, coming as he did from Treasury. He had not had to deal with the modern demands of auditing and accounting standards. It was not until about October that Alan Smith took over the job of Auditor General. He had been Commissioner for Corporate Affairs for 10 or 15 years. During that period he was held in very high regard by the professional community in Perth; the chartered accountants, lawyers and the business community. He was an approachable man who understood our problems and had a good background. I later discovered why; he had worked in the profession some years before. Then he went to work for the Commonwealth Auditor General's department.

I remember very early on he called a public meeting of accountants, liquidators and receivers to discuss the problems he had in trying to charge people who had broken the law. Crown Law never had enough money or the resources to take these things on. A lot of rogues were being let off the hook. This was 15 or 16 years ago. What is new? Nothing! Only the amount of money, which is a lot larger now. It used to be \$10 000 or \$15 000; now we are talking about hundreds of millions of dollars. Alan Smith was trying very hard then to bring these persons to task.

We would like to have some say in who will be appointed to replace him. We would at least like to be able to point out to the Premier if she is making a mistake. When Alan Smith was replaced as Commissioner for Corporate Affairs, I asked the Attorney General if he knew who the replacement was. He said, "I do not know; they are going through the proper procedure of advertising and interviewing for the job." I said, "I know who has the job." The Press published the name of the man who had the job the following Wednesday. Twelve months later an internal report by the Corporate Affairs Department complained about the lack of procedure in making such replacements. The appointee's name was leaked to the newspaper on the same day interviews for the position commenced. The staff was stunned to read that Graham McDonald of the Western Australian Development Corporation had the job.

[Resolved, that motions be continued.]

Hon MAX EVANS: The internal report of the Corporate Affairs Department stated that the leak had come from the Premier's department. I have to say that I told the Press, because it was a fact. A mistake was made because the man appointed had no real corporate, accounting or legal experience. He was a lawyer with limited experience. He did not last very long because unfortunately this was the time of the stock market crash. He did not do the job which was requested of him. He moved into a Federal position and is now the ombudsman for bankers. As Hon Eric Charlton said, it is very important that a good replacement is found. If we had been asked we could have stated what was a suitable background for such a person. That man's background was not the right one for the job. Maybe it was a political appointment, but he was the wrong man. We must have the right man to take over the position of Auditor General.

The Auditor General is responsible to both Houses of Parliament. I first became aware of this in November 1985 when I was in South Australia before entering this Parliament. At that time I met Mr Tom Sheridan, the Auditor General in South Australia. He spoke about the troubles he had faced two months earlier when many matters were disclosed - similar to those disclosed by Alan Smith. In South Australia those matters hit the front page of the newspapers every day. In Western Australia these matters do not reach the front page. Victoria is another State where these matters make the front page of newspapers when people are brought to account. Tom Sheridan told me how worried he was, and how the Premier did not like the situation. Tom went to work early one morning to find out where he stood. He discovered that it would take a decision of both Houses of Parliament to sack him. That was very reassuring to him. It was at that time I realised the full significance and power of the

position of Auditor General. An auditor in the private sector does not have such power because often if an auditor is too tough on the directors of a firm they will dismiss him and employ a mild auditor.

The Victorian Auditor General was Dick Humphries, who is a very good friend of mine. A few years ago he made the front page of the newspapers as a result of certain investigations. Subsequently he became the head of the Department of Premier and Cabinet in New South Wales. That was a credit to him, but a great loss to Victoria because as a result of his investigations certain events in that State were brought to the notice of the public. He was a man who brought accounting standards into the public sector.

Returning to Alan Smith, who retires on 11 October, I have known Alan for many years both in a professional and political sense. On the political side Corporate Affairs conducted certain investigations but I would not say I have always received full answers. Alan Smith is not a chartered accountant but he complies with the motto of the Institute of Chartered Accountants "without fear or favour". That is the way he has undertaken his job. Much of the contents of the Burt report came from the Auditor General and from Treasury. Sir Francis Burt has his name on the report because he chaired the inquiry. Many of the recommendations in that report have flowed to the Financial Administration and Audit Act and other legislation. More legislation is in the pipeline.

Alan Smith has carried out his duties without fear or favour. He has done a wonderful job in a difficult position. When one considers the pages of qualifications relating to the State Government Insurance Commission and the Government Employees Superannuation Board, and the way he has dealt with boards and lawyers, one realises how well he has fought to bring matters out into the open. He has told us as much as he could - or as much as he should in a better way to put it.

Recently I stated that, sadly, we should have supported the Auditor General more. Hon Joe Berinson made a good suggestion recently that the Auditor General's report should be referred to our Standing Committee on Estimates and Financial Operations so that the Auditor General, the Minister, and the chief executive officers can appear before us to discuss the qualifications made by the Auditor General. Only then will we give satisfaction and protection to the Auditor General for the job he has done.

The Auditor General has been left very much on his own. I can imagine the pressure placed on him by Ministers and the Premier from time to time, particularly as the Superannuation Board and the SGIC fall within the jurisdiction of the Treasurer and the Premier. Some matters have been suppressed but Alan Smith has told the truth.

The salary of the Auditor General a year ago was around \$85 000. If that is the salary range applied to this important position, obviously a public servant will pick it up and fit into the position. However, a man with the professional capabilities and integrity, not to mention the independence, needed for the job will not be found.

Hon Sam Piantadosi: What salary do you recommend?

Hon MAX EVANS: One around \$120 000. If that salary is not offered the Government will not get the right man for the job.

About 10 years ago in Canada a top professional man took on the job of Auditor General in that country. That man changed the whole method of the operation of audits, which is what Alan Smith has done in this State. He has changed the attitude to operations rather than considering minor matters. He has gone to the core of the problem. In Canada, after five years, the chartered accountant who took over the whole organisation soon employed around 300 chartered accountants. These people have the suitable professional background to carry out the duties of the job.

Alan Smith has improved his office efficiency by contracting eight of the major statutory authorities to the private sector. One condition is that those firms take one or two of the Auditor General's staff to work on the audits; in that way those officers broaden their knowledge. Those officers have also joined the training courses of the firms and have gained valuable outside experience. This is the measure of Alan Smith and outlines the actions he has taken to enhance the office of the Auditor General. That office is only as good as the employees. Those people must be very pleased because they gain that experience; they can sell themselves to private enterprise, although some will return to the public sector if the pay

is right. Alan Smith has acted in the interests of better accounting and auditing in Government departments and statutory authorities.

It was stated recently that some Ministers do not wish to have their departments mentioned in the Auditor General's report. The only way to keep departments out of the report is to keep them honest. The Auditor General will investigate and report on any relevant matters. That is the way it should be. We should back up the Auditor General in this regard.

I thank Alan Smith for a job very well done; he has put the Auditor General's department on a new track for the future by the development of staff and by the calibre of staff employed. He has brought in people from overseas to carry out operational audits, to check the efficiency of management of departments rather than just the financial accounts at the end of the year. Some of those operational audits have been tabled in this place. The first such audit was carried out in the office of the Auditor General by an outside firm. The Auditor General could not point his finger at departments or statutory authorities if his office were not well run. The staff of the Auditor General's office numbers around 100 and is increasing. Alan Smith has accepted his responsibilities as Auditor General. I support the motion on behalf of the Liberal Party.

Debate adjourned, on motion by Hon Fred McKenzie.

### DIRECTOR OF PUBLIC PROSECUTIONS BILL

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

On motion without notice by Hon E.J. Charlton, resolved -

That the Director of Public Prosecutions Bill be referred to the Standing Committee on Legislation for further consideration and report.

#### *Instruction to Standing Committee on Legislation - Appointment of Director*

Debate resumed from 18 September.

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [3.42 pm]: The Government has no objection to the motion before the House.

HON E.J. CHARLTON (Agricultural) [3.43 pm]: In moving the motion earlier this week it was my intention to obtain directions from the House about the appointment of the Director of Public Prosecutions. That was the principal reason for referring this matter to the Legislation Committee. As the Government supports this proposal we look forward to the Legislation Committee reviewing this legislation and making appropriate recommendations.

Question put and passed.

### TOBACCO BILL

#### *Standing Committee on Legislation - Report by Thursday, 27 September*

Debate resumed from 18 September.

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [3.44 pm]: This is another episode in the very important saga in an important reform which I think this House will take sensibly - at some point; it is just a question of when it will do it. I still have reservations about delaying the Bill, but as Hon Eric Charlton's motion calls for the Legislation Committee to report by or on 27 September it has my support.

*Sitting suspended from 3.45 to 4.00 pm*

Hon KAY HALLAHAN: I do not want, and I hope that the House does not either, the committee to take on the work of a Select Committee. I think we are all agreed on that point. Because I am keen for this legislation to progress through the Parliament, I support the motion moved by Hon Eric Charlton that the Legislation Committee be asked to report to the House by Thursday, 27 September, which I understand is the day before the House rises for two weeks.

HON GARRY KELLY (South Metropolitan) [4.03 pm]: I too am keen for the consideration of the legislation by the Legislation Committee to be expedited and, as chairman of that committee, I do my utmost to ensure that Bills are dealt with as quickly as

possible. The committee's record to date has been reasonable on that score. I have no difficulty about the request to report by 27 September, but I shall not personally be making that report. It will be an interim report that I assume will indicate the progress made by the committee in hearing the evidence of witnesses and indicate that more time will be required.

The list of people wishing to give verbal evidence to the committee grows daily. There is a certain amount of repetition from both sides of the argument; that is, from the health side and from the tobacco industry. Having heard several witnesses from each side of the argument, committee members have a handle on the respective arguments. The Minister is keen for the Bill to be expedited, and so am I, but I am not sure that the delivery of an interim report next Thursday will hasten the tabling of the final report. However, there is no difficulty with providing the interim report as requested.

**HON E.J. CHARLTON (Agricultural) [4.05 pm]:** I am pleased to hear the comments by Government members, and I trust we have heard the last of the negative comments made by Government members in recent weeks regarding the passage of this legislation. I had the privilege this morning to sit in on the committee for a short period, hear some of the evidence being given, and observe how the committee operates. It is a refreshing exercise to see the Legislation Committee doing such positive research and taking evidence directly from people who are vitally interested in and will be affected by the final decision of the Parliament on this Bill. It is great to see this Standing Committee taking on that role and carrying out its responsibilities in that way.

It is important that the report come before the Parliament so that a final decision can be made. I also agree that, if the committee wanted to, it could take evidence ad infinitum and hear the points of view of all members of the community. The Opposition wants a final decision to be made, and to get this legislation up and running. People in the community have been told by the Government over a long period that this new foundation would be set up to provide funds from the sale of tobacco products. I hope it will not be necessary for me to remind the Minister in this House and the Minister in another place again that the Government should take a close look at the \$5 million referred to in the second reading speech and ensure that it is included in the allocation.

**Hon Kay Hallahan:** There will be no shortage.

**Hon E.J. CHARLTON:** Everyone was led to believe that would be the case. The National Party considers that it is important to get the Bill before the House again, and I trust that the chairman and members of the committee will continue to take evidence from interested parties as quickly as possible so that the House can debate the Bill and make a final decision.

In conclusion, I trust that the committee in its deliberations will take on board the importance of giving sporting groups and others in the community some confidence in future events. An important aspect of this Bill which has not been debated is the make-up of the foundation and how funds will be allocated. The Bill is not about the advertising of tobacco products, but about how the money will be distributed. It would be all very well for this House to make a quick decision, but we would be the worst people in the world if we saddled the community with a system that did not work. Let us not be guilty of that. I trust that the committee in its deliberations on the evidence -

**Hon Garry Kelly:** Will make haste slowly.

**Hon E.J. CHARLTON:** I want members to take on board those parameters. The important thing is not to be locked into trying to come up with a proposal. I know that this House makes the final decision, but in its deliberations the committee should not lock itself into a position where it must make the foundation work if at the end of the day nobody will be happy with it. There is another way to do it, but that is a debate for another time.

I will certainly put forward a couple of more thoughts about this matter later because I believe there are some positive options. They have nothing to do with the raising of finance, or its distribution in the final analysis, but having the vehicle to do it. The foundation is only a vehicle and should not be looked upon as something above the community depending on whether the people on the foundation come from sport, health or the arts. People should not say that if a person comes from a particular area his sympathies will be with a certain organisation or field of community interest. If we set up a foundation with a limitation on the human side because of where the people associated with it come from, then we will guarantee it will not work.

I thank members for agreeing that we get a report back by 27 September, and we can proceed from there.

Question put and passed.

## CRIMINAL CODE AMENDMENT (INCITEMENT TO RACIAL HATRED) BILL

### *Committee*

Resumed from 28 September. The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair; Hon Kay Hallahan (Minister for Planning) in charge of the Bill.

Progress was reported after the question "That the Bill do stand as now printed" was partly considered.

Hon KAY HALLAHAN: This is significant legislation. It has taken a long time to reach this point. It is gratifying for all political parties in this place that we have reached a point of agreement about what will go forward to the community as an Act by which it must abide.

The Government reluctantly accepts the amendments put forward by the Legislation Committee which found agreement in this Chamber. As a result of the report of the Legislation Committee the ministerial committee advising on community relations conducted a survey of ethnic communities in order to gauge their reaction to the amendments coming from the Legislation Committee. As time was limited the committee decided to focus consultation on the recommendation that the words "or would be likely to" be deleted from the Bill as it was felt that was the most contentious issue for the community. It proved to be very contentious in this Chamber.

An interesting response came from the survey. A fairly informed group of respondents numbering 103 were divided as follows: In favour of the Government's Bill, 75; in favour of the proposed amendments, 21; in favour of any form of legislation as long as it took preventive measures, four; against any form of legislation of this type, one; and, people wishing to discuss their position with their organisation or think about it, two. The people consulted, with the exception of those who wished to discuss the issue with their organisation, showed full understanding of the issues involved and were acquainted with the purposes of the legislation.

Hon Derrick Tomlinson: The Minister has given us the number of people who responded, but what was the question asked?

Hon KAY HALLAHAN: It focused specifically on the contentious words, "or would be likely to". The Bill originally included those words. The amendments which deleted those words came from the Legislation Committee.

Hon Derrick Tomlinson: Does the Minister not have the precise words of the question?

Hon KAY HALLAHAN: No, I do not have the questionnaire here. The majority of those who supported the Legislation Committee's amendment supported the Government's Bill, as well. The rationale in support of it was that any law is better than none. People favoured the view that the impact of the legislation should be monitored, evaluated and that further amendments could be introduced at a future date to overcome any shortcomings in the legislation. As a result of that I ask the Chamber, and particularly the two Opposition parties, to give an undertaking that when the Bill becomes law, if the amendments now proposed, which are likely to be adopted by the Chamber today, prove to have shortcomings they will then agree to look at the legislation again within a relatively short time.

The ministerial advisory committee on community relations will be asked to monitor the impact of this legislation for 24 months. I guess it can indicate to us how it is working in practice. The Government's view is that legislation of this type is so important that it should progress. We have some reservations about proceeding with the amendments, but those reservations are overtaken by our concern to have legislation in place. Therefore, we believe the Bill should proceed and that we should ask the committee to which I have referred to monitor the situation; and if it works in practice that is fine. Given recent events, it may be that the events which caused such concern in the community will not erupt or be part of our considerations for a considerable time. That would be ideal.

The committee can bring examples to our notice and the Government can then come back to

the House, if there is a need to do so, and say, "We have tried the legislation without those words in it and it is not working." If necessary the Government will do that and I hope that Opposition members will then give careful consideration to that proposal. However, we hope that will not be necessary. As something we saw as significant has been deleted, I have made these points.

Last evening during the debate Hon Peter Foss made some caustic comments about a Minister in the other place that I thought were unwarranted.

Hon Peter Foss: So were his comments in the other place.

The DEPUTY CHAIRMAN (Hon Doug Wenn): Order!

Hon KAY HALLAHAN: I thought the comments made by Hon Peter Foss were unwarranted and excessively critical of the Minister who has charge of this Bill. I just want that put on record and taken note of. I do not want to destroy the very good consensus which we have now arrived at on a particularly important Bill.

However, in saying that, it does not mean to say that I will tolerate without comment very critical comments about one of my colleagues who was not, in my view, deserving of the amount of critical comment made.

Hon George Cash: Will you identify the critical comments?

Hon KAY HALLAHAN: If Hon George Cash turns his pages back -

Hon George Cash: I have the *Hansard* in front of me and I have it open at Mr Foss' comments.

The DEPUTY CHAIRMAN: Order!

Hon KAY HALLAHAN: I just say to Hon George Cash that criticism, like beauty, very often is in the eye of the beholder; but in my view they were very critical comments.

Hon George Cash: That view would not be shared by many, because they were not critical at all.

The DEPUTY CHAIRMAN: Order!

Hon KAY HALLAHAN: That is the view of Hon George Cash and it does not prevail over mine.

Hon George Cash: Yes it does.

Hon KAY HALLAHAN: In the view of Hon George Cash only.

The DEPUTY CHAIRMAN: Order! I ask the Minister to come back to the matter at hand.

Hon KAY HALLAHAN: We really have picked our way through a minefield and have reached a consensus. Let us not degenerate -

Hon Peter Foss: You are doing it.

Hon KAY HALLAHAN: No, Hon Peter Foss did it, and I am simply saying I think it was unfortunate. A comment of criticism could have been made, but it did go on rather.

Hon Peter Foss interjected.

The DEPUTY CHAIRMAN (Hon Doug Wenn): Order! We are in Committee and everyone has an opportunity to speak as we go through the Committee stage. I request members to keep to that part of the agenda.

Hon KAY HALLAHAN: Thank you, Mr Deputy Chairman. Little more remains to be said, except that we are on the brink of seeing some fairly difficult legislation brought into being. I, and I am sure all other members here, hope that it will add a sense of greater equality and security to people from ethnic communities, and that they will understand that there is no way we want people who come to live in our country to be harassed or in any way have their quality of life minimised, reduced, or negated by the offensive or insensitive actions of others, certainly where it leads to a very real sense of threat to people.

We are saying very clearly with this legislation that that is not acceptable and that such behaviour will be dealt with by law which is in place and adequate to deal with the situation. I commend the Bill to the House.

Hon DERRICK TOMLINSON: I cannot allow to go by unremarked the Minister's comments that the recommendations which came from the Legislation Committee did not meet the approval of the Government but - and I hope I am not misconstruing what the Minister said -

Hon Kay Hallahan: So do I.

Hon DERRICK TOMLINSON: Well, the Minister can correct me if I do.

Hon Kay Hallahan: I said we accept them reluctantly.

Hon DERRICK TOMLINSON: The Minister says the Government accepts them reluctantly - and I think the words she used were something like "Any law is better than no law." The proposition that any law is better than no law might mean that bad law is better than no law.

Hon Kay Hallahan: You have misinterpreted what I said.

Hon DERRICK TOMLINSON: Perhaps the Minister will have the opportunity to correct me afterwards; because the law - the legislation and the amendments which have been recommended by the Legislation Committee - did not meet the requirements of the Government. The deletion of the phrase "or likely to cause" and its replacement with a phrase which requires deliberate intent to be demonstrated before guilt can be proved does not meet the Government's intention. I put it to the Minister that if this is not adequate law the legislation should not proceed. The Legislation Committee has merely made a recommendation to the Legislative Council, and it would be an abrogation of the responsibility of Government to allow the passage through this House of inadequate law.

Hon Peter Foss: Hear, hear!

Hon DERRICK TOMLINSON: It would be a total abrogation of Government responsibility. The Minister stood up and produced some statistics about answers people gave to a question as proof of a perception by the public that the law is inadequate and therefore does not meet the requirements of that public, yet the Government is willing to say any law is better than no law. Again, that is an abrogation not merely of the Government's responsibility in this Parliament but of its responsibility to the people whom it is representing, particularly in this case where we are dealing with groups who have been and will continue to be, in our racist society, subject to harassment in many ways and forms. Yet, even in the knowledge that that will go on in our society, the Minister stands up and says, "Any law is better than no law."

I put it to the Minister that the Legislation Committee did not take its responsibility lightly; it did not abrogate its responsibility. We listened to representatives of the various committees of various community groups; we deliberated long and hard on their submissions; and we came to a unanimous decision - a unanimous set of recommendations which were not the imposition of the Opposition's point of view but an agreement, a consensus, reached by that committee after careful consideration of evidence presented to it by interested bodies.

Hon Peter Foss: Hear, hear!

Hon DERRICK TOMLINSON: If there has been an abrogation of responsibility it is the Government's, and if this is inadequate law the Government has a responsibility at this stage to deny it passage through this Chamber.

Hon SAM PLANTADOSI: If any person feels aggrieved by this, it is me. I say that because, being of ethnic background, I feel aggrieved because of what I see happening in this Chamber, with people trying to score points rather than get on with passing legislation. I made my comments on this legislation last night and I am disturbed by some of the things I heard, such as Hon Reg Davies saying to the Minister that her comments threatened the passage of this legislation. I am simply amazed because, as members try to score points off one another, the legislation is being threatened.

I want to clarify what I understood the Minister's point to be when she said that any legislation is better than none. I understood her to mean that sadly, for many years now, there has been a need for this legislation - not just since 1989 when it was proposed. In a sense, all members of this Parliament, in both Chambers, are guilty of abrogating their responsibility to some 40 per cent of our community. I would have been happy if we had had legislation in the past to which amendments could have been made from time to time. At

least if some legislation had been enacted it would have ensured some protection, even if it was not the ultimate. That is something which has been lacking for a number of years.

I urge members of the Opposition to support the proposal that the position be reviewed as necessary. If an abrogation of responsibility has occurred in the past, now that the legislation is before us let us ensure that on this occasion we do not abrogate our responsibility to those people who would be protected by it.

Hon Derrick Tomlinson: Hear, hear!

Hon PETER FOSS: The contribution by the Minister shows how carefully the Government has read the report. The recommendation on page 1 of the report states that one aspect of the Bill will certainly be kept under review. However, it is not appropriate for the Government to suggest that it be kept under review by the Standing Committee on Legislation.

Hon Kay Hallahan: It does not mean that. It says that it is not a good thing to do. There is nothing conflicting about that.

Hon PETER FOSS: The Opposition is suggesting otherwise.

Hon Kay Hallahan: What you are saying, with the sensitivities coming from your side of the House, is that you cannot criticise the Standing Committee and you cannot reaffirm the Standing Committee.

The DEPUTY CHAIRMAN (Hon Doug Wenn): Order!

Hon PETER FOSS: The Minister is one of the most obstructive people in this Parliament because she never allows matters to proceed with consensus; she is always taking a confrontationist attitude. I can recall instances when I have tried to help the Minister and she has argued with me until I have pointed out that I was trying to assist her.

Hon Kay Hallahan: That only happened on one occasion.

Hon PETER FOSS: Had I wanted to be harsh in my reflections on the Minister in another place I assure the Minister, and she probably knows this by now, that I could have done so with considerable feeling. At times I am capable of expressing myself strongly; however, I did not express myself strongly in my remarks about Gordon Hill yesterday. To put the record straight, I was very careful in wording my remarks yesterday. I could have said that I did not understand how a Minister of the Crown could possibly consider that a Standing Committee could do anything else but report back to the Chamber. I could have questioned whether the Minister knew so little about the Westminster process that he expected the Standing Committee to give the Bill a third reading. I could have questioned whether he had even the slightest comprehension of the parliamentary process. I did not do that and merely pointed out that there was not a delay by the Standing Committee in referring the Bill back to the Chamber. However, I did put on the record that any subsequent delay was a perfectly proper delay caused by the Attorney General. I did not say that it was the Attorney General who delayed the Bill. I said that I understood the reasons for the Attorney General doing that and I said that they were proper reasons. I did my best to put the record straight.

We should try to leave it at that. This Minister does not seem to be capable of acknowledging that Mr Gordon Hill has had his say - even though it was a totally inaccurate say - in another place. I have now put the record straight and it is up to Mr Gordon Hill and myself to work this problem out. If the Minister insists on turning what has been a remarkably good example of how a House of Review can function so that there is unanimity -

Hon Kay Hallahan: It was until you spoke about the Minister.

Hon PETER FOSS: One of the best things that could still come out of this Bill, and which has been spoilt by Mr Gordon Hill and the Minister opposite, is the opportunity to tell the public what a good job the Parliament can do when the various parties put their heads together and work on a solution together. The Standing Committee did a darned good job and it did it conscientiously. I am fed up with the constant carping by the Minister that we are not putting up -

Government members interjected.

The DEPUTY CHAIRMAN: Order! I suggest that Hon Tom Butler look where he is sitting before he comments further. He may resume his seat but without any comment.

Hon PETER FOSS: It is time the Government tried to use the Standing Committee on Legislation appropriately. If that is done the Government will find that it can arrive at some consensus on legislation. That has been achieved in this instance and the Standing Committee members have done a good job. Every now and again we should stop this carping and get on with the job.

Hon Kay Hallahan: Yes, you should try it some time.

Hon PETER FOSS: The Minister is the one who is carping.

Hon Kay Hallahan: I often try it; why don't you try it and let us see how it goes.

Hon PETER FOSS: The Minister never tries to stop carping. Hon Joe Berinson seldom carps.

Hon Kay Hallahan: He is a gentleman.

Hon PETER FOSS: I will not make any odious comparisons but I do say that Hon Joe Berinson and Hon Graham Edwards are much better at debating than the Minister is. I have never seen Hon Kay Hallahan ever try to do anything other than carp. She does not understand that being on her side of the House involves more than disagreeing with everything that is said on this side of the House. I give credit to Hon Joe Berinson and Hon Graham Edwards for having greater foresight than she does.

Hon Kay Hallahan: And that is said in a spirit of consensus!

Hon PETER FOSS: Let us put that behind us. We have all had our nasty say to one another; now let us see whether we can come back to the important points. The most important point is that the Standing Committee arrived at a consensus and, as Hon Derrick Tomlinson has said, it worked hard and did its job conscientiously. The committee arrived at a result that was welcomed by the witnesses who appeared before it. It must be possible for the Parliament to take credit for what has been agreed to and for it to inform the public that it has come forward with a piece of good legislation. Members on both sides have worked diligently on this legislation and the Parliament should be able to take credit for that.

I know that may be embarrassing for the Minister in the other place because he was saying something different, but had he participated in the Standing Committee's proceedings he could also have taken pride in the result. I do not mean that as a criticism but I regret that he did not participate in the proceedings of the Standing Committee. The committee would have found his advice invaluable. It would have been useful to be able to discuss the Bill with the Minister. Hon Joe Berinson has appeared before the Standing Committee on Legislation before and found its discussions with him to be most fruitful. Rather than using this or the other House to make statements - where they are less likely to be well received - the Standing Committee was able to discuss the matter directly across the committee table and arrive at a highly satisfactory result. Those discussions achieved a very positive result.

Perhaps the Minister could say something along the lines that it is gratifying to see that there was consensus, even though the Government may have some inward reservations. The Government is prepared to keep those reservations to itself so the legislation can be passed with the full support of all parties. The Government will privately want to keep the matter under review and should it see any problems with the legislation will raise the matter with the Parliament once again. I congratulate the Standing Committee on the excellent job it has done. In particular, I congratulate the chairman for presenting the report to the House yesterday and for taking an optimistic view of the future.

Hon SAM PIANTADOSI: Yesterday I congratulated the Standing Committee on Legislation for its findings. However, my disappointment today is that we are once again scoring political points against one another. I was present at several meetings at which this legislation was discussed and at which Gordon Hill and Graham Kierah were present. I could take up issues and score points by repeating what was said by people at those meetings from all sides of the debate. However, I am not here to score points.

Hon Peter Foss: They were not at our committee.

Hon SAM PIANTADOSI: No, I am talking about the public meetings that were held. One of the things that we should do rather than take issue with one another is get on with the job of passing the legislation. All the noise that has been made by Mr Foss about the Minister's

attitude is not useful to the debate. I urge all members to consider the Bill that is before the Chamber and consider the people of Western Australia who will benefit from its being passed.

Hon DERRICK TOMLINSON: I rise to support the remarks of Hon Sam Piantadosi. I draw the attention of the House to the report of the Legislation Committee, in particular, the following preliminary remarks -

1. From the outset, the whole of the committee accepted the goal of the Criminal Code Amendment (Incitement to Racial Hatred) Bill 1990 as both laudable and desirable.
2. The committee recognised the right of members of ethnic minorities to go about their business free from the threats and intimidation occasioned by the display of racist posters, graffiti, leaflets, etc.

I endorse that report as a member of the committee. I endorse the preliminary remarks as a member of the Legislative Council. Every individual in our society has the right to live and to go about his business free from harassment and intimidation. A simple reality in the Australian community is that we are inherently a racist community. It goes back as far as the first settlers when the English settlers invaded the land of the Aboriginal people, abused them in every possible way and reduced them to a subhuman status.

In my lifetime I have seen another form of harassment of ethnic minorities which has taken two different phases. As a young boy in school and as a youth growing up through high school during the time of the post war migration when there was immigration to this country on a scale unprecedented in human history I saw the consequences of children of migrants called wops, dagos, dings and degraded by virtue of their ethnic origin. I have seen those same people grow up to be leaders in this community in every field of endeavour and who are now respected and admired members of the community. As a consequence of the abolition of the White Australia policy some 20 years ago - that is the paramount statement of Australia's racism - I see the infusion into our society of people of Asian origin. As a person of advancing years I see that group of people subjected to the same sorts of harassment that I observed in the post war migrants of the late 1940s and early 1950s. The only difference is that they are not called wops, dings or dagos but slopes or other such names. That is nothing more than an expression of the intolerance of the Australian community to people whose ethnic origins are different.

I support the opening statement of the committee's report. I am more than alarmed to hear that the Government is prepared to allow the passage of inadequate legislation which does not deal with those fundamental flaws in the Australia ethos. It is about time we acted responsibly in this Parliament and got on with the business of producing good laws which contribute to the harmony and good government of Western Australia. I commend what Hon Sam Piantadosi had to say.

Hon GEORGE CASH: I will firstly commend the Legislation Committee for the work it has carried out so diligently in respect of this Bill. It is important that the House note that the report tabled by the Chairman of the Legislation Committee was a statement in respect of the unanimous decisions that were made by that committee. Three separate political parties are represented on the Legislation Committee and the mere fact that they were unanimous in their final recommendations says something about the harmonious way in which committee members were able to work. More than that it indicates the commitment of members to see that this Bill had a speedy passage back to the Legislative Council.

Without wanting to prolong the debate, along with Hon Derrick Tomlinson I was disappointed to hear the Minister say that she was unhappy with the final report of the committee. However, she was prepared to cop a situation where any law is better than no law. Hon Derrick Tomlinson made a point in respect of those statements, and there is no need for me to repeat that. However, I do not think that a Minister of the Crown, the Deputy Leader of the Government in the Legislative Council, would make such a statement unless of course it was made in jest. Perhaps the Minister when she responds will let the Chamber know whether that was the position. If it was not it does open up the Minister to some question and criticism of her understanding of the law as it relates to society in general.

I support the comments of Hon Sam Piantadosi who this afternoon on two separate occasions

and yesterday encouraged members of the Legislative Council to accept the unanimous recommendations of the Legislation Committee to pass the Bill. I was somewhat comforted knowing that the Liberal and National Parties will use their numbers to ensure that this Bill passes the Legislative Council irrespective of the Minister's comments.

Hon Kay Hallahan: What virtue!

Hon GEORGE CASH: We will pass this Bill and I make the point that if the Minister had the numbers on her side we would be experiencing far greater delays in this legislation.

Hon Kay Hallahan: It would have been passed weeks ago. The logic of that fails me.

Hon GEORGE CASH: We have seen in recent days three Ministers in this House comment on the Legislation Committee. I am pleased that the Attorney General recognises the good work that has been done by the Legislation Committee and the important part that it can play as part of a House of Review. I am also pleased that the Minister for Police was prepared to recognise the Legislation Committee when he referred the 0.05 drink driving legislation for its consideration. I am somewhat confused as to why Hon Kay Hallahan is the only Minister who thinks the committee has no virtue. She tried to score political points in respect of the Tobacco Bill and the committee's report on the Criminal Code Amendment (Incitement to racial hatred) Bill. Two out of three Ministers in this Chamber understand the Legislation Committee. The other Minister is somewhat confused, but I hope in due course she will recognise the value of that committee. I want this legislation to pass. I know that in its present form it is not perfect. Each of the members of the Legislation Committee recognise that as long as the matter is kept under review they will not be surprised to see amendments come through. It is a case of putting the legislation into practical effect and then monitoring the situation that develops.

Having made those comments I now turn to what is an important element in my constituency of North Metropolitan Region; that is, the Jewish community. Members will be aware that for some years I represented the electorate of Mt Lawley in the other place and the Jewish community of Western Australia predominantly lives in that electorate - in the Menora, Coolbinia and Dianella areas.

Tonight is a significant occasion for the Jewish community because it is the beginning of the Jewish New Year and the year 5751 in the Jewish calendar. I was pleased when I was speaking today to a gentleman, who is a member of the Council of the Western Australian Jewry, to be able to advise him that it was my understanding that the Bill we are now debating would be passed by the Legislative Council today and sent to the Legislative Assembly for its concurrence. In the discussions I had this morning with that gentleman I was handed a copy of some extracts from what is an anti-Semitic speech by a Muslim leader in the Eastern States. I want to draw his comments to the attention of members because this legislation will, when it becomes law, go a long way towards addressing these types of comments which are made from time to time. I am referring to the comments made on 18 September 1988 by Sheikh Hilaly, the Imam of the Lakemba Mosque in the Eastern States who made comments which were designed to be an attack on the Jewish community. The comments are summarised and do not represent the whole of the statement he made on that day, but they represent the sort of statements that some members of the community will occasionally make and which are designed to incite racial hatred. In part, the comments are as follows -

"The characteristics of the Jews which are the reasons behind the hatred and animosity which the Jews receive from all the people of the world in the past, the present and the future. These characteristics are the underlying cause of all the problems and wars which threaten the security, peace and stability to the entire world."

"Their (the Jews) history is full of wars, troubles and disputes with the human race. The Jews' fight against the human race is as old as humanity itself".

"Their (the Jews) conflict with the entire world throughout history and up till the present day is a conflict of wars and trouble making. We ask ourselves how did Judaism transform into a racist Zionist movement?"

"I have written another chapter about the means which Judaism uses in order to dominate the world which are: secret movements and organisations, destructive

doctrines and communism, promiscuity, Free Masonry, Bahai, Qaduyaneeya (Qadianism), Rotary Clubs, Lions Clubs, the well know Club, the racist nationalists ideologies, and in addition to this, Jehovah's Witnesses and the new Christian groups which play and destroy both Christianity and Islam from another direction."

These anti-Semitic comments of Sheikh Hilaly are a translation of the words he used and the English transcript is somewhat disjointed. On 25 October 1988 the Ethnic Affairs Commission of New South Wales called on Sheikh Hilaly as a Muslim religious leader to supply details of what was an anti-Semitic speech made by him at the Sydney University in which it was claimed he had slandered Jews as a race and Judaism as a religious faith.

I notice that in November 1988 a number of questions were asked in the Federal Parliament about Sheikh Hilaly. The attention of the Federal Parliament was drawn to the fact that Sheikh Hilaly's temporary entry permit into Australia was granted in May 1987 on the understanding that he would withdraw forthwith an intended appeal against a deportation order which was then current and that he would not seek to change his status to become a permanent resident of this country. The then Federal Labor Immigration Minister replied in general terms stating that his temporary entry permit was valid until 30 June 1989 and at that time, upon application from Sheikh Hilaly, his future residency in Australia would be considered. In view of the anti-Semitic comments he made, I am very surprised to learn today that the Federal Government has now granted him permanent residency. It is something I have learned with regret and given the anti-Semitic statements of that Muslim leader and the general tenor of his remarks about the Jewish people in Australia and throughout the world, it seems to me that the Federal Government may have made a very big mistake in granting him permanent residency.

The Jewish community regard Sheikh Hilaly's comments with great seriousness and they are grossly offended by them. I trust that the Federal Government will monitor future statements he makes to ensure he does not continue those remarks. I can assure the House that should Sheikh Hilaly make those statements in Western Australia there are members of the Jewish community who would be very keen to exercise their rights under the current law. Whether they would need to resort to the legislation before the Chamber will remain to be seen. I know they would want any Government, State or Federal, to take the appropriate action to ensure that statements which are designed to incite racial hatred are not heard in this State.

[Questions without notice taken.]

Hon KAY HALLAHAN: We commenced our rather unfortunate debate at the end of what was significant process of very significant legislation. Apparently I said something that caused some members opposite to state that I was in favour of any legislation rather than no legislation. Whatever it was I said that seemed to give members opposite an opportunity to grandstand, politically point score, and personally denigrate, my statement was in the context of a Bill that has received very thorough consideration. The Bill has been referred to the Legislation Committee and I accept Hon Peter Foss' very loud, long assertions that the Bill was very carefully and genuinely considered in that process.

I said that the Government reluctantly accepted the recommendations of that committee and would be pleased to see this legislation in place. I make no apology for what I said but I emphasise that the Government's view is that we need legislation of this sort. It is the Government's view that the Bill should proceed with the recommendations from the Legislation Committee. That does not mean to say that the Government thinks it is 100 per cent ideal legislation; that does not mean to say that because the Government does not regard it as ideal legislation the Government is in any way abrogating its responsibility, as members tried to make out. Hon George Cash, after supporting his colleagues, stated that it was not possible to have 100 per cent ideal legislation. He did not use that language but that was the spirit of his comments.

Hon George Cash: I suggested that I recognise this legislation may not be perfect in its present form -

Hon KAY HALLAHAN: That is true of all legislation.

Hon George Cash: Exactly. I wish the Minister would understand that.

Hon KAY HALLAHAN: I hope to be understood as well. Members overreacted to my comments. In regard to the Government's position I said that we would be asking the

ministerial advisory council on community relations to monitor the legislation for a time, and if any shortcomings were discovered I would ask the members of this House to have an open view should we need to consider any amendments after that trial period.

As I see it, nothing I said conflicted with anything that members of the Legislation Committee so passionately stated. Very warmly and fulsomely I commend Hon Sam Piantadosi for his contribution to the debate in order to move it to the sound and serious footing it deserves. That was an achievement on his part, given the provocation to buy into a very disappointing level of debate.

Hon Reg Davies: You started it, Minister.

Hon Sam Piantadosi: Your comments did not help.

The DEPUTY PRESIDENT: Order!

Hon KAY HALLAHAN: We do not have any real disagreement; I believe we have a consensus. I failed to pat on the head and perhaps to reward members of the Legislation Committee, and that seemed to create a reaction. This does not warrant any further comment.

This is important legislation and we are as one in that view. This Bill should progress and it will be supported by the Government in the form proposed with the amendments from the Legislation Committee. The Government has long seen the need for this legislation and has confronted the difficulties which one faces with ground breaking legislation. I have given the reasons that this legislation is necessary, as have other members, in that people have a right to expect safety and security and to expect the best opportunities that this country can provide without the bad experiences which come from people who do not respect the rights of others within our society.

Question put and passed.

#### *Report*

Bill reported, with amendments, and the report adopted.

#### *Third Reading*

Bill read a third time, on motion by Hon Kay Hallahan (Minister for Planning), and transmitted to the Assembly.

### STATE SUPPLY COMMISSION BILL

#### *Receipt and First Reading*

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

#### *Second Reading*

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [5.34 pm]: I move -  
That the Bill be now read a second time.

The purpose of this Bill is to introduce major and long overdue reform into the supply management process in this State, and to modernise procedures relating to the purchase of goods and services by public authorities. For many years the importance of Government purchasing has not been recognised as a major factor in economic growth and development. This Bill, which forms part of a State supply strategy, is a reflection of our commitment to operate a more effective and efficient purchasing system within Government, and to harness the \$1.5 billion annual expenditure on goods and services to the advantage of local industry. Public sector spending on goods and services is the second largest expenditure item in the State Budget after salaries and wages.

This legislation is designed within a framework which will, through a State Supply Commission, coordinate supply policies across the whole of Government while allowing individual public authorities the flexibility to undertake a large proportion of their own purchasing within guidelines set by the commission. In return for this delegation public authorities will provide information on purchases that will allow the commission to target new contracts for "common use" goods and services with consequential expenditure savings.

This new approach is in line with the philosophy of efficient Government by firstly setting policy and then allowing chief executive officers to manage within that framework.

By way of background, honourable members will be aware that the supply function within Government and accompanying legislation has been the subject of scrutiny and review over the last 16 years. The review process has included the following -

Public Accounts Committee, Report No 8 relating to Government Stores Ordering, 27 November 1973;

Public Service Board Report - Review of Stores Procurement and Related Matters, August 1980;

Public Accounts Committee, Report No 18, State Supply Activities, 10 November 1982; and

Western Australian Government Computing Policy Committee, Report of Review Team, State Supplies Management System, September 1983.

A principal theme evident in these reports was the need to improve the legislative framework, modernise public sector procurement, improve supply policies and practices, and better utilise public sector procurement to achieve savings and assist local industry. In October 1986 the Government took the first step to modernise public sector procurement when it established the State Supply Policy Council to include a number of major purchasing authorities and policy bodies. The objective of the council was to begin the process of reform that would -

- ensure the consistent application of supply policy across the whole of Government;
- achieve savings by coordinated tendering for common use goods and services;
- modernise purchasing practices and improve efficiency and effectiveness;
- achieve better service levels; and
- improve accountability in public sector purchasing.

This framework formed the basis of a State supply strategy that was adopted by the Government in February 1988. The strategy included the need for new legislation.

Under current arrangements the State Tender Board Act 1965 is the principal legislation concerning the purchase of goods and services, and the disposal of stores. The Financial Administration and Audit Act 1985 is also involved in the process through Treasurer's Instructions for the purchase of goods "not under contract". This overlap in statutory coverage perpetuates the difficulty in properly managing supply matters. The State Tender Board Act is now more than 24 years old and has fulfilled an important role in the area of calling tenders and awarding contracts. The board has had limited involvement in strategic issues that concern supply, and in recent years its influence has lessened because of general dissatisfaction with the overall supply process. Also, the State Tender Board Act has a number of serious legal deficiencies that question its legal capacity to act as principal to a contract, thereby impacting on its effectiveness. The principal aims of the Bill are therefore to provide a framework for supply management in this State; to establish clear responsibility for supply policy coordination across the whole of Government; to introduced modern and professional practices; to improve Government tendering for strategic "common use" contracts; and to allow flexibility in operational procedures under guidelines.

The underlying philosophy of the new legislation is to establish central coordinated policy with decentralised management of operational procedures.

The State Supply Commission, once established, will take over the existing role of the State Tender Board and the State Supply Policy Council, both of which will cease to exist. To enable the State Supply Commission to fulfil its overall objectives it will have in place strategic information systems currently being developed to capture data on the purchase of goods and services by public authorities. This data will enable the commission to target new areas for common use contracts across Government, to monitor the procurement process for policy development and to assist industry in planning to meet future Government requirements. This process will be further assisted by rolling three year forward procurement plans, the first of which has already been produced by the State Supply Policy Council.

With respect to delegation, those public authorities accepting the responsibility to undertake decentralised purchasing will be required to prepare a business plan, which outlines the internal management and control processes to be adopted. These plans will provide the basis for delegation to be granted by the commission while still preserving accountability, probity and compliance with policy. As a transitional arrangement, the State Supply Policy Council introduced a pilot program with the Building Management Authority to evaluate this new approach and it proved most successful in improving efficiency and service satisfaction. The arrangement has been extended to the Department of Mines and the Police Department, and a full program to progressively extend the process to other interested departments and agencies has been developed and is under way.

The new legislation will apply to all public authorities and supply policies will apply across the whole of Government. In evolving reforms in the supply process extensive consultation has already occurred within the public and private sector. Public sector agencies have given their view and there is overall support for the decentralisation of operational processes.

The private sector, through a supplier liaison committee of the State Supply Policy Council, comprises the Confederation of Western Australian Industry, the Western Australian Chamber of Commerce and Industry, Industrial Supplies Office, Small Business Development Corporation, Institute of Purchasing and Supply Management, and the Australian Information Industry Association. The committee has been closely involved in reform programs being introduced.

A creditable feature of these reforms is the interest in and concern for efficient and effective supply management in the public sector and the apparent bipartisan support. All of the central themes and visions have been consistently endorsed by both major political parties, and this is evidenced by reports undertaken by the Public Accounts Committee in 1973 and 1982.

I now turn to the Bill itself and provide the following information relating to its construction in principal areas. Clause 4 establishes the commission as a body corporate with the power to acquire, hold and dispose of personal property. These attributes will enable the commission to enter into legal arrangements and to establish contracts on behalf of public authorities. The commission will be an agent of the Crown, and it will be a statutory authority for the purposes of the Financial Administration and Audit Act.

Clause 5 establishes the functions of the commission which focus on -

- coordinating policies and practices that will improve the manner in which goods and services are supplied across Government. The commission will have a major role in modernising purchasing techniques, achieving value for money, and in examining the broader influence of supply policies to achieve Government objectives concerning small business, regional and industry development, technology and employment;

- managing the efficient supply of goods and services and the disposal of stores. This role will enable the commission to support public authorities in achieving Government programs and objectives;

- monitoring exemptions given under the Act and to ensure compliance with Government supply policies and to evaluate the effectiveness of operational practices; and

- providing for the exchange of information and playing a lead role in training personnel in the supply area.

Clause 6 gives the commission the necessary powers to enter into contracts and arrangements to ensure that public authorities are supplied with goods and services, to organise auctions for the disposal of stores, to collect information and to act as an agent for a public authority.

Clause 7 ensures that the commission is accountable to a Minister of the Crown and to Parliament.

Clause 8 establishes the commission with tripartite representation and this will ensure that supply policies have industry and employee input. This will be particularly important in achieving industry and economic objectives through the use of the Government's purchasing power.

Clause 14 provides the power to establish committees under the umbrella of the State Supply Commission to enable the proper conduct of the supply process across Government, including calling of tenders and awarding contracts.

Clause 17 provides for compliance to supply policies by all public authorities. There is no exemption from this provision.

Clause 18 enables the commission to provide advice to the Minister on any matter within its charter or on any matter that the Minister may refer to the commission. Additionally, the commission may, through the Minister responsible for the Act, provide advice to the Minister responsible for another public authority.

Clause 19 establishes the commission's responsibility to arrange the supply of goods and services, except in cases where exemptions have been granted under clauses 20 and 21. This clause also recognises that public authorities may have legislative powers to acquire real and personal property; however, this Act will be the principal legislation that will govern the specific area of goods and services.

Clauses 20 and 21 establish the framework to enable public authorities to undertake the responsibility for operational purchasing. The State Energy Commission of WA, the Water Authority of WA, the Totalisator Agency Board, the State Government Insurance Commission and the Rural and Industries Bank will have total exemptions under clause 20. These public authorities currently hold exemptions under the State Tender Board Act.

The commission will grant "partial" exemptions - or delegations - to public authorities which are willing to accept responsibility for operational purchasing. Currently this is performed centrally through the Department of Services. "Partial" exemptions will be given under guidelines, including provisions for the exchange of information, monitoring and review arrangements. To date the Building Management Authority, Mines Department and Police Department have accepted this arrangement and it will be extended to other agencies on a progressive basis. Irrespective of whether it is a partial or total delegation, it is fundamental to the legislation that there be compliance with supply policies, particularly with respect to the supply of purchasing data to the commission.

Clause 23 recognises the commission's responsibility to support charitable and benevolent institutions that receive appropriations from Government. The commission will have the power to arrange the supply of goods and services where persons or bodies in this category meet prescribed criteria established for this purpose.

Clause 25 will provide the mechanisms for the commission to measure the efficiency and effectiveness of public sector procurement. Specifically, the commission's role in collecting information will provide the capability for the better utilisation of data on the expenditure on goods and services to strategic advantage for the overall Western Australian economy.

Clause 27 establishes the necessary regulatory powers to enable the commission to give effect to the Act.

Clause 28 enables the commission to issue supply policies that will relate to the supply of goods and services and the disposal of goods. Supply policies will reflect Government economic priorities and goals. The commission will also examine micro-operational policies that will improve the efficiency of the Government supply process in such areas as warehousing of inventory, tender evaluation techniques, value for money principles and quality initiatives.

Clause 29 establishes the commission as the principal to a contract where it is acting as an agent for a public authority. This will apply in all instances unless it is expressly stated to the contrary in the contract.

Clause 30 establishes the commission as a statutory authority for the purposes of the Financial Administration and Audit Act and will have funds appropriated to enable it to perform its responsibilities.

The reforms and initiatives being advanced by this Government in purchasing and supply practice will place Western Australia at the forefront in Australia. The Commonwealth Government and other States are also introducing similar reforms and in the future there will be greater opportunity for cooperation and reciprocal arrangements in strategic areas. This new legislation will give Western Australia a proper foundation to achieve excellence in

supply practice and pave the way for a modern and efficient public sector supply management process.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

## **GOLDFIELDS-ESPERANCE DEVELOPMENT AUTHORITY BILL**

### *Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon Graham Edwards (Minister for Police), read a first time.

### *Second Reading*

**HON GRAHAM EDWARDS** (North Metropolitan - Minister for Police) [5.48 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to establish a Goldfields-Esperance Development Authority to plan, coordinate and promote the economic and social development of the goldfields and Esperance regions of Western Australia.

In 1988 the State Government resolved to undertake the goldfields planning and development study. A management committee with representatives from Government agencies, local government, industry and commerce and the community was formed to supervise the study which prepared a development strategy focused on enhancing the economic and social development of the region. One of the key recommendations of the study was the establishment of the Goldfields-Esperance Development Authority. An interim authority was established on 1 January 1990 and this Bill proposes the establishment of the authority on a statutory basis. The functions of the authority will be to plan, promote, coordinate and facilitate the economic and social development of the goldfields-Esperance region. This will be achieved by close cooperation between the authority, other Government agencies, local government, private developers and community groups.

Government recognises the need for encouraging regional development and perceives as essential the need for local community input into decision making. It is only through cooperation between Governments at all levels, private enterprise and local communities that development, compatible with community expectations, can be maximised.

The proposed authority will have three main components: A board, two advisory committees and support staff. The Bill provides the authority with powers and functions in the goldfields-Esperance region similar to the powers and functions provided by the Geraldton Mid-West Development Authority Act to the Geraldton Mid-West Development Authority. The only significant differences are three additional members to the board and two regional advisory committees, to be known as the goldfields advisory committee and the south east coastal advisory committee respectively. The 10 person board will consist of a chair, deputy chair, the director, ex officio, and seven other members. The board is the governing body and provides policy direction for the authority.

The goldfields advisory committee will consist of a chair and not more than 10 members who will be representative of the interests of the goldfields region. The south east coastal advisory committee will comprise a chair and not more than six other members who will represent the interests of the communities within the Shires of Esperance and Ravensthorpe. The composition of both committees will reflect the special emphasis on the role of local government and the people from all areas of the goldfields-Esperance region. Their expertise and interest will provide a significant contribution to the development of effective policies and initiatives.

It will be noted that this legislation will enable the authority to establish committees for the purpose of assisting it to carry out its functions. Such committees will be able to examine specific areas of economic and social development and provide additional expertise and community input. Through the proposed structure the authority will integrate local community expectations into its decision making processes.

The staff of the authority is the third and most essential component of the proposed structure. A small efficient and effective unit of nine staff, under the direction of the director and board, will undertake the activities of the authority. Such staff would be employed under the Public Service Act 1978.

Funding for the proposed authority would, in the main, be provided from the Consolidated Revenue Fund as approved by Parliament. In line with modern management practices in the public sector, this Bill emphasises delegated authority and accountability. The authority will be based in the town of Kalgoorlie-Boulder with an office in Esperance and, through its board and advisory committees, will ensure that decisions made reflect the priorities of the goldfields-Esperance region. The authority will be accountable to and subject to ministerial direction and to the Financial Administration and Audit Act, including the preparation of audited annual reports.

A review of the operations and effectiveness of the Act is proposed after five years. The review report will be made available to each House of Parliament. I am sure the Goldfields-Esperance Development Authority will provide the impetus for increased economic and social development in the region. Already the authority has initiated a number of projects of potential benefit to the region and these include -

- strategies to enhance the quality of family life and to address issues of concern to the women of the region;
- improving commercial links between the inland and coastal areas of the region;
- encouraging the diversification of local industry; and
- pursuing the development of Kalgoorlie-Boulder as a mixed mode transport centre for the inland and northern areas of the State.

Further projects are proposed in the authority's program for 1990-91 that will benefit the region as a whole. I commend the Bill to the House.

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

## EDUCATION AMENDMENT BILL

### *Receipt and First Reading*

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

### *Second Reading*

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [5.55 pm]: I move -

That the Bill be now read a second time.

The purposes of the Bill are -

- to formalise and regulate the operations of school bank accounts in Government schools and the management of moneys held in those accounts; and
- to ensure that appropriate provision is made for accountability.

The amendments are in keeping with current policies relating to the management of schools, and form part of a range of measures to encourage more efficient use of Government resources. At the same time, the amendments meet Government requirements for accountability for school funds. The amendments largely formalise existing practices in schools and, therefore, will not impose additional administrative burdens on principals and staff.

The Bill provides for each school to retain, in a school bank account, moneys from the school grant and other sources, to expend the moneys in accordance with prescribed guidelines and to invest any unspent portion of the fund for the benefit of the school. These provisions will enable decisions regarding the management and expenditure of the moneys contained in the school fund to be made at the school level.

The Chief Executive Officer of the Ministry of Education is responsible for designating the

person responsible for the management of the moneys credited to each school bank account and the persons authorised to operate the account. The school principal would normally be designated as the responsible officer.

Accountability is ensured by the fact that the person responsible for the management of the school fund is accountable to the Chief Executive Officer of the Ministry of Education. Detailed guidelines are being developed to assist schools with procedures for administering the fund and reporting on its operation. The chief executive officer retains overall responsibility for all the funds concerned as the accountable officer under the Financial Administration and Audit Act. I commend the Bill to the House.

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

## WESTERN AUSTRALIAN MARINE AMENDMENT BILL

### *Receipt and First Reading*

Bill received from the Assembly; and, on motion by Hon Graham Edwards (Minister for Police), read a first time.

### *Second Reading*

**HON GRAHAM EDWARDS** (North Metropolitan - Minister for Police) [5.57 pm]: I move -

That the Bill be now read a second time.

This Bill has a number of objectives. However, there are four main areas in which the Western Australian Marine Act is significantly amended. Firstly, the Bill seeks to abolish the Western Australian Marine Manning Committee. When formed in 1973, it was intended that this committee would provide a more flexible approach to setting manning levels for certain commercial vessels. Prior to the establishment of the committee, manning levels were rigidly fixed by regulation. However, instances occurred whereby, due to special circumstances - for example, the duration of a particular voyage, area of operation, etc - the manning levels set out in the regulations became unreasonable. Despite the good intention of the legislation in establishing the committee, the reality is that it has met only spasmodically over the past 17 years, and prior to the last meeting in mid-1988 had not met for nearly three years. It has become apparent that the committee is no longer meeting its original objectives, but is being used merely as a lever by parties to industrial disputes.

On the only occasion when the committee convened between December 1984 and August 1988 the three representatives of the respective unions and the Merchant Services Guild boycotted the meeting. Industrial disputes should properly be resolved in the various industrial tribunals, not in a forum designed to establish minimum safety manning levels. The proposed amendments will replace the committee with a consultative process whereby, having sought advice from interested parties, the executive director will be able to make a determination in respect of specific vessels, and for specific voyages. This system will provide the flexibility intended when the committee was established, while streamlining the administrative process. The existing appeal provision to the Minister against a determination by the executive director will remain in the legislation.

Secondly, the Bill seeks to protect the passengers and crew of vessels by placing an onus on a ship's master to ensure that a vessel is safe to put to sea. The proposed amendment will create an offence where a master puts to sea in circumstances which endanger the safety of those on board the vessel. Over recent times concern has been expressed about the excessive use of Government resources in the investigation of false distress signals. Whenever a distress signal is received by authorities, they must assume that it is genuine and, as a consequence, mount sea search and rescue operations. The Bill will make the operator of any vessel, who deliberately causes or allows a false signal to be transmitted, responsible for the costs incurred as a consequence of that action.

Since the introduction of the Act in 1982 a variety of water related activities have developed which have a direct impact on the navigation of small vessels in our rivers. Often these activities, as with paraffying, involve the use of vessels; however, the existing regulatory powers under the Act do not allow for the making of specific regulations to control their activities. The Bill will extend the regulatory powers under the Act to include any activity which may impact on the safety of those individuals using our waterways.

Additionally, the Bill seeks to overcome certain administrative difficulties which have been identified with the current Act. In particular, the title of the permanent head of the department has been amended in line with the current provisions of the Public Service Act. The procedures in relation to the appointment of marine inspectors and marine surveyors have been streamlined.

An amendment is proposed to the definition of "ship" or "vessel" to exclude structures such as floating jetties. The definition of "trading vessel" has been extended to include vessels operated by the State Government, and enables the executive director to approve the conduct of sea trials for vessels not the subject of either a current survey or registration; allow for the permanent closure of certain navigable waters; require alleged offenders to give their names and addresses to marine inspectors; extend the time for the payment of infringement notices and the time during which complaints may be made; and allow for delegation of certain administrative functions from the executive director to his senior staff. I commend the Bill to the House.

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

*Sitting suspended from 6.01 to 7.30 pm*

## STATE FORESTS - REVOCATION AND PARTIAL REVOCATION OF DEDICATION

*Assembly's Resolution - Motion to Concur*

Debate resumed from 13 September.

**HON BARRY HOUSE** (South West) [7.30 pm]: The Opposition supports the motion to concur with the Assembly's resolution. This motion would normally have been dealt with by Hon Phil Pendal because he is our spokesman on environmental matters. However, he is unable to be here and I am pleased to speak on behalf of the Opposition about these areas of State forest because they fall within the south west region, which is in my electorate -

Hon Doug Wenn: Our electorate.

**Hon BARRY HOUSE:** Not in my electorate alone; I acknowledge that. I have a personal interest in several of these areas.

The legislation will involve substantial changes to six areas of State forest, which have a combined area of approximately 3 381 hectares. Three of these six areas will, through exchanges, add 52 hectares to the State forest, and two of them will result in a substantial loss of 3 329 hectares; those two areas are proposed for inclusion into the Tuart Forest and the Leeuwin-Naturaliste National Parks. Before dealing with each area in turn I would like to advocate that, in future, these pieces of legislation be dealt with along the same lines as reserves and revestment Bills, where some background information and maps are presented to the Parliament so that a thorough understanding can be gained very easily. I thank the Minister for Lands, who has just provided me with a map of one of the areas. Several of these areas will have been in gestation for two or three years and there will be a long delay between the decision to revoke some of the areas of forest and the legislation's actually appearing before the Parliament, and I think in some cases these delays could be minimised.

The first area is near Capel and represents 264.5 hectares. It is called the Minninup block, and it is an area of tuart forest which is very important for its scenic and conservation values. This is to be joined with the Tuart Forest National Park at Ludlow. This area is biologically far more valuable than the Tuart Forest National Park which everybody knows about at Ludlow, and which we all appreciate very much as we drive into Busselton. This latter area has been heavily grazed and cut for timber for over 100 years, and as a result is severely degraded. However, it retains considerable conservation importance because many of its larger and older trees still exist, and while they are a natural asset in their own right they also provide nesting hollows for the breeding of possums, whambingers - which are native squirrels - and at least two varieties of native duck - the black duck and the mountain duck.

The Minninup block is more important, however, because it has never been cut over for timber, nor has it been grazed to any significant degree. Hence, while it is suffering from weed invasion along its common boundaries with farming properties, its central area contains many, if not most, of the original species of shrubs and wildflowers that were once found

beneath all native tuart forest. It also provides good nesting grounds for ducks and marsupials, so in many ways it retains all the value of the Ludlow area, plus the cover of native plants on the ground. I note also that although it is not a pure tuart forest, because banksias and other gum trees are growing mixed in with the tuarts, it is likely to be the most important piece of tuart ecosystem in the south west because it is in such a healthy condition. Its dedication to the national park will force the Department of Conservation and Land Management to apply better management to the area.

It is also worth noting that the Minninup block contains a very valuable mineral sands deposit. This has been pegged by the mineral sands mining company, Westralian Sands. However, that mining company has withdrawn its application to mine in that area and does not intend to proceed. It has also pegged a nearby area of mostly degraded pine forest, and there has been extensive community debate over that proposal to mine. My understanding is that the company has also withdrawn, at least temporarily, from its intention to mine in that area.

Hon Doug Wenn: Where is that?

Hon BARRY HOUSE: The area between the Minninup block and the tuart forest. I understand that the mining company has found more extensive mineral sands deposits at its existing operations at Yoganup, and has withdrawn its intention to mine in that whole area for the time being. It is worth giving a note of praise to Westralian Sands, because it has listened very carefully to community concern.

There is general agreement about the value of the Minninup block as an addition to the Tuart Forest National Park, and the inclusion of this area into that national park will certainly be lauded not only by the mining companies and by organisations like the Australian Conservation Foundation, which has been pursuing this matter for quite a while, but also by the general community. It is worth noting that, while it will be a valuable addition to our national estate, it will effectively sterilise this area from resource development and mining for some time, and that is a cost that will have to be considered in the longer term, although I do not think there is much argument about that cost at the moment. It is very important that tuart forests, particularly in that area, are protected, because many more tuarts are being lost every day through housing developments than through mining developments, and that is sometimes not appreciated.

The strip of tuart forest extends from Busselton to Yanchep, and it is a unique ecosystem. It is the only area in the world where tuarts grow naturally, and it is pleasing to see that a national park has been established in that area. The inclusion of the tuart forest into the national park fulfils a process which started about September 1987, during my by-election campaign, when promises were flying around thick and fast, as the Minister may remember. One of the commitments that we made during that campaign was to establish a Tuart Forest National Park, and that was quickly followed up by the Government. It is pleasing to see this scheme finally come to fruition and the Minningup block added to the national estate.

Area No 2 is close to Collie in the south west. This involves a land swap which will benefit the Preston Road Bush Fire Brigade by providing a place to store some fire fighting equipment. It is also encouraging to see support for a volunteer community organisation which is doing an excellent job and providing a valuable contribution to the community.

Area No 3 also has our support. It involves a small area which is being taken to assist in the realignment of the Collie-Tallanalla Road, which will make the road safer. The small area left over after the relocation and the road adjustments will later be sold to an adjoining land holder. This is a straightforward operation, and it seems a pity it has to go through such a cumbersome and tortuous process when it could have been handled more expeditiously and the road straightened out well before this time.

Area No 4 involves two portions of land which are required by the town of Bridgetown-Greenbushes for a rubbish disposal site. The area is already being used illegally for this purpose, and there seems to have been an unauthorised taking of gravel in the area. Once again the shire has requested approval of this swap, and the area is being exchanged for another 20.2 hectares of reserve which seems to be well timbered and dieback free. It is a suitable area for inclusion in the State forest. This will rationalise the forest boundaries and create an effective buffer zone for the State forest in that area.

Area No 5 involves two pieces of land near Northcliffe. It involves an exchange of 28 hectares of State forest for an equivalent area of private land. This appears to provide benefits in both ways. The applicant will develop a marron farm on the old timber reserve. This is a new and exciting industry with a potentially great future in this area of Western Australia and it deserves encouragement. The land to be swapped is partially cleared, but it carries good quality mixed age karri regrowth and its timber value exceeds that of the other area. The cleared area offers the potential to grow karri. The area is not known to me personally, but I have been informed that some concerns need to be taken into account when the land swap is effected. There is some concern regarding the Northcliffe wetland areas. This wetland country seems to be the habitat of the quokka, and perhaps the quenda, which is a short nosed bandicoot, and also the mud minnow, an extremely unusual fish whose nearest relative lives in South America. An interesting piece of history is that this seems to be a relic from the days of Gondwanaland, when Australia was connected to South America via the Antarctic. If members go back to their geography and history days at school they will remember that many of our plant and animal species evolved during those times.

Scientists at the Department of Conservation and Land Management have carried out research into the mud minnow because so little is known about it. There is some concern also about the marron farms not being particularly suited to areas which are subject to winter flooding, and it seems this area will involve very considerable earthworks for the dam construction required for marron farming. A final consideration is that the EPA may show an interest in the proposed marron farm because the waste from the operation will be discharged into a watercourse which flows through Crown land, and that may result in the rejection of the proposal. What will happen to the land swap if the EPA says no to the marron farm? I understand the land swap may not go ahead. Given those queries - and that is all they are - I support that proposal as well.

Area No 6 involves the Boranup forest a few miles north of Augusta. This is an extensive area of land, 3 067 hectares of beautiful karri forest. It is a superb drive for anyone who has the benefit of driving through the south west; it is one of the jewels in the crown of the south west tourist industry and one of the highlights which should not be missed by anyone having the good fortune to go to the south west. The proposal is for the inclusion of this area in the adjoining Leeuwin-Naturaliste National Park. I am delighted that this project is going ahead, as the movement stems once again from that famous 1987 by-election in which we were involved. One of the commitments made during that by-election campaign was to include that Boranup forest into the national park. Our commitments prompted the Government very quickly to match them, and that is a very pleasing aspect which I am pleased to see has come to fruition in the three years since I have been here.

Several members of my party have spoken to the Augusta-Margaret River Shire Council which dealt with this matter a year ago. Those are the sorts of time delays we should try to overcome. I cannot see why these sorts of things should pile up on Ministers' desks for a year before being presented to the Parliament. If they have the agreement of all parties they should be available for presentation to Parliament very quickly and expeditiously, and this would eliminate these lengthy delays.

The Augusta-Margaret River Shire agreed to include this area of State forest in the Leeuwin-Naturaliste National Park, but there are some reservations about the area to the east of Caves Road. I thank the Minister for providing the map which clearly indicates what we are talking about. There was some support in the council for this area to remain a timber reserve, but eventually a majority decided to approve the whole area. It was unanimously decided that the land to the west of Caves Road be included in the Leeuwin-Naturaliste National Park; however, what has been lost in dollar value in the form of the timber reserves in the land to the east of Caves Road has been made up many times over in the value which has accrued as a result of its addition to the tourist attractions in that area. It adds to the tremendous tourist attractions such as the caves, the coastline, the vineyards and the general scenery, all of which attract many people to the area.

The Opposition supports all of these proposals, but I reiterate that I wish the system was a little more flexible to cope with the lengthy delays which seem to be involved. I have mentioned before that I would advocate the provision of some maps and background material to go with the revocations. It would certainly make the job much easier and much more effective from the Parliament's point of view. I commend the motion to the House.

**HON J.N. CALDWELL** (Agricultural) [7.50 pm]: Firstly, I want to thank Hon Barry House for his extensive research into the areas of land the subject of this revocation and partial revocation of State forest. Secondly, I want to comment on the tuart forest in the south west. I used to travel that road extensively at one stage, when holidaying around the Busselton area. One can only marvel at those trees and hope that nothing ever happens to damage them. I am sure that if a substantial fire got into those trees it could do quite a bit of damage. Perhaps someone could tell me whether they are fireproof or whether they would burn furiously.

Hon Doug Wenn: If you are talking about the Ludlow forest, they are still running cattle through there and that is keeping the undergrowth down.

**Hon J.N. CALDWELL**: That is a sound idea. I recall someone in Mt Barker telling me that his father used to run cattle in State forests and that it was an excellent way of providing fire protection for the forest. However, I do not think that is allowed in most State forests, and when a fire starts there people have a great deal of trouble putting it out. Generally they must rely on wind conditions or moisture to do the job.

Speaking of the Ludlow forest, I was very disappointed when driving along there quite some time ago to see that some of the magnificent tuart trees had been knocked down and that pine trees had been planted in their place. I can recall travelling through Canada, and stopping for a bite to eat at a parking place. Our travelling companions, who were Canadian, marvelled at the sight of a very small, insignificant bird they saw, which was picking scraps out of the bin and apparently living there. When I told them that we have beautiful birds in Australia all through the forests they said, "You do not see birds up here. The pine trees do not lend themselves to our feathered friends and it is most unusual to see a bird in this area." That just goes to show that pine trees are not all they are cracked up to be. They might produce good paper, furniture, and so on but they do not encourage bird and animal life.

I want also to comment on Hon Barry House's remarks about bringing in these proposals for the revocation of State forests and land alterations all in one batch. I have been in Parliament for over four years now, and only about four or five of these Bills have come through in that time. I fully agree with Hon Barry House that they could come through at a greater rate than that. I was involved in an appeal for a piece of Commonwealth land to be released in the Albany area, and whoever was involved in the Federal Parliament did an excellent job. That piece of land was released to a sporting club in a very short time. Perhaps the Commonwealth has a way of achieving these things far more quickly than does our State Government. I might add that that was quite some time ago and I do not believe Mr Hawke was in power at that time. I support the motion.

**HON KAY HALLAHAN** (East Metropolitan - Minister for Planning) [7.54 pm]: I thank members for their support of the motion. I am very pleased to have the stated support for the Government actions outlined in the motion. I will draw to the attention of the Minister in another place the comments and general inquiries raised by members, but in particular the need for adequate information on each of the areas. An expectation has been set by the reserves Bill. Very good information is supplied when that Bill is considered, and it may well be that another department needs to look at the information provided with that Bill so that it can provide something similar for motions of this type. However, I will bring it to the Minister's attention and I feel confident we will see a vast improvement on the amount of information that has been provided in this instance.

I appreciate the forbearance of members on this occasion and concur with Hon Barry House that tuart trees are one of our most magnificent tree species. At this later stage in our development it is good to see that they are being fully appreciated and protected. I seek the support of members for the motion.

Question put and passed, and a message accordingly returned to the Assembly.

## **EXPLOSIVES AND DANGEROUS GOODS AMENDMENT BILL**

### *Second Reading*

Debate resumed from 11 September.

**HON REG DAVIES** (North Metropolitan) [7.57 pm]: I have studied this legislation and I

am pleased to acknowledge that the need for effective and ongoing rules for the handling, carriage and storage of explosives and dangerous goods has been recognised.

We in the Liberal Party accept that Australia, and in particular Western Australia, is fast becoming highly industrialised. We have seen Western Australia go through major new phases of development in both primary and resource industries and we, particularly the Liberal Party members, hope development will continue in the coming decades. We acknowledge that the development of oil, gas and related industries is an important part of that growth. It is therefore significant that one of the key elements in these amendments should include the definition of "pipeline" to support the licensing requirements and control of pipelines carrying dangerous goods. Until now the conveyance of flammable liquids and oils by pipelines has been controlled under the flammable liquids regulations 1967. The amendments proposed in this Bill will ensure that any uncertainties within the existing laws are now rectified.

My experience with explosives, pyrotechnics and dangerous goods over many years in the Australian Army has reinforced my belief in the need to have watertight rules associated with handling these items. One soon learns to have a fairly healthy respect for explosives and the rules associated with them after observing the results of haphazard or clumsy procedures. Concomitant with rules and regulations, I am also a great advocate of educating those who have little contact with explosives and dangerous goods in the hazards associated with being exposed to them.

I support the wide distribution of educative material alerting people to the dangers and to the procedures to be adopted if they come into contact with chemical spills and any other risky situations. This is particularly relevant when we consider the ever increasing requirement for dangerous goods to be transported around the State through pipelines, and in trucks, railcars, ships and so on. It is our responsibility to ensure controls are in place to allow us to maintain a high standard of safety for personnel and also for property.

The question of protection from liability of people who in good faith render assistance is a most important consideration. I am sure we are all aware of the fine job done by the men and women of the State Emergency Service throughout the State. We should give more consideration to upgrading their equipment to enable these public protectors to cope with the ever increasing amounts of sophisticated chemicals currently being used. The consensus on this issue is that a significant degree of regulation is appropriate.

I wish to comment briefly on other areas of concern to me that have not been covered by the Bill and the inherent dangers of which many people are not aware. We have heard recently about the concern of residents in country areas, particularly around Esperance, about the importation of ammonium nitrate. In itself, ammonium nitrate is harmless, but if it comes into contact with or is mixed with oil and is ignited by a spark it can become very dangerous. Even the unobtrusive family laundry and bathroom cupboard can represent substantial threats to the unsuspecting. Simple items such as denture powder, soap, sugar, and dish washing liquids when mixed with the right additives can have devastating consequences. This needs to be addressed separately and special attention should be given to warning labels. These simple items in the hands of radicals such as the infamous Australian Nationalist Movement, or similar people, could have disastrous results.

It is appropriate that penalties are increased to ensure the regulations are complied with and the highest possible safety standards are met. The Liberal Party supports the legislation.

Hon Margaret McAleer: I thought the member had intended to refer to Esperance and the enforcement of safety regulations in that area.

Hon REG DAVIES: I did mention that concern had been expressed in Esperance about the carriage of ammonium nitrate through the area. Ammonium nitrate can be used as a fertiliser as it contains a certain amount of urea, but that chemical in itself is not dangerous. As I have stated, people should be aware that if it is mixed with oils and ignited, it can be dangerous; or if it is left standing and oils leak onto it and a heavy vehicle drives over it, the ammonium nitrate can explode. I said that it is not dangerous in itself, but when mixed with other materials such as simple household items it can be dangerous. I will not go into that in detail at the moment because it would not be right to alert the public to how simple it is to make household explosives; we have enough of that sort of thing in the community at the moment.

HON KAY HALLAHAN (East Metropolitan - Minister for Planning) [8.05 pm]: I appreciate the concurrence of the House with the Bill. I thank Hon Reg Davies for his contribution to debate. I understand that explosives is an area of particular interest to him.

Hon John Halden: Small things amuse small minds.

Hon Reg Davies: I learnt about explosives during my long contribution to this country while serving in the defence forces; I learnt to care for them. It is not a matter of having a small mind.

Hon KAY HALLAHAN: To respect them.

Hon Reg Davies: And to care for them correctly.

Hon KAY HALLAHAN: Debates have an extraordinary way of bringing out our backgrounds. It would be interesting if we sat here long enough and heard about the different areas of expertise we bring to this place because often these disclosures are surprising.

The Bill is a sensible response to developments and needs for greater safeguards and regulations regarding explosives and dangerous goods. I thank members for their support.

Question put and passed.

Bill read a second time.

#### *Committee and Report*

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

#### *Third Reading*

Bill read a third time, on motion by Hon Kay Hallahan (Minister for Planning), and passed.

### **MOTION - STANDING COMMITTEE ON GOVERNMENT AGENCIES**

#### *"Review of Operations for 1989" - Report*

#### *Committee*

Resumed from 5 July.

The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair.

Hon N.F. MOORE: I move -

That the report be noted.

I am very pleased that this Order of the Day has finally come before the House. One of the problems with committees such as the Standing Committee on Government Agencies is that the occasions on which a report can be considered by the Chamber are rare. This report was tabled in July and here we are in September, and because little business is around at the moment, we have an opportunity to consider the report. The twenty-fifth report of the committee is titled "Review of Operations for 1989". The report reviews activities in 1989, so I suppose that for it to be considered in September 1990 is a little late as some matters are out of date. However, I shall deal with some matters of concern and will indicate some recommendations made by the committee.

Page 3 of the report refers to the membership of the committee and to the former chairman, Hon Mark Nevill, who held that position for three years. What the report says about Hon Mark Nevill indicates the esteem in which he was held by members of the committee; the report reads as follows -

The Hon Mark Nevill was Chairman of the Committee for 3 years. Under his leadership the Committee undertook many wide-ranging and valuable inquiries. The Committee wishes to record its gratitude for the outstanding contribution to the development and advancement of the Committee made by the Hon Mark Nevill.

As a member of the committee during his three years as chairman, I indicate my support for those words. Hon Mark Nevill was a very competent and effective chairman, and during his

term the committee conducted some worthwhile activities. I was sorry when he decided not to remain on the committee after his three year term.

Page 6 of the report states -

At the expiry of his contract in March 1989, Mr Newcombe, the principal advisor to the Committee, left the Legislative Council's employment to take up a position elsewhere in the Public Sector. His skill, knowledge and experience were invaluable during his service to the Committee. The Committee wishes to record its gratitude for his untiring efforts to advance the work of the Committee, and wish him well in his future endeavours.

Mr Gary Newcombe was a very competent and effective principal advisor, and he did an excellent job. I was excessively disappointed that he decided to head for greener pastures and leave the committee. When Gary was first appointed to the job - and this was one of the reasons for his appointment - he said that he was not a career parliamentary committee adviser, and that he saw the position as an important part of his development as a lawyer and a person working in the public sector. We acknowledged and realised that he would be seeking greener pastures and in March 1989 he decided to leave the committee and is now working in the Public Service. Gary Newcombe was an excellent principal adviser for the committee; his work was quite outstanding. He left the committee in March 1989; it is now September 1990 and he still has not been replaced.

For a short period Ms Helen Cripps was appointed to the committee as a contractual employee. Ms Cripps did a very good job, but her level of classification in the Public Service was not the same as that of Mr Newcombe; she was several levels lower and could not be expected to carry out the tasks in the same way as Mr Newcombe, who was a very experienced officer. While she worked very well - certainly to her capacity - she did not have the benefit of the number of years' experience to provide the kind of support Mr Newcombe provided. His predecessor, Dr Martyn Forrest, was also very experienced in these matters; he is now the head of the Ministry of Consumer Affairs, which indicates the quality of the advisers appointed to the committee in the past. It is regrettable that since March 1989 the committee has not had a principal adviser with the same level of experience as Dr Forrest and Mr Newcombe.

I hope that once the Clerk is able to sort out the budget situation in the Legislative Council with the committee system, we will have access to a principal adviser - or perhaps a person with a different title - to provide the same service we have been used to in the past. The committee has been hamstrung to a certain extent due to a lack of support. I sympathise with the former chairman, Hon Tom Stephens, with the difficulties we had in 1989 in getting a number of projects off the ground; this was due to a lack of support. It is a long time since March 1989 and I trust that the next few weeks will overcome the problems which have been experienced by the committee.

The report contained a number of recommendations which I shall draw to the attention of the Chamber and I shall argue that some action needs to be taken. The first recommendation has actually already been implemented by the Chamber; that was, that any report of a Standing Committee on Government Agencies which is presented to the Parliament and requires some response from the Government be responded to within four months. That recommendation was presented in a report of its own - the 24th report - and was agreed to by the Chamber and is now part of the Standing Orders of the Legislative Council. That is a move in the right direction. Whenever the Standing Committee reports and a matter requires action by the Government, the appropriate Minister should respond to the recommendations within that time limit.

We also recommended other actions which have not yet been considered. As members would be aware, the Standing Committee is charged under Standing Orders to prepare a list of agencies which come within its jurisdiction. The Standing Orders of the Legislative Council state that a Standing Committee shall publish a list of all agencies within its jurisdiction. The second report of the Standing Committee on Government Agencies was a response to that requirement. If any members are interested they would know that this report lists all of those agencies which come within its jurisdiction, and that list was upgraded in 1989. When that report was done it was the first time that anybody had sat down and worked out which agencies and statutory authorities existed in Western Australia. We found a large

number of what are commonly called quangos. The second report, if not a best seller, certainly was in great demand by those people who were interested in which Government agencies existed. The report indicated from where these instrumentalities operated, who were the members of the board, and so on. That report was a very important contribution to the understanding of the operations of Government in Western Australia. The problem we have had in ensuring that the report was accurate when it was published was drawn to our attention as many people indicated that certain anomalies and problems existed in the first report.

As time has gone by many changes have been made to existing agencies, new ones have been created and, regrettably, only a small number have been disbanded. The task of maintaining an up to date list of agencies is a difficult one, particularly for a committee such as ours which has minimal support at an officer level. In its second report in 1983 the committee recommended that the Government take on the role of maintaining this formal register. A further edition of the second report issued in 1989 was criticised for its lack of accuracy and the committee was somewhat embarrassed. The committee then decided to reactivate its argument that the Government take on the task of maintaining a register of its own agencies. Most of the agencies which come within the committee's jurisdiction are set up at the instigation of the Government. It is in the interests of the Government and the Western Australian taxpayers to know what agencies exist, why they exist, what they do and who are their members. It is incumbent on the Government to keep an up to date register of those organisations. The committee recommended -

That the Government establish formal machinery for compiling information on government agencies and that it publish, on a regular basis, details of the agencies in operation including the names and terms of appointment of board members.

That all agencies should be the subject of an Act of Parliament rather than subordinate legislation and that where a number of agencies are to be established under the same provision they should be listed in a Schedule to the Act which could be amended as and when necessary.

That a Directory of Government Agencies and other governmental organisations should be produced and regularly revised. The Directory should include details of the services provided, the availability of grants, facilities for hearing appeals, procedures for instituting complaints and so on. There are numerous examples of such documents at both the Commonwealth and State level in Australia which might serve as a guide.

Those recommendations stand. The committee is unable to direct anybody to do anything about its recommendations. It can only report to the House and if necessary request the House to decide that something take place, or it can recommend to the appropriate Government department, agency or the Minister that certain action take place.

The committee recommended in all seriousness that something needed to be done about compiling a formal register of Government agencies. It is beyond the capacity of the committee under its present staffing arrangement to carry on. There are two ways out of this: First, the Government could maintain the register itself; second, it could provide the committee with the resources to do the job. The committee was set up to discover what agencies existed and, having done that, it is incumbent upon the committee to ensure that that list is kept up to date. It is added to but is very rarely subtracted from. When the committee has the resources it will make recommendations for the removal of a large number of these agencies.

Hon Max Evans: Two more were added today - the Supply Authority and the Goldfields-Esperance Development Authority.

Hon N.F. MOORE: It happens all the time. I draw the recommendations contained in the committee's twenty-fifth report to the Government's attention. I hope that it will consider the recommendations seriously and accept the committee's view that something must be done.

In 1989 the committee considered in detail the Statutory Corporations (Directors' Liability) Bill introduced by Hon Peter Foss and referred it back to the proposer and to the Government with the suggestion that they sit down together and look at some of the propositions put to

the committee by witnesses. The general thrust of the legislation was acceptable to the committee and it was felt that the sticking points could be overcome by the proposer and Parliamentary Counsel.

The committee is awaiting with bated breath a decision on its funding and staffing for the next 12 months. In the last 18 months the committee has been in limbo, which is regrettable. The new funding arrangements should enable the committee to commence a major inquiry titled "The Establishment and Scrutiny of Government Agencies" to look at how agencies are set up, and how they should be scrutinised and accountable to the Parliament. The committee looks forward to a productive year and its members regret that due to circumstances beyond their control 1989 was not one of its most successful years. I hope whoever is in charge of the purse strings of this State will realise the importance of this committee and fund it accordingly.

Hon Max Evans: Hear, hear!

Hon N.F. MOORE: I recommend that members read the report as a review of the committee's operations in 1989. Because of the way that the internal finances of this House are organised, the committee decided not to have a detailed statement of receipts and expenditure for 1989-90. However, in conjunction with the Clerk, future annual reports will contain a very detailed set of financial facts, which will show the public how their money has been spent by the committee. I commend the report to the House and I hope members will take note of its recommendations.

Hon JOHN HALDEN: I share the view of Hon Norman Moore that Hon Mark Nevill and Gary Newcombe made very worthwhile contributions to the committee. As Hon Norman Moore said, in 1989 the committee could not deal with the volume of work that it dealt with in previous years. One factor that delayed consideration of other matters was the twenty-sixth report, which occupied the time and energy of the committee. When the 26th report is discussed in this Chamber, I will argue that it would have been better if that matter was referred elsewhere.

I have no disagreement with the comments made by Hon Norman Moore. It is appropriate that the recommendations of the committee of the Parliament go to the Government and that the Government have a time limit in which to respond to those recommendations. In the short time I have been a member of the Parliament I have realised that it must be very debilitating and annoying for a committee to spend hours, days and sometimes weeks examining topics and for the Government not to have the courtesy to respond to those deliberations. We are taking a positive step and the committee's work will receive more credit than it has in the past.

The proposal to establish a formal mechanism to record the number of quangos and statutory authorities is very important. It is beyond the scope of the committee currently and probably beyond its scope in the foreseeable future. It is an important task and one which involves accountability for the expenditure of moneys and the activities of the Government and the quangos. The need for such a mechanism and a print out of information is very important. Taxpayers have a right to know where their money is being spent, what those agencies are doing and whether they still operate. Statutory authorities should realise that they are responsible to the committee for their operations. A number that we have written to are not even aware of that fact. That boggles my perception of what the committee has done in the past few years. However, the committee is addressing that matter currently.

The Statutory Corporations (Directors' Liability) Bill was referred to the committee by this Chamber. I do not know whether the committee has dealt with a matter of that kind before.

Hon N.F. Moore: It has.

Hon JOHN HALDEN: It was a novel experience for me and a worthwhile one for the committee. We did not necessarily start out with the same point of view on the Bill, but in the best interest of the committee system we were able to obtain a consensus decision on the matter. I hope the member who was responsible for the Bill accepted the integrity of all members on the committee in relation to the decision that was finally made.

I hope the Government will respond in the appropriate way to the financial needs of this committee. I am sure that the committee will be provided with appropriate staff and finance and the finance will be more adequately accounted for and used in the future. It is my hope that the committee becomes specific in regard to its tasks. Although the committee in the

past has done worthwhile work, it has not focused on what it is supposed to do. It has dealt with a number of matters ranging all over the place. It would be better if the committee knew what it was supposed to do. Hopefully, the report to be undertaken shortly on the establishment of Government agencies will give such direction to the committee. I support the committee's report.

Hon BARRY HOUSE: I also became a member of the Standing Committee on Government Agencies recently. While I am still finding my feet on that committee, I wish to add my support to some of the comments made by the two previous speakers, particularly in relation to the resources of the committee.

It was my pleasure recently to attend a Commonwealth Parliamentary Association seminar in Sydney for a week. Part of that seminar was to discuss matters with committees of the New South Wales Parliament. Those discussions opened my eyes to how committees function in different parts of Australia. We received a report from the Public Accounts Committee in New South Wales. It is a lower House committee and is a very effective committee, for two very basic reasons. The first is that it is well resourced. It has six permanent staff and does some very valuable work. The second reason it is effective is that it has the bipartisan support of the New South Wales Parliament. The Premier of New South Wales, Mr Greiner, and his deputy are former members of the Public Accounts Committee, as is the Leader of the Opposition, Mr Carr, and his deputy. With that bipartisan support, the committee achieves what it sets out to achieve with plenty of support.

The work of the committee involves a very heavy time commitment from the six members of the committee. One member explained that it involved sitting for 160 days last year. That is a very heavy time commitment when compared with his parliamentary commitments of 56 days. Its work is taken seriously and it achieves very valuable results.

There is a mechanism whereby a Minister responsible for a line of inquiry must respond to the report within, I think, three months from the time it is presented to the Parliament. That response can be made in the Parliament or through correspondence with the committee.

That experience enlightened me. I hope that, in line with the comments of the two previous speakers, the resources that are required by this committee and other committees of this Parliament to become effective are provided.

Question put and passed.

#### *Report*

Resolution reported and the report adopted.

### **MOTION - STANDING COMMITTEE ON GOVERNMENT AGENCIES**

#### *State Government Insurance Commission - Final Report, Consideration*

#### *Committee*

Resumed from 5 July. The Deputy Chairman of Committees (Hon Doug Wenn) in the Chair.

Hon N.F. MOORE: I move -

That the report be noted.

I thank the Minister for his consideration in allowing the twenty-sixth report of the Standing Committee on Government Agencies to be considered immediately after consideration of the twenty-fifth report. It makes sense to deal with the reports together while members are enthusiastically listening to the consideration of them.

Before I commence my comments on the twenty-sixth report I advise members that the Standing Committee on Government Agencies has given consideration to the whole idea of reporting to the Chamber. It is of the view that a time should be set aside each week for committees to report. It should be part of the agenda of this Chamber. This would overcome the problem I have had in seeking to persuade those people in charge of the Notice Paper to give the reports the consideration they deserve. Although I appreciate that the reports are being considered tonight, I hope that in the future we will have a situation where committee reports are automatically considered by the Chamber. It will become increasingly more

important that we deal with reports in this way as other Standing Committees become more active.

The twenty-sixth report was the final report of the Standing Committee on Government Agencies' inquiry into the financial management and accountability of the State Government Insurance Commission and the State Government Insurance Corporation. On 16 November 1988 the committee was charged by the Legislative Council to consider and report on, as a matter of urgency, the financial management and accountability of those two organisations. The Parliament was about to be prorogued at that time for the 1989 election and the committee was required to carry out its inquiry with some degree of urgency. An interim report was presented to the Chamber in December 1988 and it was the Standing Committee on Government Agencies' twenty-first report. I will not go into it now.

Following the 1989 election the reconstituted committee resolved to continue its inquiry into the State Government Insurance Commission and the corporation. During its inquiries the committee requested the Auditor General to provide certain documents. A letter from the committee to the Auditor General stated that the committee was aware that certain documents were in his possession and it requested that he provide them to the committee for its consideration. The Auditor General advised that he had discussed the matter with the Crown Solicitor and believed that if he complied with the committee's request he would be in breach of section 91 of the Financial Administration and Audit Act. The committee then resolved to obtain advice from a number of sources, including the Clerk and Mr P.W. Johnson from the University of Western Australia law school. It was decided that the committee was within its rights to request information and that the Parliament, through the committee, had the absolute right to demand any documents it wished, including those from the Auditor General.

Consequently, the committee ordered the Auditor General to provide documents it required. He provided them to the committee and a subcommittee of the committee was appointed to consider the matter. The subcommittee met, discussed these issues, and reported to the Standing Committee as follows -

The sub-committee resolved as follows to recommend to the Standing Committee on Government Agencies:

- (1) that the envelope containing the McLaren and Stewart report be returned forthwith unopened to the Auditor General;
- (2) that this decision not in any way be taken as a precedent in determining the issue of the rights of the Legislative Council for access to papers from the Government;
- (3) that the Committee recommend to the House that an amendment be made to s.91 of the *Financial Administration and Audit Act 1985* to enable the Committees of Parliament to demand access to information from the Auditor General.

The subcommittee's recommendation was considered by the Standing Committee and it was agreed that it form the basis of an interim report to the Chamber. The subcommittee's recommendation was amended to read as follows -

*"That the Committee recommend to the House that an amendment be made to s.91 of the Financial Administration and Audit Act 1985 to clarify the situation of access by Committees of the Parliament to papers held by the Auditor General."*

Before I continue I draw the attention of members to section 91 of the Financial Administration and Audit Act, which reads as follows -

The Auditor General and each person employed in the Office of the Auditor General or appointed to assist the Auditor General in respect of a particular matter shall preserve secrecy with respect to all matters that come to his knowledge in the course of his employment or duties under this Act and shall not communicate any such matters to any person, except as may be required in connection with the administration of this Act or any proceedings under this Act or under *The Criminal Code*.

Penalty: \$2 500.

Obviously the Auditor General was concerned that in order to comply with the order of the Legislative Council he might be in breach of section 91 of the Act under which he operates. As I explained previously, the committee insisted on its right to have access to the documents and the Auditor General complied. The papers were made available to the committee and were subsequently examined by the subcommittee.

It is the view of the Standing Committee that something should be done to clarify the position of the Auditor General in these cases. The Legislative Council or any of its committees must have the absolute, unfettered right to demand access to Government documents and there should not be legislation such as section 91 of the Financial Administration and Audit Act which could prevent a committee from obtaining access to documents it requires. The situation should be clarified so that not only do the committees know where they stand but so too does the Auditor General. It probably involves a simple drafting amendment only which could be attended to by the Clerk. In order that the Auditor General and his successors do not come up against this problem again some action should be taken to amend the Financial Administration and Audit Act to the effect that committees and the Parliament are entitled to information and that the Auditor General in providing the information is not breaching the Act.

The Standing Committee decided it would terminate its inquiry into the SGIC and the corporation in view of the fact that both organisations were being investigated by other parliamentary committees. Hon John Halden, when speaking to the previous report, said that he felt this inquiry was perhaps a waste of time and that it was the cause of some consternation to members of the committee.

Hon John Halden: It occupied a lot of time.

Hon N.F. MOORE: Of course it did. Had it not been for inquiries by Hon Bob Pike's Select Committee and the Public Accounts and Expenditure Review Committee I would have argued that the Standing Committee on Government Agencies continue its inquiry. We all know that the commission and the corporation need to be investigated further and that the taxpayers of this State are entitled to a few more answers to the many questions they have been asking in recent times.

Hon Max Evans: With hindsight, we should have continued.

Hon N.F. MOORE: There is nothing to stop the House from ordering the committee to do anything it wishes. As Hon John Halden has acknowledged, and as other members are beginning to acknowledge, the members of committees often start with very divergent points of view and when they have listened to evidence from people not committed politically either way, they often come to a similar conclusion. The edges are rubbed off the prejudices and at the end of the day consensus is not always difficult to achieve. With regard to the inquiry into the SGIC, given more time and more determination to achieve a consensus result, and given that the intense political activities surrounding the matter began to diminish, I think the committee may have been able to produce a worthwhile report. It demonstrates the problems facing these committees. The State Government Insurance Corporation and the State Government Insurance Commission are both agencies which come within the jurisdiction of the Standing Committee on Government Agencies, and the Standing Orders of the committee indicate that it is incumbent on the committee to carry out inquiries into organisations which could be getting into trouble or doing things which are not acceptable to people in the community. That is not to say that the SGIC falls into that category; I do not know what it has been doing or whether it has been doing things properly. However, I have a sneaking suspicion that it has some problems!

Hon John Halden said he was not sure of the role of the committee. One of its roles is to investigate and ensure that agencies set up by this Parliament are accountable to the Parliament, and are being run and managed in a way that is proper and in accordance with all the requirements of that organisation. It was decided by the committee for a number of reasons to terminate its inquiry into the SGIC, mainly because the Pike committee is conducting a more intense inquiry into that aspect.

That is a brief summary of the twenty-sixth report, which is the final report of the inquiry into the SGIC. Its main purpose is to advise the House of the difficulties associated with section 91 of the Financial Administration and Audit Act, and it is a request by the

committee for the Government to consider whether any amendments are necessary to section 91 or to any other Acts to overcome the problem Mr Smith faced when he was ordered to provide documents to the committee.

Hon PETER FOSS: I have noted Hon Norman Moore's reference to section 91 of the Financial Administration and Audit Act, and I have read the correspondence from the Clerk, the Crown Law Department and the Auditor General. I personally would be somewhat reluctant to amend section 91 until it was clear to me that the Parliament did not have the power to call for these papers. In my opinion the Parliament clearly does have that power.

Section 91 of the Act is directed to the Auditor General and what he may or may not do, but it does not in any way purport to bind this Parliament or to bind courts, for example. In the same way that the Crown, especially when exercising its true prerogative powers, is not bound by an Act of Parliament unless it is said to be, the Parliament is also not bound by an Act of Parliament unless it is specifically said to be. I cannot believe that section 91 of the FAA Act could in any way be read as binding this Parliament as to whether it can exercise its powers.

I have no doubt that a committee of the House can summon papers even in the hands of a person under any obligation not to release them. Many people are under statutory or private law obligations not to reveal certain information, but they can be compelled by the process of law and by this Parliament to do so. It would be a retrograde step to enact something that specifically stated that this section did not extend to the Parliament because it would almost indicate some limitation on the powers of Parliament, and I do not think that is the case. If there is any doubt about the matter, it could be tested by sending for certain papers and if the person to whom the request was made resisted that order, he could be put in jail. That would very quickly resolve the point.

Hon N.F. Moore: It was tested because the Auditor General was ordered to supply the papers and he complied with that order.

Hon PETER FOSS: That is the way it should be. If there were ever any doubt about the matter, the Parliament could resolve it by making clear what it believes the situation to be. I do not believe a problem will arise because the proper view is that when Parliament orders something to be done, section 91 of the Financial Administration and Audit Act can do nothing about it.

Hon N.F. Moore: Our advice came from the Crown Solicitor.

Hon PETER FOSS: It is not necessary to worry about the opinions of solicitors, one should worry only about what this Parliament does.

Hon Graham Edwards: We do worry.

Hon PETER FOSS: The Government should be concerned about looking after the powers of this Parliament and it should not allow them to be taken away by solicitors' advice. It would be retrograde to allow solicitors' advice to interfere with the powers of the Parliament. In this case it seems to have been appropriately dealt with and the Auditor General eventually complied with the request.

If at some later date a head-on collision occurs, the committee should make an order for some papers to be provided and see what happens. If the person concerned refused to comply with the order, the committee could make an appropriate order of the House committing that person. If he did not like that, he could go to the Supreme Court and obtain a writ of habeas corpus, and I think the reaction of the court would be to determine the matter in favour of the House. If I am wrong, that is the time to amend the Financial Administration and Audit Act, but not before then.

Hon JOHN HALDEN: I am trying to be bipartisan on this matter, but the comments of Hon Peter Foss tempt me to do otherwise. I appreciate his comments, although I do not necessarily agree with them.

The Auditor General was placed in a difficult position. He sought and was given legal advice, and at the end of the day everyone came to the position advocated by Hon Peter Foss; that is, the House and the committee had the ability to call for that information. Nevertheless, a problem arose in the interpretation of section 91, and it was necessary to examine that section. That is the recommendation of the committee. The hard-line attitude

adopted by Hon Peter Foss is an overreaction. The course of events in this matter from beginning to end was rather unfortunate. When this matter was referred to the committee the environment was highly charged politically, and perhaps the lesson to be learnt is that Standing Committees are not the appropriate places to send such matters. Perhaps it would be better for them to be dealt with by Select Committees.

Hon N.F. Moore: Hon Tom Stephens will argue with you on that one.

Hon Graham Edwards: Not tonight he won't, because he is not here.

Hon JOHN HALDEN: I would argue my case whether or not he were in the Chamber. What tended to happen, and this is reflected in the previous report, is that the whole of the committee's operations became bogged down in consideration of this highly charged matter.

Hon Norman Moore suggested that at the end of the day the committee may have reached consensus on this matter. I do not believe that would have been the case. After 12 months or thereabouts of deliberations the committee was no closer to consensus than it had been at the beginning. I remember that at the first meeting I made a recommendation, which is part of the final recommendation in this report; that is, that the matter is being considered by other more appropriate committees and should, therefore, be discharged to those committees. It took us much longer to get to that point. It took some heated and difficult meetings. I do not think the committee resolved anything in relation to this matter except that at the end of the day, by virtue of default, it had actually clarified the powers of the committee system, this Committee and the House. It had also pointed out there might be a problem with section 91 of the Financial Administration and Audit Act. That may be worthwhile, but by virtue of accident and not by design. If there is something to be learnt in hindsight, this is a classic case.

I do not think Hon Robert Pike was correct in referring this matter to that committee. He eventually referred it to another, and I think far more appropriate, committee.

Hon N.F. Moore: I moved the motion to refer it to the committee; it was before Hon Bob Pike's second term in this Parliament.

Hon JOHN HALDEN: I think that there was only a modicum of advantage to the committee system coming from what is probably an unfortunate referral by this House. I hope we have learnt from that.

I support the report.

Hon MAX EVANS: Section 19 of the FAA Act was not in doubt to a great degree. McLaren and Stewart were the outside auditors acting for the Auditor General in a professional capacity and there was doubt about where they stood when giving information to the Auditor General for him to refer to us. The information that they gave to the Auditor General was in doubt, not the Auditor General's figures. That needed to be clarified.

Hon N.F. MOORE: Perhaps Hon Max Evans is overlooking the letter from the Auditor General to the Chairman of the Standing Committee on Government Agencies dated 21 December 1989. If members read that letter they will see that the Auditor General was concerned about his relationship with the committee. He said the following -

I cannot stress too strongly that I am concerned about the actions of the Committee. The action touches on the fundamental principle of independence of the Auditor General in the Westminster system of Parliamentary democracy.

He then quoted further from the Burt commission report and talked about the independence of the Auditor General from the Parliament. When I said that something needs to be done to clarify the situation in relation to section 91, whether that is done by way of amendment or some other mechanism, it needs to be made clear to the Auditor General - whoever that might be in future - that he is obliged to comply with an order of this House. How that will happen, I do not know. He did comply with the order.

The committee had the problem that it spent some time arguing about whether the Auditor General should provide documents. The committee faced that problem because some members were, in a sense, taking the view that the Auditor General was right while others took the view that he was not. The committee argued over that issue. When advice was taken further argument ensued about whether we got our advice from the right people. It

went on and on. One of the reasons for the long, drawn out process was that simple problem. During my membership of the committee I had never considered that to be a problem previously. I assumed that once we made an order that a public servant or an officer of the Parliament do something he was required to do it. It took us quite a number of weeks to resolve the one issue and that led to difficulties.

I am prepared to acknowledge that one of the reasons I was not unhappy that we did not continue that inquiry was that I wished to bring back a degree of cooperation to the committee so that it would work in future. I had been a member of that committee since its inauguration and was concerned that it might flounder because it had indulged in a highly political exercise. I hope Hon John Halden will bear in mind the fact that committees of the Parliament will always get involved in political activities and inquiries into highly political matters. I guess it will be a reflection on our maturity as members of Parliament whether we are capable of dealing with those matters in a proper way. As the committee system develops we will develop expertise and maturity that will enable us to act as members of Parliament and ignore the political ramifications of what we are doing in an attempt to achieve some sort of truth in our inquiry. I hope that happens one day and that is why I am keen to have a committee system.

Hon John Halden: There is truth in politics.

Hon N.F. MOORE: There is, when a member has been here for as long as I have. I am starting to sound like an old man so I will sit down. The report is worth reading.

Question put and passed.

### *Report*

Resolution reported and the report adopted.

## HERITAGE OF WESTERN AUSTRALIA BILL

### *Second Reading*

Debate resumed from 12 September.

HON J.N. CALDWELL (Agricultural) [9.09 pm]: This is the third heritage Bill brought into this Parliament in the past four years. I had the pleasure of supporting the Bill introduced by Hon Phillip Pental in 1989. It seemed to be much less complicated than this Bill. The Minister's second reading speech on this Bill comprised eight pages of large print or about three pages of normal print, yet the Bill comprises 100 pages. A Bill of this sort deserves more respect. The Bill's second reading involved minimal discussion.

The purpose of the Bill is to identify, conserve and enhance those places in the State which are of significance to our cultural heritage, to promote public awareness of them and to ensure that they have a practical future use. Our heritage is something we should all admire and respect. I looked up the definition of heritage in the dictionary and it did not seem to make sense. I believe it is the preservation of things for people to look at and admire in the future. Australia is a young country which has improved and gone ahead over the past 200 years. We are now starting to preserve buildings that are about 100 years old, or less than that in many cases. The mind boggles at the thought of what new buildings will look like in another 100 years, and at the thought that we may be preserving the monstrosities that are being built at the moment in St George's Terrace. I do not know what they will look like in the future but they could be something that we cannot even imagine.

The Bill proposes to establish the Heritage Council of Western Australia as a statutory body. It will have a membership of six, and all will be chosen on the basis of their expertise and experience. I will comment further on that later because there is some controversy about the membership of six on that statutory body. Any interest group may nominate members, but particular regard will be given to members representing the National Trust, and to groups representing owners' interests and local government. Local government representation is particularly important in heritage matters because local governments have first hand information on the buildings in their area because they probably traverse them every day, and the local councils and shires inspect, and probably in many cases own, heritage buildings.

The principal function of the Heritage Council will be to provide advice on a range of

heritage matters and also to undertake a broad range of activities aimed at documenting aspects of, and increasing public interest in and awareness of, our cultural heritage. Another feature of the Bill establishes the heritage fund and, within that, a trust account called the heritage conservation incentive account. Those moneys will be used to provide a range of incentives for owners of heritage properties, which will include low interest loans and grants for approved works and technical support. That is very interesting.

I am quite astounded that the granting of low interest loans is envisaged because it is most unusual in these days to get a low interest loan; we need only ask any person here who has tried to get a loan. I wonder what sort of low interest loan that will be, whether it will be ten per cent under the going rate or only about two per cent. I know that when Hon Ernie Bridge introduced low interest loans for water supplies in farming areas the interest rate was not low enough to encourage many people to take advantage of it. In many cases it was only three per cent below the going rate, so that when interest rates were around 18 per cent the water rates were 15 per cent, but it was still not a viable option in most cases for people to avail themselves of the low interest loans.

The low interest loans, grants and technical support will become part of a package that will be available through a heritage agreement. This will be a voluntary agreement, covering a wide range of matters, all of which will be aimed at conserving and protecting heritage places. The Bill also provides the option to order the partial or complete waiver of land tax, metropolitan region improvement tax, municipal rates and charges, or water and sewerage rates. I support that move because it will not affect Government revenue to an enormous degree and Governments will have no problems in waiving those taxes and charges.

The Bill provides for a Register of Heritage Places, which will contain only places of cultural heritage significance. Entry in, and removal from, the register will be at the discretion of the Minister and will involve a detailed consultation process. The Bill provides for three types of conservation orders: A consent order, a stop work order, and a normal conservation order. It also includes a compensation provision covering stop work orders. There is some controversy about this area between members on this side of the House and Government members. Compensation can be a rather costly item, and that is something to be considered at the Committee stage. Provision is also made for the Minister to compulsorily acquire a place where it is necessary for the conservation of that place. These powers are to be used only as a last resort.

The Bill also provides for the acquisition of heritage properties with the owner's consent. I hope people in Western Australia will take notice of that and that if they are approached by the Heritage Council they will allow their buildings to be listed on the heritage list. I believe most people in the country are well aware of their heritage, and when this Bill becomes law I am sure they will become even more aware because I hope it will be publicised and everyone will be told exactly what will happen to their buildings. The Bill includes a requirement for referral to the Heritage Council of applications for development, subdivision, building licences and demolition licences that include a registered place, and advice must be received before the relevant body can make a decision.

Clause 19 of the Bill refers to the number of members of the Heritage Council. When Hon Phil Pandal made his contribution to this second reading debate he said that he thought clause 19 should be amended to expand the number of members on that council. There is some discrepancy between the Minister's second reading speech and this clause of the Bill. The Minister said that the Heritage Council will have a membership of six. However, the Bill provides that the membership of the council shall be appointed by the Governor on the recommendation of the Minister, having regard to subsection (3), and shall comprise a chairperson and not more than seven other persons. So members can see that the council will have eight people on it. So perhaps the Minister can clear that up for me and for everybody else.

Hon Kay Hallahan: Yes, I will.

Hon J.N. CALDWELL: This Bill consists of 100 pages, and people have informed me about its complexity. I cannot remember the exact number of pages in Hon Phil Pandal's Bill but I am sure it was only about a third of the size of this Bill, if not less, and I must say that when I read that Bill I could understand it a lot better than I can this one. People have already phoned me to say how complex this Bill is. I do not know whether the officers drafting the

Bill attempted to put jargon in it which people cannot understand. There is not much point in producing a Bill such as this if one must use a lawyer like Hon Peter Foss to tell one exactly what it means.

Hon Max Evans: The draftsman is probably paid by the page.

Several members interjected.

Hon J.N. CALDWELL: It is a complicated Bill. I have taken time off to try to understand it but I shall have to get a lawyer to tell me what it means.

Hon John Halden: I can lend you my speech if you like.

Hon J.N. CALDWELL: When Hon Phillip Pendal introduced his Bill I said that the National Party supported the value of any heritage legislation. It is imperative that we preserve those buildings; not only the buildings in the metropolitan area but also those in the country. I have in mind Albany, our first settlement, which has a great number of buildings of value and beauty. Members who have been down there might have seen the stonework. The builders must have had to chip away pretty hard to shape some of those rocks. Many of those buildings have great beauty, and the people around Albany have started already to look after them and to restore them. Every member will be familiar with York. It is great to travel along that town's main street and see so many of the old buildings restored to their heritage value. It is a great visiting place for people from the metropolitan area. Northam also has some buildings worthy of restoration. In my own home town a very enthusiastic person, Mrs Evans, has taken great pride in restoring a three storey flour mill. Not only has she coordinated the work, but also the whole community has got behind her. Anyone visiting Katanning would be welcome to visit the mill. It is manned every day with volunteers, and it is well worth an inspection. There is also a girls' school which has unfortunately closed down. That was the first thing I had to inquire about when I entered Parliament - the Kobeelya College - which was established a long time ago. That building is of value and it is something to be admired when visiting Katanning.

No matter how many members are on the Heritage Council, I urge the Minister to make sure that one if not two come from country areas. Country people should be able to provide just as much input as metropolitan people. There are many beautiful buildings in country areas, so country people should be represented on that council.

Hon Phillip Pendal suggested that in view of its complexity and enormity - it is 100 pages long - this Bill should go to the Legislation Committee. I shall approach this Bill with an open mind on the matter of compensation. I have been approached by people who have pointed out the problems involved with compensation. New Zealand experienced these problems with a heritage Act which has been in operation there for some time.

With those remarks I support the Bill.

HON FRED McKENZIE (East Metropolitan) [9.25 pm]: I support the legislation, but I am rather disappointed that the Bill may be headed for the Legislation Committee. We seem to be sending an inordinate number of Bills to that committee. I do not believe these amendments are necessary. The amendments relating to compensation are completely on the wrong track. Members have listened to people like Building Owners and Managers Association and they have taken those views on board. I hope that during my remarks I shall be able to indicate to members opposite that they are on the wrong track and the necessity to present the Bill to the Legislation Committee will disappear.

In another place and also outside this House there has been much talk about compensation. I do not know of any heritage legislation anywhere in Australia where compensation is applied.

Hon Kay Hallahan: That is right.

Hon FRED McKENZIE: I am aware that it has been applied in New Zealand, and that was a disaster.

Hon Kay Hallahan: That is also right.

Hon FRED McKENZIE: I am glad the Minister agrees with me on those points. The situation needs to be examined. I need to convince members opposite, and that is a very difficult thing to do, but it is not sufficient for me to say that compensation does not apply in

other States which have heritage legislation. Western Australia is one of the last, if not the last State to adopt this type of legislation. It is long overdue, and for that reason I welcome it.

Members should understand that a development lobby claims that this legislation will infringe on people's rights. I intend to go through a whole list of things in order to demonstrate that we do not have the freedom which people might think we have, and that is for a very good reason. We, the legislators, irrespective of which Government has been in power, have introduced legislation to impinge on the rights of people, but for a very good reason: So that the whole of society benefits from the legislation we introduce. It is to ensure that the rights of others are protected, and that is precisely what this Bill is doing.

To suggest that compensation should be applied in the same manner as it is applied, for example, under the metropolitan region scheme is to take a wrong direction. I shall give honourable members some examples.

It has been said in other quarters that property rights are paramount. We cannot disagree with that, but let us look at what we are doing in respect of property. Ownership of land is taken to mean that if a person's name appears on the certificate of title he has certain rights. Possession of property in the absence of legal ownership also gives rise to certain rights in that property. I do not disagree with any of that, but these rights are not unfettered. People do not have the right to use the property in an absolutely free and unlimited way. We are, after all, living in a harmonious society as a cooperative agglomeration of citizens. In order to continue to live socially, each individual has responsibilities to each of the others. In some cases these responsibilities are spelt out through laws which are passed by Parliament. In other cases the responsibilities are merely expressed as moral obligations. The point is that we do not have the absolute right to do completely as we choose, either generally or in respect of our property, because we are part of a society. Property rights are not absolute.

Let us look briefly at what can or cannot be done by an existing property owner and then consider how this might change under the new heritage legislation. A property owner cannot now just go and build on his or her land any imaginable structure. He or she must seek, for example, development approval from the local authority or the State Planning Commission, depending on the type of development that is proposed. A property owner does not have the absolute right to clear vegetation and cause land degradation, either on that piece of land or elsewhere. He or she must have the approval of the Commissioner of Soil Conservation; and for very good reason. Much of our land is suffering from soil degradation, which must be controlled. Farming people sitting opposite will recognise that.

So it is not just a simple matter of saying, "I own the land and I can do what I like with it." One can be the custodian of the land, but one must be subject to the laws because of the effect it has on the community generally.

Hon Peter Foss: What effect does it have on the community when you have a property of your own, which is similar to the effect of your not looking after your land properly?

Hon FRED McKENZIE: There are ample examples of that - salt encroachment and so on.

Hon Peter Foss: I agree. I can fully understand that, because what you do on that land may affect your next door neighbour; but in the situation of a heritage property, how does that affect the next door neighbour and his rights?

Hon FRED McKENZIE: I am not saying it does affect his rights, but we have very little heritage left and most of what is left is Government buildings. There are examples of where it has been very well protected - in Fremantle, for example.

Hon Peter Foss: How do you make the equivalence between salt encroachment, which I can accept, and a person knocking down his own building?

Hon FRED McKENZIE: I am just pointing out that the argument has been used that people should be compensated if they are going to lose their property and it is of heritage value.

Hon Peter Foss: Only if they are injuriously affected.

Hon FRED McKENZIE: One of the great things which has been said - and I have no doubt Hon Peter Foss will use it in his argument - is that one can be compensated when society requires one's block of land for road building purposes, for example. I do not think that is a sound analogy.

Hon Peter Foss: It is closer than salt encroachment.

Hon FRED McKENZIE: I do not think it is. When Hon Peter Foss makes his speech he should tell me where else in Australia - or where else outside Australia, for that matter - compensation is paid in these circumstances, and the benefits that have been obtained from it. I will expect to hear from him on that.

Hon Peter Foss: I will tell you why you should pay compensation.

Hon FRED McKENZIE: But we have put in place a whole range of provisions and, to carry it just a little further - and this is only a recent introduction because of legislation passed through this Parliament - in many developments people are subjected to Environmental Protection Authority approval. We never had that when the Kwinana strip was built.

Hon Peter Foss: But that is because of the effect on your neighbour, because what you do on your property might affect somebody else. With heritage properties, what people want is to share in your property.

Hon FRED McKENZIE: But heritage belongs to us all.

Hon Peter Foss: Not if you don't pay for it. If you buy a share in it, it does.

Hon FRED McKENZIE: If Hon Peter Foss does not want to be proud of our heritage -

Hon Peter Foss: I am proud of it, but I realise that if I want it I must pay for it.

Hon FRED McKENZIE: But there are other advantages people can enjoy, and those are incorporated in this legislation.

Hon Peter Foss: People don't get compensated, do they?

Hon FRED McKENZIE: Sometimes the heritage value of these properties actually causes them to increase in value. That can be shown in other States of Australia.

Hon Peter Foss: Then you don't get any compensation. You can only get it for injurious affection. If it goes up in value you do not get compensation.

Hon Kay Hallahan: Do you pay into the public purse if it goes up in value?

Hon FRED McKENZIE: The Minister has made a very sound point.

Many people have been talking about unfettered rights, but they just do not exist because we are all responsible for each other.

Hon Peter Foss: We should have equal rights.

Hon FRED McKENZIE: Society would not support our returning to the bad old days when these ideals were not in place. They must be in place. The mighty dollar should not rule everything. What about a property owner who is sitting on a mineral site? Very few certificates of title provide for access to the minerals below the land.

Hon Peter Foss: But very few people own minerals; that is correct.

Hon FRED McKENZIE: It is just a form.

Hon Peter Foss: No, they don't own the minerals so they are not entitled to them. That is the difference.

Hon FRED McKENZIE: But do they own the land?

Hon Peter Foss: Yes, but not the minerals.

Hon FRED McKENZIE: How does one own the land? It is something we have developed in our society. The land is really owned by nobody.

Hon Peter Foss: I do not agree.

Hon FRED McKENZIE: Hon Peter Foss did not put the land there; God Almighty did that, or whoever.

Hon Peter Foss: But we bought it.

Hon FRED McKENZIE: But Hon Peter Foss has turned it into a dollar making exercise. Society has done that, but in this case I do not believe that we should provide for compensation.

I have spoken already in respect of the rights people have. Members opposite might argue whether it is necessary for approvals to develop land. A person might not be interfering with anybody just by submitting a development application to build a house.

Hon Peter Foss: I will explain the difference to you later.

Hon FRED McKENZIE: Similarly, people must apply to a local council for a building licence to build.

Hon Peter Foss: And you are entitled to do it if you comply with all of the requirements.

Hon FRED McKENZIE: Yes, if all of those requirements are complied with, and they are numerous. How many appeals are made to the Town Planning Board or the local authority in the first place?

Hon Peter Foss: But people have rights there.

Hon FRED McKENZIE: Is Hon Peter Foss saying people will not have any rights under this legislation?

Hon Peter Foss: Owners of heritage properties are treated differently from everybody else. If you have a new house you can apply to do things, but if you have an old house suddenly different rules apply.

Hon FRED McKENZIE: Is the member saying we should not have this legislation but should let people have unfettered rights to do what they want to do with the property?

Hon Peter Foss: No, we are saying what I have said in my amendment: If society causes you to be injured, which is what injurious affection is about, you should be compensated.

Hon FRED McKENZIE: Where will we get all this money from?

Hon John Halden: What the member is suggesting runs contrary to the decision in the Tasmanian dams case.

Hon FRED McKENZIE: If it is properly done there would be no reason for devaluation of property by developers. We have heard about obstructions being put in their way. However, we have seen good developments in Perth, such as the Cloisters building, where that value has not been decreased. I can cite other examples where good buildings of heritage value have been destroyed unnecessarily.

Hon Peter Foss: Such as the Karrakatta Crematorium building and the market tower?

Hon FRED McKENZIE: I am not aware that the buildings were listed as buildings of heritage value.

Hon Kay Hallahan: The crematorium was not.

Hon FRED McKENZIE: On other occasions developers have been allowed to run rampant. The Palace Hotel has been destroyed.

Hon Peter Foss: St George's Hall is another example of such disgraceful action.

Hon FRED McKENZIE: This legislation does not change any of that. All these provisions will still be in place. An owner will submit an application to the local council or to the State Planning Commission and receive a response based on the merits of the proposal. In the case of a refusal, the existing appeal mechanisms will still apply, and with the exception of building licences applications where the response time will increase from 35 days to 60 days, all of the statutory time limits for dealing with those applications will continue to apply. Nothing else changes.

The only change to the development approvals process as a consequence of the heritage legislation is that the existing decision makers will be required to take heritage values into account when considering a development application. This will be invisible to the applicant; it will be handled internally without any additional impost on the owner.

For less significant changes to a place on the Register of Heritage Places - that is, for things that do not require a demolition licence, a building licence, or approval from the SPC - there will be a requirement for owners to consult with the Heritage Council. This is outlined in clause 75 of the Bill. However, we would assume that this kind of consultation would occur anyhow since owners would want to take advantage of the incentives offered as a result of the legislation.

I understand that some of the development interested groups have the point of view that at present it is possible to knock over heritage buildings illegally. A bulldozer can move in during the small hours of the morning and do that.

Hon Doug Wenn: It has happened.

Hon FRED McKENZIE: And more than once. But this legislation will prevent that because penalties will apply. These are the sorts of things we should recognise and be concerned about. We should respond to these matters. Should we tacitly condone illegal demolitions by not having controls and penalties in the legislation? Should we not proceed with this heritage legislation so that the developers can continue with their night-time demolition exercises? I do not believe so. That is not what the people want. Currently we have a problem but I cannot believe that members opposite would support that view.

I have dealt with the issue of property rights by demonstrating that a whole series of activities are subject to regulation or legislation passed this year. I have indicated how an entry placed on the heritage register will not infringe those rights. There is a potential control through the provisions outlined in clause 75 but generally this is obviated by the consultation process flowing from the conservation assistance provisions outlined in part 4 of the Bill.

I turn now to comment in greater detail on the issue of compensation because as I said earlier it has been stated in many places that the compensation provisions in the planning legislation should also apply here. The basis of that argument is that entry of a place on the Register of Heritage Places is equivalent to reserving a place for public purposes such as a future road or for public open space. We reject that notion.

Hon Peter Foss: Can you explain why?

Hon FRED McKENZIE: I will go on to explain. Entry in the register does not sequester property rights; I have already made that clear. Section 11 of the Town Planning and Development Act provides for compensation for injurious affection and betterment as a consequence of meeting the town planning scheme. Section 12 qualifies the application of section 11 by saying in effect that anything done legally through the normal town planning process is exempt from compensation claims.

Hon Peter Foss: Have you read what our clauses say?

Hon FRED McKENZIE: I have seen the Opposition's amendments; they are very comprehensive. I cannot understand why the Opposition wishes to proceed down that path.

Hon Peter Foss: The point the member makes is encompassed by that.

Hon FRED McKENZIE: I will continue with my notes. I refer particularly to section 12(2)(a) and (b) which states that -

... land shall not be deemed to be injuriously affected by reasons of any provisions of a town planning scheme which deals with any of the matters specified in clause 10 of the first schedule to this Act ... unless the land is reserved in some way.

Hon Peter Foss: A distinction should be made between zoning and reservation.

Hon FRED McKENZIE: I will come to zoning further on. Clause 10 of the first schedule deals with zoning and the classification of land generally. Zoning is of course the most powerful tool that local authorities have for affecting the value of land so this provision is stating that rezoning does not attract compensation.

Hon Peter Foss: What about reservation of land?

Hon FRED McKENZIE: If a local council down-zones a piece of land from commercial to residential and wipes out thousands of dollars of the value of the land, it is not liable to compensate the owner for that lost value. We see land upgraded from residential to commercial -

Hon Peter Foss: What about reservations?

Hon FRED McKENZIE: I am not talking about reservations.

Hon Peter Foss: The member should, because this is reserving for a public purpose.

Hon FRED McKENZIE: I pointed out in relation to town planning schemes adopted by

local councils that those councils can downgrade land because it is rezoned out of commercial to residential and a drop in valuation occurs, but the member does not want to hear. No compensation is paid in that event.

Hon Peter Foss: The member put his argument correctly and now he is dealing with zoning. Why not deal with reservation rather than zoning?

Hon FRED McKENZIE: I have stated that the most powerful tool local authorities have is the rezoning process. Who pays compensation in that situation? What provisions do we have?

Hon Peter Foss: The member should make his argument correctly by referring to reservation.

Hon FRED McKENZIE: I have not spoken about reservation; the member brought that in.

Hon Peter Foss: The member stated the argument.

Hon FRED McKENZIE: The member is trying to sidetrack me; as soon as I started to point out that his argument about compensation was false he did not want to listen.

Hon Peter Foss: The member should read back a couple of paragraphs; he referred to reservations.

The DEPUTY PRESIDENT: Order! I will not sidetrack the member.

Hon FRED McKENZIE: Perhaps I should address my remarks through you, Mr Deputy President. Some people have argued that entry of a place in the Register of Heritage Places will be analogous to spot rezoning. I do not agree. Heritage legislation is much less than rezoning. However, were that analogy to be followed no compensation would be payable for entry in the register. Representatives of the development interest groups and members of the Opposition, in Press statements and in other places, have drawn attention to the compensation provisions of the Metropolitan Region Town Planning Scheme Act. They have suggested that these should serve as a model for provisions in the heritage Bill. They have misunderstood the metropolitan region scheme provisions, and they have drawn a totally misleading parallel between the entry of a place into the Register of Heritage Places and reservation for public purposes. I reiterate, registration is not reservation. Registration does not sterilise a site from future development, and it does not involve the acquisition of an interest in the land. It is not the same as reserving land for public purposes. What is Hon Peter Foss' answer to that?

Hon Peter Foss: It is exactly like that; it stops it from future development. Are you saying that you can develop it and knock it down and rebuild it?

Hon FRED McKENZIE: It does not do that at all.

Hon John Halden: Hopefully, you should not be able to either.

Hon Peter Foss: That is the point. You can knock down things in a zoning and put up new buildings; in a reservation that is exactly what happens, as a site is reserved for a particular purpose. You have just proved that reservation is like zoning.

Hon FRED McKENZIE: I have done the member cold again, but I must give him credit for his persistence - he gets 10 out of 10 for that.

The Metropolitan Region Town Planning Scheme Act draws on the powers in the provisions of the Town Planning and Development Act. In effect it allows the Government to prepare an overall town planning scheme for the metropolitan region. That town planning scheme is referred to as the metropolitan region town planning scheme, which is a general scheme to which all local council schemes must conform. The metropolitan region scheme identifies in general terms which land can be used for residential purposes, for industrial purposes and for a range of public purposes such as roads, schools, hospitals and public open spaces. Clearly, land that is identified for future use for such public purposes will need to be resumed and acquired by the Government for those purposes. In the metropolitan region scheme we are talking about land which the Government will acquire, and that is quite different from land which is registered in the heritage register because the Government does not want to acquire that land; it is simply registering it.

Hon Peter Foss: Exactly!

Hon FRED McKENZIE: Section 36 of the Metropolitan Region Town Planning Scheme Act deals with compensation. This clarifies the application of the provisions of sections 11 and 12 of the Town Planning and Development Act. I have already referred to these provisions as allowing compensation for injurious affection. This applies only where the land is to be used for a public purpose, or where a non-conforming use is curtailed. Under this section a claim can be made for injurious affection for land that is identified in the metropolitan region scheme for future use for public purposes. In most cases the Government does not want to acquire the land immediately because the road, the school or whatever is not required immediately. Members opposite would be aware that these schemes have been developed well in advance so that people are aware of what is likely to happen in the future. From time to time these schemes have been amended because of changing circumstances, but sufficient notice is given as a result of the development of the metropolitan region scheme.

This scheme was introduced in about 1963, and until that time we had an ad hoc situation. Through the State Planning Commission the Government pays a portion of the value of the land now, and pays the balance when the land is needed, as this is a requirement of the Act. The first payment, or deposit, is paid for the lost development potential and is therefore referred to in the legislation as "compensation for injurious affection". The essential point is that the first payment is an instalment of the process of acquisition for public purposes. This is quite different. The analogy between the entry in the Register of Heritage Places and the reservation of land and the metropolitan region scheme is not valid.

Hon Peter Foss: We will discuss this another time.

Hon FRED McKENZIE: Therefore, the need for similar compensation provisions does not exist.

I have attempted to deal with the most important part of the debate on the heritage legislation. The debate is not an easy one because the issues are complex; however, the waters have been muddied by a misunderstanding of what the heritage listing entails and about what existing legislation provides by way of compensation. I have attempted to clarify these issues in my contribution to the debate. These issues involve things such as the rights conferred on owners of property, which are not absolute and which are not unfettered. I trust that I have pointed that out to members. The Government accepts this situation in introducing the legislation. It is not seeking in any way to remove those rights, and, as no rights are being taken away, there is no need to compensate. The existing planning legislation makes reference to compensation but the qualifications mean that compensation is payable only when the land is reserved for public purposes. Any entry into the Register of Heritage Places is not the same, or anything like, reservation for public purposes.

Hon Peter Foss: You can keep looking at me, but you will not convince me.

Hon John Halden: We are convinced about that!

Hon FRED McKENZIE: Even if the similarity were correct, which I dispute, no precedent exists in existing law for payment of compensation for entry of a place into a register. Entry into the Register of Heritage Places is similar to classification by the National Trust. It is a comprehensive evaluation and documentation of heritage values. No-one of whom I am aware has ever sought compensation as a result of a National Trust classification. Hon Peter Foss may be able to tell me otherwise.

Hon Peter Foss: That does not stop one from doing anything. I could come around and give you a personal classification and that would have just as much effect on your land as a National Trust classification.

Hon FRED McKENZIE: That is because we do not have any legislation to enforce it.

Hon Peter Foss: Exactly; so compensation cannot be involved if it has no effect.

Hon FRED McKENZIE: Is that not what this Bill is about?

Hon Peter Foss: I do not get your point.

Hon FRED McKENZIE: The Bill before the House has taken a great deal of thought and the Government's position on compensation is not an ideological one, as some members have tried to suggest; it is a practical one. I have done my best to indicate that, but Hon Peter Foss has indicated that he is not convinced.

Hon Peter Foss: Not terribly, no.

Hon FRED McKENZIE: At least there is a little hope.

Hon Peter Foss: No, none at all.

Hon FRED McKENZIE: The member disappoints me.

Hon Peter Foss: The delivery was delightful, but the content was a little light on.

Hon FRED McKENZIE: I assure the member that when my colleagues have spoken on this legislation, the little ray of hope that I have will be realised and the member will be convinced.

Hon Peter Foss: You are one member to whom I will always listen.

Hon FRED McKENZIE: I could have devoted my speech to speaking about the greatest heritage value we have in Western Australia; that is, the railways.

Several members interjected.

Hon FRED McKENZIE: I happened to mention on an ABC program this afternoon the lovely railway station at Brookton; York has a similar station.

Hon Peter Foss: We lost many stations along the Perth to Fremantle railway line, which I thought was a terrible shame.

Hon Graham Edwards: We nearly lost the railway line!

Hon Peter Foss: It might have been cheaper to keep the stations and to lose the line.

Hon FRED McKENZIE: I hope that we do not lose the guards, as I was a guard at one time. However, I will not refer to the heritage value of railways as my time is limited. Rather than get on to that track, I will indicate my strong support for the Bill. I hope that this House will not have to debate amendments relating to compensation. Members on this side of the House should use their influence on members opposite to convince them that compensation under this type of legislation cannot be regarded as analogous to that applying under the metropolitan region planning scheme.

HON PETER FOSS (East Metropolitan) [10.01 pm]: I will address three issues in the Minister's second reading speech: The first is the comparison with the treatment of Government and individuals; the second is a missing element - a precautionary listing; and the third is the question of compensation.

I am concerned about the way this Bill deals with Government buildings. Hon Fred McKenzie has acknowledged, as will most people in Western Australia, that many of the significant heritage buildings in the State are owned by the State Government. Certainly, the most significant ones are owned by the State Government. Any heritage legislation should be directed in no small measure towards Government buildings. This Act is a start in the right direction, as it binds the Crown. Perhaps that is not as necessary these days after the Bropho case, but clause 4(1) is useful to that extent.

I see a problem with clause 43, as a building will be able to be registered only where the Minister so approves. One might say that the Government is treated in the same way as an individual because an individual's property can only be registered if the Minister so approves. However, the difference is that the Government will decide whether its buildings will be registered and in the case of private individuals it is a third party, namely the Government, which makes the decision. One need only look at the record of Governments of both political persuasions to see that is not a good idea. One has only to walk to the front of this Parliament House to see the rump of the Barracks. A large number of buildings around Perth have been destroyed at the behest of the Government. The last line of terrace houses was knocked down to build the Fire Brigade building. The old wooden signal box at Barrack Street was knocked down to build the cultural centre. The excuse given was that it would be replaced by a new and better cultural centre. We can now see that great cultural representation of Perth - a car park! Hon Fred McKenzie will be aware that this Government allowed a listed railway signal box to be knocked down to build a car park. The Minister recently allowed Karrakatta Crematorium chapel to be knocked down.

Hon Kay Hallahan: After assessment.

Hon PETER FOSS: The National Trust came along and assessed it. That is why I do not trust the Government; the chapel was assessed and yet it was knocked down.

Hon Kay Hallahan: Nobody cares whether you trust the Government.

Hon PETER FOSS: The Minister's record is just as disgraceful as that of anybody else. It may be worse because she stands up and hypocritically states how keen she is on heritage, and at the same time is busy knocking down our buildings. During her time as Minister she also managed to knock down the water tower in the Perth Markets. The Minister has still not given me a significant assurance that the Treasury buildings will not be turned into a hotel for Lord McAlpine. The Government also knocked down a building in which I had a particular interest, St George's Hall, with its accompanying office building. Both of those buildings were essential buildings which should have been preserved for the heritage of Perth. St George's Hall was the first theatre in Perth and this Government knocked it down for its favourite development - a car park.

Hon T.G. Butler: You are incorrigible.

Hon PETER FOSS: Is Hon Tom Butler saying there is no car park on that site?

Hon T.G. Butler: Are you suggesting that the Government knocked it down?

Hon PETER FOSS: It is a car park now. The Government should not have knocked down St George's Hall or the office building next door.

Hon Tom Helm: Let us pass a Bill to stop that happening!

Several members interjected.

The DEPUTY PRESIDENT (Hon John Caldwell): Order!

Hon PETER FOSS: I ask the Deputy President for a little bit of assistance because I have a serious point to make.

Hon T.G. Butler: That will be a nice change.

Hon Tom Helm: Get serious.

The DEPUTY PRESIDENT: Order!

Hon PETER FOSS: The Government knocked down St George's Hall and the accompanying office block and we now have a car park. I do not care whether the Government intended to build a car park or not, the fact remains that that was an essential part of our heritage and the Government knocked it down. The Government should not be allowed to make decisions about its own property. It is all too keen to invade the rights of the individual, but it is not prepared to see one slightest bit of devolution from its own rights to deal with its own property. The Government is using double standards. It was proposed in the Bill introduced in this House by Hon Phillip Pandal that the National Trust list Government buildings and that the Government not have the option to prevent that listing. It is important that Government buildings be put on the list, whether the Minister likes it or not. I challenge the Minister to explain to Parliament why the Government should decide on its own case. It is a fairly basic rule that no-one should judge his own cause. The Government of Western Australia - and I do not say this Government any more than previous Governments - has a poor record of preserving heritage buildings. The reason for this poor record is that the Government has reserved the right to knock down its own buildings, and it is not prepared to give that power to somebody else. It is important that the Government cease this continual knocking down of Government owned heritage buildings and make sure that the interests of Government do not overcome the necessary requirements of heritage.

Hon John Halden: To whom would Hon Peter Foss refer the listing of Government buildings of heritage value?

Hon PETER FOSS: The Heritage Council should be able to list Government buildings without having to await the consent of the Minister. This may be capable of some form of appeal if that was wanted. It should not be in the hands of Government to make decisions on Government buildings. The Government has criticised self-regulation in the tobacco industry. The same criticism could be made about Government regulating its own heritage buildings. It has not worked in the past and I do not believe it will work in the future.

I do not consider that Governments have changed their colours and I believe the actions of

Hon Kay Hallahan of late indicate that Governments do not change their colours. No matter how much it professes to be interested in heritage, it continues to knock down our buildings and most of the important heritage buildings in Western Australia happen to be owned by the Government.

I believe this Bill should be strengthened by taking out of the hands of Government - the owners - the decision as to whether Government buildings should be listed as heritage buildings. There is an even more powerful reason why the Government should not object to that than there is for taking it out of the hands of private individuals because, in the case of Government buildings, no private interest is to be maintained. Government buildings are owned already by the people of Western Australia and if a Government building is taken away from the development use to which a Government may wish to put it, everybody in Western Australia equally bears the cost and responsibility for it because we, as taxpayers and citizens of Western Australia, suffer the cost. Therefore, there can be none of the private individual rights argument that may apply to an individual.

I believe that the argument for making Government buildings subject to an order by the council so that Governments do not continue their sorry record is unarguable. I know this Government has not been keen on having this matter taken out of the hands of Government. For some reason, it is not prepared to trust somebody else. However, it says to the people of Western Australia that they should trust it and the Minister when it comes to Government buildings.

My second point relates to what I call a precautionary listing. My concern about this is an important concern. Difficulties are involved in heritage listing. It is recognised in the Bill that fairly severe consequences result from a building's heritage listing. A provision in the Heritage and Preservation Bill presented by Hon Phillip Pandal provides for a different set of rules to apply, depending on whether the first schedule or the second schedule of the Bill applies. If a listing is in the first schedule, all of the consequences of the Bill come to bear upon the building, and buildings get into the first schedule on two bases. If they are Government buildings, they go straight into the first schedule and if they are private buildings they go into the first schedule pursuant to a heritage agreement.

The first schedule of Hon Phillip Pandal's Bill is similar to a heritage registration under this Bill and the consequences are much the same. Registration under this Bill has serious consequences and there is a requirement for it to be very seriously looked at before these measures are put in place.

I would like to see a precautionary registration which would enable buildings that the council would like to see registered to be given a precautionary registration. The precautionary registration would not have any deleterious affects on the person's rights except that the owner would have to give notice before actually carrying out the development so the Government could decide whether to take urgent action to give it a proper registration. It would also enable the Government to plan and look at buildings which could become heritage items, which it believes are a minor value heritage item or which may be a multiple heritage item so that, if people knock them down in quantity, the Government will be able to do something.

We should not assume that heritage is something that we will find out about immediately. We will not go out tomorrow and be able to identify all of the places that are and will for all time be heritage places. I will be moving an amendment to try to provide for a scheme similar to a Victorian scheme whereby local authorities are required to carry out an inventory of the built environment. I will give the House an example of how that works. In a local government area there may be 50 typical small cottages dating from the time the area was first settled. Obviously, 50 is too many to preserve. However, while there are 50, we need not be concerned that the heritage will be destroyed. However, what may happen is that, over a period, one goes, another may fall into ruin and another may be knocked over until eventually the number of available houses of a type will be pared down so that they become an endangered species.

It is important in the case of heritage or in any form of looking after the environment to plan ahead. I would like to see in the Bill an obligation on local authorities to carry out an inventory of items which are or will become items of cultural heritage significance and to review this inventory at regular intervals so that they appreciate the problems of the

endangered species of built heritage and are in a position, first of all, to recommend precautionary listing which is what I suggested should be the first step, and, secondly, if the situation goes on further to eventually reach the listing on the register of heritage items, so that we are not taken by surprise when suddenly somebody wants to knock something down. Often what happens is that plans are drawn up, and the Government has to rush to have the building listed. That tends to happen. I know efforts will be made to survey all the heritage items, but it is not until somebody wants to knock something down that people realise that certain items are of heritage significance.

I would like to see in the Bill an intermediary stage which is a stage somewhat similar to that proposed in part II of the schedule in Hon Phillip Pendar's Bill. An opportunity will be provided for certain protection. For instances, it is possible that alterations may be carried out on a building at the behest of local government. I can give the House an example of that. In the early 1970s all buildings in the city area were required to remove their verandahs. That was done under a local government by-law. The excuse given by the council was that they were dangerous and that people walked into the posts. I do not know why they suddenly started walking into posts, and if they did, they probably should not have been catered for. The interesting thing was that the council immediately put up parking meters which people continued to walk into. Unfortunately, that was a severe desecration of many of the old buildings in Perth done at the behest of local government.

Members may say that few of those buildings were actually heritage buildings, but we lost a significant part of our heritage. The only building in the whole of Perth that resisted was the Esplanade Hotel at which all of the lawyers in town drank. When the Perth City Council tried to make it remove its verandahs, the consensus in the front bar was that it did not have the power because that power was vested in the licensing authorities. The woman licensee resisted the move and the Esplanade kept its verandahs. Unfortunately, the Esplanade was knocked down later and that was a shame.

It does indicate that the vandals, Visigoths and others are not necessarily the owners of these properties. The vandals can frequently be either central or local government. There is a need to plan and to provide protection ahead of the final registration on the register. We must keep in mind that we have varying degrees of protection we must provide and we must conserve by other means, as well as using the ultimate remedy of total protection. I would like the philosophy behind this Bill to be that of conserving our heritage, not by total prohibitions in the manner contained in this legislation, but by an intermediate step which could be used as an encouragement to people to move on to the next step of having their buildings registered.

Generally speaking, it is possible for people to be fully compensated for an appropriate arrangement under a heritage agreement. I believe that in 99.9 cases out of 100 it would be quite possible if negotiations took place in a reasonable atmosphere, in reasonable time and people knew what they were in for, that they would see the benefits of registering their buildings. The Bill provides for different forms of compensation; it does not have to be with money. We must not always get out the big stick and hit people over the head with it. We have to bring people to the realisation that it is a good idea. I have said previously in the case of regional planning that trouble occurs when things are changed suddenly. People do not like that.

Hon Kay Hallahan: We see evidence of that in this place all the time. I quite agree with you.

Hon PETER FOSS: If people are given some warning, are not threatened and are given the opportunity to see what are the benefits -

Hon John Halden: They go there in the small hours of the morning and knock the God damn thing over.

Hon PETER FOSS: If the member follows the measures I am suggesting he will find that we will be better able to protect these buildings.

If we plan ahead we will have a much better chance of persuading people to enter into a heritage agreement. It is quite clear that the Government is of the opinion that that is the preferred way to go. I do not think there is any argument between the two sides of this House on that point. It is a matter of what is the best way to go about achieving that aim. It will be easier if we adopt the two propositions I have put forward - the proposition of

inventory and that of some form of precautionary listing which does not have the full ramifications that apply to the registering of buildings under the legislation.

I have been distressed by some of the news releases that have been put out by the Minister regarding compensation. There are two ways in which we can go about introducing this legislation. We can seek to arrive at something which is of some reasonable consensus, or we can make wild and woolly claims about each other which will cause us to lose our tempers and indulge in mud slinging across the House. I am about to indulge in some mud slinging across the House because I found the media statements about compensation to be quite extraordinary.

Hon John Halden: You find most of them extraordinary.

Hon PETER FOSS: No; it is only the media statements put out by Hon Kay Hallahan which I find extraordinary.

The DEPUTY PRESIDENT (Hon John Caldwell): Order! I warn the member that the mud slinging has to come through me and should not be across the House.

Hon PETER FOSS: The first media statement to which I will refer was on 1 August 1990 and it reads -

Heritage Minister Kay Hallahan today challenged the State Opposition to give a public guarantee that it would support the Government's heritage legislation - without amendment - in the forthcoming session of State Parliament.

Mrs Hallahan said a guarantee would demonstrate that there was bipartisan commitment -

One would assume that she would get bipartisan commitment. It continues -

- in Parliament for urgent protection of Western Australian heritage buildings.

She said the proposed legislation gave the Government tough powers to protect heritage buildings and should not be weakened by Opposition amendments.

"The imminent demolition of the Loreto Convent by businessman Robert Holmes a Court highlights the need for the Government to have special powers to intervene to protect significant buildings," she said.

One might also include the imminent demolition of the Karrakatta Crematorium and the markets as reasons that someone should have some powers. To continue -

"The proposed legislation would give the Minister for Heritage the power to issue stop work orders to prevent privately owned buildings - such as Loreto - being demolished.

"Stop work orders are a last resort to protect buildings while negotiations take place with the owner."

The following point is very interesting -

She said the Labor government had introduced the legislation into State Parliament twice since coming to office in 1983, but it had not progressed to the Opposition-dominated Upper House of Parliament.

Who is to blame for that? If the Government were a business and it issued something like this it would be charged under section 52 of the Trade Practices Act for misleading conduct. It is almost as though the Minister is suggesting that it has something to do with the Opposition dominated upper House: but it did not reach this place. Is it because the Opposition did not go to the Legislative Assembly and get it?

Hon George Cash: That is the inference people drew from it.

Hon PETER FOSS: I do not blame people drawing that inference. It is highly deceptive. How can the Minister blame this House if the legislation is not brought into this place? The Minister's Press release continues -

The former Liberal Government introduced heritage legislation in 1975 but withdrew it, despite having a majority in the Upper House. The legislation was not reintroduced during the Liberal Government's remaining eight years in office.

What the Minister did not mention - perhaps it would have been a little less disingenuous for the Minister to have done so - was that the Liberal Party not only introduced legislation in the upper House in the last session, but also it sent it from this House to the lower House and the Government would not give it a first reading. Did the Minister mention that in her media statement? Oh, no - she is looking for bipartisan support and she put out one of the most biased and misleading media statements I have ever seen. I must say that I expect it entirely of this Minister. That is not the end of it. The next media statement to which I will refer was dated 21 August 1990 and in the fourth paragraph she said -

The Minister said the top ranking of the Heritage Bill on the Government's legislative agenda signalled a strong commitment to new laws to protect Western Australia's historic buildings and places.

That is an interesting point because, if I recall correctly, the top ranking of this Bill meant it arrived in this House several weeks after it was expected to do so despite constant requests from Hon Phillip Pendal.

Hon Kay Hallahan: That is rubbish!

Hon PETER FOSS: It is rubbish, is it? Did not Hon Phillip Pendal regularly ask the Minister whether she would bring it to this House? Did he not almost have to beg the Minister to bring it here before he went overseas on parliamentary business? Did he not have to speak to the second reading the day after the Minister's second reading speech? The interesting thing about that is that the Minister was complaining about the Opposition delaying her legislation which had not even been presented to this House. I consider that to be extremely deceptive. This Minister does not worry very much about the fact that legislation has not reached the upper House before she starts complaining about the Opposition's delaying it. When she was tackled in this House about what she was saying outside, what did she say? She said she had to hold onto the legislation while she contacted other groups about the proposition concerning compensation. That meant her going around spreading all sorts of wild statements about the effect of compensation and drumming up people to write to the Opposition to tell it that that was completely against the principle of the Bill and would cause all sorts of problems. She was drumming up political pressure. So much for a bipartisan approach and so much for telling the public the truth about what has been happening. She has not been telling the public what is the true situation and one has only to read her Press reports to find that out.

It is stated on page 2 of this Press statement, which is one of two released on 21 August 1990 -

"Importantly, the Crown is bound by the legislation, so buildings in Government and private ownership will be protected in the same way," she said.

That is most interesting because the Minister did not point out to the people of Western Australia that she would decide whether Government buildings would be protected and it is probable that such decisions would be made in the same way as the decisions were made on the Karrakatta Crematorium, the metropolitan markets, St George's Hall and the office building next door. That is the sort of protection Government buildings will get, whereas at least an independent person will make decisions about private buildings. So much for that statement. In a further release on 21 August 1990 - which was a big day for the Minister - she said -

The Opposition was exercising double standards in its stance on the State Government's heritage legislation.

This statement was made by a lady who is keen on getting bipartisan support for the legislation. It continued -

Mrs Hallahan said the Opposition had in State Parliament today foreshadowed amendments to the legislation which involved privileged treatment for the private owners of heritage buildings.

"Historic buildings and places are an important part of our cultural heritage, regardless of whether they are Government owned or in private ownership.

"Western Australia would have had heritage laws years ago if the Opposition had not been solely concerned with the sectional interests of private developers.

Heritage legislation would have been in place years ago if the Government had bothered to give the Opposition's Bill a first reading. The Press statement continues -

"It is to be hoped that the Opposition has not set itself on a course of frustrating attempts to introduce workable and effective heritage laws in this State.

Let us consider the double standards referred to by the Minister. When a Government building is reserved for heritage purposes, everybody in Western Australia will pay for that because they all own that building; however, when a private building is reserved for heritage purposes, the cost will be borne by the private owner. The Opposition will amend the Bill to provide that owners of private properties reserved for heritage listing will be paid for injurious affection from money derived from the sale of the Minister's house! In that way she will make her own personal contribution to the preservation of heritage buildings. I am sure she will be glad to have that opportunity and to make the real sacrifice of allowing her home to be sold for this purpose. It is all very well for the Minister to say that the Opposition is setting double standards; in fact, the Government is doing that. It expects to have the right to say when its buildings will be listed but it denies private owners that same right. When Government buildings are listed the people of Western Australia will pay for them, but when the properties of private owners are taken, they will pay because it will be for the benefit of everybody in Western Australia and private owners should be glad of that opportunity to contribute to!

Hon George Cash: Are you saying that these Press statements were released to the media for publication?

Hon PETER FOSS: Yes, because they are all available in the library and I saw reports on them in the media. The statements get worse and there are more of them. The Minister said -

It is unreasonable and inconsistent to suggest that the new laws should be lenient on private owners but tough on the Government.

The Minister is suggesting that leniency involves taking away a person's property with the State paying nothing towards it, but it will be tough on the Government - which is the people of Western Australia, who have all contributed - because somebody else will decide whether that property should be devoted to heritage purposes. The Government has not bothered to think about this matter from the point of view of people being deprived of their property rights. The statement continues -

The overriding concern should be the preservation of the buildings. Ownership is not the central issue.

Even President Gorbachev would not say that; that is the biggest bit of red rag socialism I have ever heard. It does not matter that people paid for that property; it will be for the good of the State! Why should the Government not pay? That is not the issue because the Minister does not intend to buy one of those old houses and, therefore, there is no possibility of her being caught by the legislation. The statement continues -

Private owners have as much responsibility as the Government in protecting and conserving heritage places for the benefit of present and future generations.

If present and future generations want the benefit of these heritage buildings, perhaps present and future generations should cough up some money to make sure it happens. Page 2 of the report contains the following statement -

Debate on the Heritage Bill - at the top of the Government's legislative agenda - resumed in the Legislative Assembly this afternoon.

We know what that means. The Legislative Assembly was mucking around with the Bill and not doing anything much with it. The best statement of all appeared in the Press release of 28 August 1990 which stated -

The State Government's heritage legislation is now set to be debated in the Opposition dominated Upper House of State Parliament.

That is setting the scheme for domination. The statement continues -

Heritage Minister Kay Hallahan said the historic legislation successfully passed through the Legislative Assembly today.

Of course, that left behind the other historic legislation with which the Government did not bother to deal last time. It continues -

Mrs Hallahan said the Government had accepted some minor amendments to the legislation, but was unwilling to adopt wholesale changes for the benefit of sectional interests.

Those sectional interests represent the people who have purchased the properties. The following is a good quote from the Press release -

Compensation for the owners of heritage listed properties defeats the whole purpose of the legislation, which aims to encourage the voluntary preservation of historic buildings through various incentives.

Several members interjected.

Hon PETER FOSS: Do members opposite wish to hear the comments of their Minister?

Hon Kay Hallahan: You should join Actors Equity.

Hon Tom Helm: You are filibustering.

Several members interjected.

Hon PETER FOSS: I would like to make sure that members hear these precious words of the Minister in the upper House, and I do not wish to raise my voice.

The DEPUTY PRESIDENT (Hon John Caldwell): Order! I have been very tolerant tonight because many interjections were made by Hon Peter Foss when Hon Fred McKenzie was speaking. Now that Hon Peter Foss is talking to the second reading, the debate has sadly deteriorated as a result of the interjections from the Government side. I believe the score is now one all, and that is a good time to stop interjections because Hon Peter Foss has only eight minutes in which to summarise his speech.

Hon PETER FOSS: The media statement of 29 August states -

"In fact, the experience in other States is that heritage listing actually enhances the value of a property. Listing should not be viewed as a penalty.

"The only people who will want compensation are those people who own, and are prevented from demolishing, a significant heritage building or place.

"Most private owners would not have any intention of demolishing their historic homes and would welcome access to the incentives, such as low interest loans for restoration work, which are available through the legislation."

Mrs Hallahan said the Opposition's compensation amendments, which were expected to be raised again in the Legislative Council, meant ordinary Western Australian taxpayers would have to foot the bill for heritage vandals.

"Taxpayers would be held to ransom by anyone who wanted to make a quick dollar by threatening to demolish their heritage building."

I agree with that statement that most private owners would not have any intention of demolishing heritage homes. That is absolutely correct. I also agree with the statement that the experience in other States is that heritage listing enhances the value of a property. However, that is the very point I wish to make; that is, in most instances if there is no injurious affection there will be no need to compensate people. If there has been an improvement, and that is quite possible, no compensation will be payable for injurious affection.

Hon John Halden: Using that analogy the State should have the profit.

Hon PETER FOSS: There are some arguments for that.

Hon John Halden: And they are very real.

Hon PETER FOSS: I do not believe that injurious affection will occur frequently. There will be few claims for it. The fact remains that people will purchase properties with the intention of owning them and using their ownership rights. Hon Fred McKenzie gave the example of what happens when people are restricted from causing salt problems to someone else's property. The answer is that one is always entitled to restrain a person from using his

property to damage someone else's property. That is a fairly important consequence. Society has always taken the view that people can be prevented from using their properties to damage the property of someone else.

The difference in this case is that the people of Western Australia are seeking to derive a benefit from something under the private ownership of another person. That is where the big difference comes under this heritage legislation. The Government is saying to a person, "You must not just preserve that for yourself but also for the people of Western Australia. We wish to take from you some of your ownership rights so that we may have them." If the people of Western Australia want to do that, and if, as a result of that, they injure the person from whom they have taken those rights, it is only appropriate that the people of Western Australia as a whole should pay for that.

We are not talking about large amounts of money. Members should look at the town planning scheme provisions and the metropolitan planning scheme provision which allow for injurious affection. The provisions do not state that the instant a person is registered he will apply for injurious affection compensation. They have similar provisions for injurious affection to those relating to reservations for public use and I believe it is closest to them. It is not a matter of saying how a person may use his land, which is what zoning is all about, but of saying, "We wish to reserve that land for a particular public purpose." That has significance in terms of how it works out in the case of zoning. If land is reserved for a particular use the owner is allowed to continue the use; he can redevelop the land and erect a new building for the same use because one of the rights preserved is the conforming use right that the owner can develop the land for the use permitted under the zoning.

Hon Fred McKenzie: Can I take the member back to the salt example? The Soil and Land Conservation Act prevents a person from clearing vegetation on his land.

Hon PETER FOSS: That is quite right. That is because the effect would be that the salt would go outside that person's land to someone else's land. That is not a concept not understood in law. The concept of nuisance of use of one's land in a way which is injurious to another person's land is well established without any of the statutory requirements relating to clearing. All that statutory provision did was extend some powers to the Government to enforce those rights, which were well understood in law for many years. The rights coming out of nuisance go back centuries; they are an old system of law. It is an obligation to use one's land not to cause injury to someone else's land. That is not a new concept but was inherent in ownership of land.

This is different in that we are trying to say that we wish to reserve that land for a public use. That public use is the preservation of the heritage of Western Australia. I agree with that. We are not proposing that the State should not have the right to preserve land for public use. We endorse that and are full of enthusiasm about that, but that is not the problem. We are saying that if the public want to take something for themselves then it is only reasonable that if a person is injured he should be compensated. We are not saying that injury happens instantly upon reservation.

Hon Fred McKenzie: What if the property increases in value?

Hon PETER FOSS: There are provisions in the Town Planning Act relating to betterment and the Government may wish to move further amendments relating to that.

[Leave granted for the member's time to be extended.]

Hon PETER FOSS: The essential thing we are saying is that certain events similar to the ones relating to compensation for reservation under the metropolitan region scheme and various town planning schemes must occur. The Minister will be able to indicate how often one has problems with this form of reservation. It is not a huge difficulty. I would expect that there would not be a claim for compensation in most circumstances. There are two reasons for that. First, the person will not be injured. If he is not injured then the matter does not arise. Secondly, I do not believe refusal to develop, or the sale, will lead to showing injurious affection. I do not believe that problem will arise.

More importantly, we believe that in most cases the person will be persuaded that rather than taking compensation he should enter into a heritage agreement. If he has a heritage agreement the question of compensation does not arise. Just before he left on parliamentary business Hon Philip Pandal announced a significant breakthrough which I believe meets the

Government's objections. The Government should listen carefully to this point to ascertain whether we really are at variance, one with the other. We propose that any court awarding compensation rather than awarding it in money terms should first cause negotiation and mediation between the parties to ascertain whether an agreement can be arrived at.

It will also be able to award compensation in terms of the sorts of benefits that can be given under a heritage agreement; so instead of giving someone cash he may be given transferable property ratio rights. Therefore, instead of saying to a person, "Here is \$10 000," he may be given an ability to transfer 1 000 square metres of property ratio. The court will then say that there is no need to give him so much or any money - "You have a property. You could have had it by voluntary agreement. You were not able to arrive at it. We believe that was reasonable compensation that should have been accepted under the agreement. Therefore, that is what we will award."

The Minister says she thinks the real intent of this legislation is to secure compensation by way of voluntary heritage agreements. We say that is exactly what we want to do, but if a person cannot agree to a voluntary heritage agreement, rather than leaving him without any remedy whatever we should offer him alternatives one of which is that he be paid compensation for injurious affection. The other is that compensation be by way of exactly the same thing that would have been given by way of voluntary agreement. If a court can award compensation by way of an order and a person has accepted it as a voluntary agreement, why on earth would that person not accept it if it were imposed by the court? It seems to me to be inconsistent to say, "We do not mind that form of compensation by voluntary agreement but we object to it when it is imposed by way of court order."

Hon Tom Helm: I think that deep down inside you know why you cannot do that and the Minister will explain that to you later.

Hon PETER FOSS: I will be happy to understand that because it seems to me that the result at the end will be exactly the same. It is just the process that is different.

Hon Tom Helm: It is an important difference and I am sure the Minister will explain it to you.

Hon PETER FOSS: I am sure the Minister will and I am glad the member has put it on to the Minister to explain that to me.

Hon Tom Helm: I might even do it myself. I will ask the Minister if I can do it myself.

Hon PETER FOSS: The member could probably get someone in the department to type up a speech.

It seems extraordinary that the Government is quite happy to achieve a particular result by agreement but is not keen to achieve exactly that same result by way of court-ordered mediation or compensation, and if that is the case it seems that it is a form of perulance on the part of the Government that it does not like to have other people determining what the amount of compensation will be. The biggest furphy in this whole business has been the suggestion that it will put the program of the legislation at risk. The reservations under the metropolitan region town planning scheme and the metropolitan region scheme, which cover huge quantities of land - and we are talking here about a few isolated heritage buildings because there are not an awful lot left in Western Australia, and even those that are left are far fewer in compass than those covered by these schemes - have not brought those schemes to a grinding halt. The Government seems to be starting at shadows in this instance. It is quite clear that someone has been going to many of the heritage groups and has scared them into thinking that will happen, when there is absolutely no evidence to show that that will be any problem whatsoever. There is particularly no evidence to show that with this further approach which Hon Phil Pandal has arrived at that it will be any different than if it was arrived at voluntarily.

So one must question whether the Government is trying to play a particular political tune, and is trying to frighten people into thinking that the legislation is a hazard in order to gain some political advantage, or whether it is genuinely interested in heritage. I believe that the Government has been stung by the fact that Hon Phil Pandal has shown that he has paid close and particular attention to heritage legislation. He was motivated to introduce his own Bill, and it is a terrible shame that that Bill was not passed by the other House because we could have stopped the depredations by the vandals in the Government during the last few months,

and at least we could have stopped all the ones that have been happening recently, but unless this legislation is amended we will not even be able to stop them in future. The biggest vandal has been the Government. The Government has been stung by the initiative shown by Hon Phil Pandal and has now decided to play a political game. I deplore the fact that the Government is not seriously treating heritage as an issue about which we should seek to arrive at a consensus but is seeking to use it for political benefit, not by arguing the merits but by putting up before the people a series of statements which are misleading and false. The Minister has been shown in this House to be making those misleading statements, and her excuses for doing so are extremely weak indeed.

Hon Fred McKenzie: By whom?

Hon PETER FOSS: She was picked up for having said that we were delaying the legislation in the upper House when it had not even arrived here, and we all heard her rather weak explanation that it was being delayed because they were holding it back in the Legislative Assembly so they could consult people. If that is oue delaying it, I will eat my hat. If the member can explain that to me, I would be most interested.

The time has come when the Government must address the three serious points I have put to it: How can it justify the Government's not being subject to third party decisions as to its own properties? How can it judge in its own cause? Why should there not be a provision to have precautionary listing where there is protection but without the possibility of injurious affection? Finally, why is the Government building up the problem of compensation so as to alarm the people of Western Australia? Why is it saying that compensation will be in such large amounts when it must know from experience that it will not be? Why is it objecting to a process where, through the management of the compensation proceedings by the tribunal, compensation will be able to be awarded by virtually imposing a heritage agreement on the parties so that compensation will be given by way of exactly the same measures as if the person had entered voluntarily into a heritage agreement? The result would be exactly the same. Why is the Government so concerned about the procedure by which it is arrived at? I would hope, but I know it is a fairly wan hope with this Minister -

Hon Kay Hallahan: You have got it in for this Minister!

Hon PETER FOSS: It is nothing to do with the Minister personally. It is just that she appears to be showing a characteristic of never seeming to want to do anything other than play silly games with Press releases.

Hon Graham Edwards: Your presentation is not bad but the content is wanting.

Hon PETER FOSS: I happen to believe that the content has been spot on, and I am judging it mainly from the reaction of Government members to what I have said because if I were not stinging them in the right places I doubt they would be reacting.

Several Government members interjected.

Hon T.G. Butler: I should read the speech!

Hon PETER FOSS: The member would do very well to read the speech from the beginning and with a great deal of care because I have no doubt that even he, were he to read it a sufficient number of times, would understand it.

Hon T.G. Butler: I try to be nice to you, and look what happens.

Hon PETER FOSS: Was the member being nice to me?

Hon T.G. Butler: I was.

Hon PETER FOSS: Good on him! I know it is very difficult for him. This particular Minister has the difficulty that I am speaking about at the moment. I despair of this Minister's ever taking a positive attitude, but I urge that she does because I believe the two parties are very close in their solution to the problem. They are identical in what they wish to achieve. The only area where differences have arisen is that the Minister unfortunately has absolutely no regard for the rights of private individuals. She is very careful to ensure that the preserve of the Government is maintained, that its rights are not trodden on, but she seems to want at the same time to tread on the rights of others. Even Russia has given up such a one sided view of private property, and I sincerely hope that the Minister will be able to come into the latter part of the twentieth century and throw away these tired, drab, old

socialist views. I hope we can get away from these controversial remarks and in a spirit of cooperation and mutual endeavour resolve the differences between us, because they are very small.

So accordingly I commend the Bill to the House and trust that once it has gone to the Legislation Committee, where I am sure we will be able to sit down and work out the differences between us, it will come back to this House in a way that will be acceptable to both sides.

Debate adjourned, on motion by Hon John Halden.

*House adjourned at 10.59 pm*

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## QUESTIONS ON NOTICE

## DRUGS - TAGAMET

*Prescribed Ulcer Drug - Unnecessary Medical Procedures*

773. Hon GEORGE CASH to the Minister for Planning representing the Minister for Health:

- (1) Is the Minister aware that the drug Tagamet, which is commonly prescribed for ulcers, is only available on prescription after an endoscopy procedure, and as such some medical practitioners claim that unnecessary medical procedure is performed to enable the drug Tagamet to be prescribed?
- (2) Does the Minister concede that public funds are being wasted if unnecessary medical procedures are being performed to enable a drug to be prescribed?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) Tagamet (Cimetidine) is available only on prescription in WA. The Australian Drug Evaluation Committee has approved Cimetidine to be used for -
  - a. The short term treatment of proven duodenal ulcer, gastric ulcer.
  - b. Maintenance treatment to reduce the risk of relapse in patients with duodenal ulcer.
  - c. Maintenance treatment for periods of up to one year to reduce the risk of relapse in patients with documented healing of benign gastric ulcer.
  - d. Short term treatment (no more than 12 weeks) of persistent gastro-oesophageal reflux disease unresponsive to conservative anti-reflux measures and simple drug therapies such as antacids.
  - e. Prevention of stress ulcer in critically ill patients at risk of haemorrhage.
  - f. The treatment of gastrinoma (Zollinger-Ellison Syndrome).
  - g. Treatment of scleroderma oesophagus.

Cimetidine is also made available through the Pharmaceutical Benefits Scheme, where the Commonwealth Government subsidises its cost. The indications for which this drug can be obtained through the Pharmaceutical Benefits Scheme are as follows:

Duodenal ulcer (including pyloric and stomal ulcers) proven by current or prior x-ray, endoscopy or surgery; gastric ulcer proven by x-ray, endoscopy or surgery within the previous two years.

Severe symptomatic oesophagitis associated with frank ulceration of oesophageal mucosa on x-ray examination where endoscopy is contraindicated; severe ulcerating (erosive) oesophagitis proven by endoscopy and unresponsive to other measures.

Scleroderma oesophagus.

Zollinger-Ellison syndrome.

There is no evidence available to me that unnecessary medical procedures are being performed to enable this drug to be prescribed.

- (2) Not applicable.

**MEDICAL BOARD OF WA - MEDICAL PRACTITIONERS**  
*Successful Appellants - Legal and General Costs Claim*

798. Hon R.G. PIKE to the Minister for Planning representing the Minister for Health:

- (1) Is it correct that any medical practitioner who wins an appeal against a judgment of the Medical Board of Western Australia has no recourse to financial claims against the said board for legal and general costs?
- (2) Would the Minister advise the House whether there are any future plans to alter the current situation to allow successful appellants to claim their legal and general costs against the Medical Board of Western Australia?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) This would be a matter for the Supreme Court judge to determine under section 13(8)(b) of the Medical Act. The judge has the power to confirm, quash or vary an order made by the board.
- (2) The Medical Act 1894 is currently being reviewed and the board's power to make orders as to the payment of costs of an inquiry will be addressed.

**PORTS AND HARBOURS - VICTORIA QUAY, FREMANTLE**  
*Redevelopment*

803. Hon GEORGE CASH to the Leader of the House representing the Treasurer:

- (1) Is the Treasurer aware of an independent report presented to the Minister for Transport which concludes that Victoria Quay is available for redevelopment by reallocating berth space within the inner harbour?
- (2) In view of the Treasurer's statements to the Parliament of the need for the Government to have due regard to limiting capital projects in the forthcoming Budget and further the need for the Government to generate additional funds without imposing a greater burden on the taxpayer, can the Treasurer advise if the sale and redevelopment of all, or part, of Victoria Quay has been taken into consideration when framing the forthcoming State Budget?

Hon J.M. BERINSON replied:

The Treasurer has provided the following reply -

- (1) I am aware of a report which I understand has been commissioned by Fremantle Terminals Limited.  
I understand that the brief and the terms of reference for the report were set by Fremantle Terminals Limited, which also exclusively directed the study.  
The report was only presented to the Minister for Transport on Friday, 14 September.
- (2) Victoria Quay plays an important and strategic role in shipping and cargo handling operations within the Fremantle Inner Harbour and it will continue to do so for the foreseeable future.  
I refer the member to the answers provided to questions 699, 701, 714, 715, 785 and 806 which addressed the same topic.

**SILVER CHAIN NURSING ASSOCIATION (INC) - ANNIE BRYSON McKEOWN HOME AND GRACE HARDIE HOME**  
*Closure*

818. Hon Murray MONTGOMERY to the Minister for Planning representing the Minister for Health:

- (1) Is the Government involved or considering any move to close the two Silver Chain homes in Albany - the Annie Bryson McKeown Home and the Grace Hardie Home?

- (2) If the answer is yes, why?
- (3) If the answer to (1) is no, is the Minister aware of disquiet within the Albany community that the homes will be closed?
- (4) Does the Government fund either of the homes?
- (5) If the answer is yes, to what extent?
- (6) Is the Minister aware of the existence of substantial funds held in trust on behalf of the Albany Silver Chain homes?
- (7) What should happen to the trust funds in the event that either or both of the homes for which they are held in trust are closed?

Hon KAY HALLAHAN replied:

The Minister for Health has provided me with the following reply -

- (1) No.
- (2) Not applicable.
- (3) I am aware that the Silver Chain Nursing Association, operator of the two hostels, is in consultation with the Commonwealth Department of Community Services and Health regarding a proposal to evaluate the way in which Silver Chain provides hostel services in Albany.
- (4) Yes.
- (5) Subsidy to 30 June 1990 of -
 

Gwen Hardie Lodge	\$41 664
Annie McKeown Lodge	\$53 230
- (6) No.
- (7) I am advised that donations made to Silver Chain for services in Albany are earmarked within the Association's funds for use in Albany.

**CURTIS BAY - MARINA AND RESORT DEVELOPMENT PROPOSAL**  
*"C" to "A" Class Reserves Recommendations*

830. Hon P.G. PENDAL to the Minister for Planning representing the Minister for the Environment:

- (1) Is the Minister aware that marina/resort proposals for the Curtis Bay area near Dunsborough have motivated strong community support for the Meelup C class reserve, as well as other C class reserves on the Cape Naturaliste Peninsula to be vested as A class reserves for the area's preservation?
- (2) Has any consideration been given to creating further A class reserves along the foreshore of the peninsula?
- (3) What problems, if any, would be envisaged in the creation of A class reserves in this area?
- (4) How could A class reserves in that area best be managed?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

- (1) Yes, I am aware of strong support from some local groups for the classification of the Meelup C class reserve as an A class reserve to preserve its natural values. There is also support from some sectors for the partial development and public use of parts of the reserve.
- (2) The Department of Conservation and Land Management recognises the reserve as a very valuable landscape and a natural area worthy of careful land use management. Conservation of flora and fauna should be a component of any zoning plan for the reserve. CALM is aware of three populations of rare flora on the reserve, namely -

*Eucl sp.* (Cape Naturaliste) K.H. Rechinger 58888  
*Caladenia sp.* (Cape Naturaliste) S.D. Hopper 4518  
*Caladenia sp.* (Dunsborough) S.D. Hopper 55206  
*Caladenia huegelii*

However, CALM has not considered the creation of A class reserves as part of its estate as these values can and should be managed by appropriate statutory rural strategies and town plans under the control of the local authority.

- (3) The creation of an A class reserve will require a thorough land use assessment in this context of the Department of Planning and Urban Development Regional Plan and Dunsborough Structure Plan with full public consultation and debate. A balance should be sought between preserving the natural values which are the main attraction of the area and the need for essential town development and infrastructure.
- (4) The area is not seen as contiguous with the Leeuwin-Naturaliste National Park and I believe that the reserve should be vested in and managed by the local authority under the guidance of an appropriate DUPD land management plan.

**CURTIS BAY - MARINA AND RESORT DEVELOPMENT PROPOSAL**  
*"C" to "A" Class Reserves Recommendations*

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

- (1) Is it correct that a plan to construct a marine and hotel/resort at Curtis Bay, near Dunsborough has been proposed?
- (2) If so, what is the present status of this proposal?
- (3) Has the Government endorsed any or all of the proposals?
- (4) If so, under what conditions?
- (5) Has the opinion of the Environmental Protection Authority been sought, as yet, on any proposed plan for the area?
- (6) If not, when will the EPA be considering the proposals?
- (7) Is the Minister aware that many people in the community are strongly opposed to such a development and recommend that the present Meelup C class reserve and other C class reserves on the Cape Naturaliste Peninsula become A class reserves so that the uniquely unspoilt environment of the coast and foreshore will be preserved?
- (8) Will the Minister take this view into account when considering any developmental proposals for the area?

Hon KAY HALLAHAN replied:

- (1) Yes.
- (2) The proposal was agreed in principle by the Shire of Busselton.
- (3) No.
- (4)-(6) Not applicable.
- (7)-(8) Yes.

**PORTS AND HARBOURS - FREMANTLE PORT AUTHORITY GENERAL  
 MANAGER**  
*Travel Details*

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

- (1) Is the Premier aware that the General Manager of the Fremantle Port Authority has travelled either interstate or overseas an estimated 50 times in the past five years and that port authority staff have expressed concern that

management of the port authority business within the State is being neglected as a consequence of his frequent absences?

- (2) Will the Premier undertake to provide the following information in relation to each of these interstate or overseas journeys -
- (a) date of departure;
  - (b) duration of trip;
  - (c) destination(s);
  - (d) purpose of visit;
  - (e) accompanied by; and
  - (f) cost of travel and accommodation (including accompanying persons where paid for by the State)?
- (3) Given the serious budgetary constraints faced by the Government, will the Premier advise whether it is intended to place any restriction on his future travel plans?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

- (1) The general manager of the Fremantle Port Authority has travelled to port authority business approximately 40 times over nearly five and a half years. I am not aware that responsible port authority staff have expressed any concern at the neglect of business as a result of these trips.

All travel has been undertaken within Government guidelines.

- (2) I am not prepared to undertake a detailed search to provide answers to such a question, as this would require extensive manual searching of archived information. I will however provide the following information for 1989-90 and 1990-91 year to date.

During 1989-90 the general manager had -

- (a) two short interstate visits (one to three days), one primarily for the Association of Australian Port and Marine Authorities Council/Committee meetings and one primarily for a seminar on the Parkes Inland Port facility.
- (b) three short overseas visits to Asia (three to 10 days) involving the port's sister port agreement with Nagoya, being a guest speaker at a container trade seminar in Japan and the hosting of the Port of Fremantle Seminar in Singapore.

In 1990-91 the general manager had a short visit to the North American West Coast as part of the port's international trade development strategy.

- (3) The general manager's travel will continue to be subject to approval as laid down by my instruction to Ministers.

LONGYEAR, MR GEORGE - WATER AUTHORITY OF WESTERN AUSTRALIA  
*Derby Position - Transfer*

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

- (1) Has Mr George Longyear declined to accept a new position to replace his present position in the Water Authority at Derby?
- (2) If so, what is the present position with regard to Mr Longyear's position with WAWA in Derby?
- (3) Has Mr Longyear committed any misdemeanour to cause his transfer from his present job?

- (4) If so, what is that misdemeanour?
- (5) If not, why is Mr Longyear being forced to take a job he doesn't want?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response -  
Please refer to question No 174 dated 16 May 1990.

**SCHOOLS - MANNING PRIMARY SCHOOL**  
*Building Extension Program*

845. Hon P.G. PENDAL to the Minister for Planning representing the Minister for Education:

- (1) Has the Minister been approached by the Manning Primary School or its P and C Association, regarding its proposed building extension program which includes a multifunctional hall adjoining the existing library/resource building, to assist in accommodating the school's increasing student numbers?
- (2) If so, what financial assistance will be provided by the Government?
- (3) Will it be possible, as an option, for the old bristol wing of the school to be incorporated into the building extension program?
- (4) If the Minister is unaware of the school's building proposals, will he undertake to look at the situation to see what assistance can be given to accommodate the higher student numbers?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

- (1) Yes.
- (2) The source of funds to assist projects of this nature is the district based minor works scheme. The level of assistance would depend upon other needs and priorities within the district.
- (3) The meaning of this question is not clear. However, the incorporation of the bristol buildings into a future building program is unlikely to be a preferred option.
- (4) Not applicable.

**ABC RADIO AND TELEVISION - EDUCATIONAL PROGRAM CUTS**

850. Hon BARRY HOUSE to the Minister for Planning representing the Minister for Education:

- (1) Is the Minister aware of any educational programs on ABC radio and television which have been axed recently as a result of cuts in Federal Government expenditure?
- (2) If the answer is yes, how does the Western Australian Ministry of Education intend to cater for country students in particular, who rely heavily on those programs?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following answer -

- (1) The Minister is aware that the ABC has announced cuts to educational broadcast programs in both radio and television.
- (2) This matter is of national concern and is currently under exploration by all State and Territory Ministers and departments of education in consultation with each other to identify what options are available.

**SCHOOLS - PARENT INPUT INTO SCHOOL DECISION MAKING**  
*Education Act Amendments*

859. Hon GEORGE CASH to the Minister for Planning representing the Minister for Education:

- (1) Has the Minister received a letter from the President of the Mt Lawley Primary School P and C Association Inc on the subject of "Parent input into negotiations for school based decision making"?
- (2) Will the Minister agree to meet with WACSSO representatives regarding the proposed changes to the Education Act in respect of parent input into school decision making?
- (3) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following answer -

- (1) A letter regarding parent input into negotiations for school based decision-making groups from the president of the Mt Lawley Primary School P & C Association dated 30 August 1990 has been received by the Minister.
- (2) The Minister has met with WACSSO representatives regarding the proposed changes to the Education Act and parent input into school decision-making on a number of occasions and is willing to meet with them again.
- (3) Not applicable.

**QUESTIONS - UNANSWERED**

*No 654*

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

When may I expect an answer to question on notice No 654 dated 22 August 1990?

Hon J.M. BERINSON replied:

The Premier has provided the following reply -

This answer was submitted on Tuesday, 18 September 1990.

**QUESTIONS WITHOUT NOTICE**

**COASTAL SURVEILLANCE - DRUG RUNNERS**

*Police Force Coastal Surveillance Unit*

616. Hon GEORGE CASH to the Minister for Police:

I refer to the front page article titled "NW patrols force drug runs south" published in *The West Australian* yesterday and ask -

- (1) Is he aware of the article?
- (2) Is it true that the police resources currently available for coastal surveillance and the marine and aerial role of detecting drug runners are inadequate for anything more than near metropolitan operations?
- (3) Has the commissioner prepared a brief of the equipment and manpower required to successfully operate a Police Force coastal surveillance unit that could act efficiently and in concert with existing Federal and other State departments?

Hon GRAHAM EDWARDS replied:

(1)-(3)

I have discussed the article briefly with the commissioner. It came as a surprise to him, considering the submission was made some two or three years

ago. I have asked him for more information. It is my view, and I think the view put by the commissioner, that given the size of our coastline we really should be making a concerted effort and be putting all resources together to ensure that our coastline is patrolled adequately. My understanding is that the patrolling has been quite successful up north and has forced people to try to contain their activities to an area further south. When I am in a position to answer the question asked by the Leader of the Opposition in more detail I will do so.

**QUESTIONS - No 2394, 1987**  
*Elections - Police Officer Reinstatement*

617. Hon PETER FOSS to the Minister for Police:

I refer to Legislative Assembly question No 2394 of 1987 and ask -

- (1) Who were the officers who were reinstated after being unsuccessful at elections?
- (2) What party did each represent at the election?
- (3) Has any former officer who was unsuccessful at an election been refused reinstatement?
- (4) Who were those officers and what party did each represent?

Hon GRAHAM EDWARDS replied:

- (1) Constable W.M. Carmody in 1930; Constable C.G. Newman in 1956; and Sergeant V.W. Liddelow in 1960.
- (2) Labor Party; Liberal Country League; and Country Party.
- (3)-(4) Yes. Detective Constable First Class P.A. Filing was an unsuccessful candidate for the Liberal Party. He was offered re-entry to the Police Force as a constable.

**CAR THEFT - KALGOORLIE-BOULDER AREA**

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

- (1) Is the Minister aware of a recent spate of car thefts in the Kalgoorlie-Boulder area?
- (2) If so, is the Police Force paying special attention to this matter?

Hon GRAHAM EDWARDS replied:

(1)-(2)

I am not aware of a recent spate of car thefts.

Hon N.F. Moore: There were 39 last weekend.

Hon GRAHAM EDWARDS: I have not previously been made aware of that figure, which will flow through to me at some time. Car thefts across the State, and indeed across Australia, are a problem. This problem should not just be left to the police. They have to spend an immense amount of time trying both to prevent car thefts and to apprehend the perpetrators who have taken vehicles unlawfully. My suggestion to the member, if he is concerned, is that if there is an increase in the problem perhaps he might like to consider it with me, or I will be happy to suggest the person to whom he should talk, because there are a number of initiatives which I am sure could be looked at to tackle this problem.

One matter currently being considered around the country, as part of this agenda, is how we can best put the onus on manufacturers of new cars to provide some realistic means of defence against car thieves, who seem to be able to break into cars with a great deal of ease.

Car theft and unlawful use of vehicles is a major problem. I urge people to implement as much security as they feel is necessary to ensure their vehicles

are safe, either when people are at home or when they go out at night, so that their cars remain where they are left.

QUESTIONS - No 2394, 1987  
*Elections - Police Officer Reinstatement*

619. Hon PETER FOSS to the Minister for Police:

Supplementary to my first question -

- (1) How soon after was the offer of re-entry to take effect?
- (2) Was it in any way subject to normal recruitment procedures?

Hon GRAHAM EDWARDS replied:

(1)-(2)

The member should understand that this question goes back some three years. I pulled out a little information about the matter today as I was preparing my answer. An article headed "Angry Bull hits out at Filing's Claims" appeared in *The West Australian* of 15 September this year. Apparently Mr Filing made some claims during his maiden speech in the Federal Parliament which suggested that the Government had somehow or other interfered with or had some influence on his re-entry to the Police Force.

*Point of Order*

Hon PETER FOSS: My question was directed specifically to how soon after the offer was it to take effect and was it subject to any recruitment procedures? I was not asking what Mr Filing or Mr Bull said. I directed my question particularly to that point.

The DEPUTY PRESIDENT (Hon J.M. Brown): I am well aware of the question asked by Hon Peter Foss. The Minister indicated that this happened three years ago and he had concerns about being able to give an accurate answer. In my opinion, he was endeavouring to give a reply that was helpful in answering the question asked. We are dealing with a question without notice and although the member gave some notice of his first question I understand the Minister has gone to some trouble to provide further information that he gathered in anticipation of a subsequent question. There is no point of order. The Minister is permitted to reply in the way he thinks fit.

*Questions without Notice Resumed*

Hon GRAHAM EDWARDS: This is not a long article and refers to the time in question. That is why I thought I would quote from it. It states -

WA Police Commissioner Brian Bull says he is insulted by a Federal Liberal MP's claims that the WA Government had obstructed his former career as a police officer.

An angry Mr Bull said yesterday he was autonomous and there was no question of political persuasion.

He also claimed other untruths were made by Moore MHR Paul Filing in his maiden speech to Federal Parliament on Thursday.

Mr Filing alleged his career was obstructed after his involvement, as a member of the WA police fraud squad, in an investigation into former State Superannuation Board chairman Len Brush.

Mr Filing said that shortly after the investigation he resigned his job to contest the seat of Cowan in 1987.

Unsuccessful, he contacted Mr Bull to get his old job back and was told he must go through standard selection procedures and would have to resume at the most junior rank.

This was the paragraph I wanted to emphasise -

"But because he had only been out for a short time I bent over backwards - and beyond the policy - to help him," Mr Bull said.

Mr Bull said Mr Filing knew what he was jeopardising when he left.

I think there he meant he was jeopardising his job.

**LAND DEVELOPERS - APPROVALS SIMPLIFICATION POLICY**  
*Appeals Delay*

620. Hon BARRY HOUSE to the Minister for Lands:

I refer to the Minister's commitment, made at a public seminar at the Perth Concert Hall in October 1989, that it was the Government's policy to simplify efforts for land developers, especially in relation to making better use of serviced land close to the city by cutting out long, useless delays for developers. Would the Minister explain why an appeal to the Minister is still so costly and time consuming in instances where the developer is certain that a town planner will reject plans submitted on a development because of zoning changes, ultimately requiring ministerial direction to clarify the situation.

Hon KAY HALLAHAN replied:

If the member puts that question on notice I shall have it responded to more fully. There have been delays and some appeals were not being heard for some months. We have taken measures in that regard. In fact some appeals are now being finalised within two months. The general feeling is that by the time agencies and local governments are contacted we cannot expect appeals to be settled in under three months. That is a reasonable time span. As I understand it, people accept that. They become concerned above and beyond that, but some have been quite gratified when in recent times we have been able to finalise appeals in two months. There is not now the high backlog or long waiting time for town planning appeals which previously existed. People setting out to develop will not experience that situation.

The member might like to put the other part of his question on notice and I shall have a look at it.

With regard to the town planning appeals tribunal, I understand that is working well. There is still a delay in the cases being heard, but that backlog is also being reduced.

**LEGISLATION COMMITTEE - WORK**  
*Constituents' Correspondence*

621. Hon J.N. CALDWELL to the Minister for Planning:

- (1) Has the Minister had any correspondence from constituents regarding the work of the Legislation Committee?
- (2) If so, has there been much criticism of that committee?

Hon KAY HALLAHAN replied:

(1)-(2)

I do not think I can tell the honourable member that. I cannot recall getting much mail on that subject. I receive mail on many subjects. Do I see a slight smile of gratification on Hon George Cash's face?

Hon George Cash: I think you need to confirm the answer is no; you have been misleading the House.

Hon KAY HALLAHAN: I have not been misleading the House. I receive many expressions of concern which do not necessarily come in correspondence. The Leader of the Opposition is terribly sensitive. One cannot say anything about this drafted Legislation Committee without members getting super sensitive.

Hon George Cash: No one seems to have a problem but you.

Hon KAY HALLAHAN: I do not expect members opposite to overreact if I say something. I do not think what I say carries so much weight that we need members to go into paroxysms of overreaction.

Hon P.H. Lockyer: You must be careful or you will be dratted.

Hon KAY HALLAHAN: That would be a terrible thing! I do not intend to go back through the correspondence file.

Hon George Cash: I do not think it will take very long.

Hon KAY HALLAHAN: The Leader of the Opposition does not know the answer to that. He is very self-satisfied and smug about this.

Hon George Cash: I have great confidence in the Legislation Committee.

Hon KAY HALLAHAN: I think it has potential.

Hon George Cash: That is good; that is positive.

Hon KAY HALLAHAN: Anyway, I cannot give the honourable member the figure that he has asked for. I do not think it warrants my time looking into this matter.

**PHARMACEUTICALS - FEDERAL BUDGET \$2.50 CHARGE**  
*Pensioner Married Couples*

622. Hon MARGARET McALEER to the Minister for The Aged:

The Federal Budget introduced a \$2.50 charge for all pharmaceutical charges for pensioners, and it announced compensation to pensioners at the rate of \$2.50 for each single person and at the rate of \$2.50 for married couples. As this seems to be unjust towards pensioner married couples, I ask the Minister whether he is prepared to make representations to his Federal counterpart to recognise that people who are married have individual pharmaceutical requirements and therefore pensioners who are married should receive \$5 compensation?

Hon GRAHAM EDWARDS replied:

If the member puts that question on notice I shall give it some consideration. We have been looking at the different figures in relation to the Federal Budget. One thing which struck me was a comment by the Leader of the Opposition who said that the Federal Budget was weak in these matters of social reform, and that the Federal Treasurer had not gone far enough.

Hon N.F. Moore: That is not true, and you know it.

Hon GRAHAM EDWARDS: It is true. I am always happy to address these matters, and if the member puts the question on notice I shall give it some consideration.

**MINISTER FOR POLICE - NORTHAM MEETING**

623. Hon BOB THOMAS to the Minister for Police:

(1) Did the Minister attend a seminar in Northam today?

(2) If so, what was the nature and purpose of that meeting?

Several members interjected.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order!

Hon GRAHAM EDWARDS replied:

(1)-(2)

I was waiting until the catcalls had died down from the other side of the House, because members on this side generally show a lot of interest in what is happening in rural areas. I thank the member for his question. I know that he was particularly interested as there was representation from the Town of Albany at that seminar, which was called by the police to discuss Rural Watch.

Rural Watch was originally conceived out of the Neighbourhood Watch program in 1988. It was first formed by Sergeant Wayne Goodsell in the Kojonup area as a preventative measure against a sudden high increase in stock theft of sheep at that time.

Hon J.N. Caldwell: That would be welcome now.

Hon GRAHAM EDWARDS: I understand that is the case, but things can turn around. The program was successful, and as a result Kojonup realised a marked decrease in stock and farm thefts. To date, 62 shires from rural areas of Western Australia have adopted the program.

I shall not take too long, but I wish to go into a little detail. Initiatives which have come from Rural Watch include members of the Rural Watch conducting patrols with police officers and informing them of local knowledge peculiar to that district. Members of the watch conduct regular security checks of their allotted sectors assisting local police. They provide 40 channel radios as used by farmers to be installed in country police vehicles and stations, increasing the instant communications between police and the public. They provide crime prevention advice about locks, identification and alarm systems to members of the program. Lastly, there is an increase in the knowledge of the other communities through regular articles featured in such publications as the *Countryman* and *Elders Weekly*.

The result to the police is quality information supplied in an organised manner assisting the police to react promptly in fields of detection and protection. The program is coordinated at a local level by officers in charge of country police stations and is coordinated on a Statewide basis from the office of crime prevention.

The purpose of this Rural Watch seminar was to promote and encourage the continued interest and involvement of the Rural Watch program by the rural community. There were people there from Moora, Wyalkatchem, Northam, Albany and other areas throughout the rural part of Western Australia. I venture to say that the people who were there in the main would not have been supporters of the ALP, but they seemed to be pretty good rural folk and pretty determined and interested in their own communities and in the community of Western Australia. I applaud the fact that they turned out there. I applaud their involvement in Rural Watch, and I applaud the enthusiasm that they showed today. As the Minister for Police I am greatly encouraged by the tremendous interaction between the police and members of Rural Watch, particularly as jointly they address matters which are of crucial concern to the well being of their own community and members of that community.

#### POLICE - MULTIRACIAL FIGHTING, COUNTRY AREAS

##### *No-Action Policy*

624. Hon MURIEL PATTERSON to the Minister for Police:

Is the Minister aware that in some country areas where fighting or violence occurs between young men of different cultures the police recommend that no action be taken because of the risk of reprisals to the family? Is this the policy of the police?

Hon GRAHAM EDWARDS replied:

I am not aware of that situation. If the member would like to supply the details I will have the matter checked. If that is the practice, I will ensure appropriate action is taken.

#### TREES - MORETON BAY FIG TREE, MURRAY STREET

##### *Perth City Council*

625. Hon PETER FOSS to the Minister for Heritage:

- (1) Is the Minister aware of the proposals by the Perth City Council to take action in regard to a Moreton Bay fig tree in Murray Street, down by Royal Perth Hospital?

- (2) Is the Minister aware that this tree has considerable heritage value to the City of Perth?
- (3) Will the Minister ensure that her department monitors what is proposed by the council to see that the tree is not endangered?

Hon KAY HALLAHAN replied:

(1)-(3)

I will have the situation monitored as the member suggests. I understand the problem is one of safety for pedestrians; however, I cannot imagine that it is something that cannot be overcome. I understand the roots of the tree are causing havoc to services. The situation is difficult for nimble people as well as less able people; that is why the council is looking at the tree. I will take up the member's suggestion.

#### FIRE STATIONS - ROEBOURNE FIRE STATION

##### *Future*

626. Hon N.F. MOORE to the Minister for Emergency Services:

Has a decision been made on the future of the Roebourne fire station; if so, what is the decision?

Hon GRAHAM EDWARDS replied:

I understand a meeting was held on 10 September. I am advised that the people involved are happy with the outcome of the meeting. That is the short answer I received to my inquiry. I will be further briefed tomorrow. If the member wishes to put the question on notice I will provide an answer tomorrow afternoon.

#### POLICE - OFFENDERS

##### *Charges - Cultural Background Consideration*

627. Hon GEORGE CASH to the Minister for Police:

My question flows from the question asked by Hon Muriel Patterson. Do the police take into account the cultural background of alleged offenders before determining whether charges should be laid?

Hon GRAHAM EDWARDS replied:

Not as far I am aware. If the member wishes to put the question on notice I will provide an appropriate answer.

#### EGLINGTON RESORT DEVELOPMENTS - GOLF RESORT DEVELOPMENT

##### *Joint Venture*

628. Hon GEORGE CASH to the Minister for Planning:

- (1) Is the Minister aware of plans by Eglington Resort Developments to build a multimillion dollar golf resort approximately 45 kilometres north of Perth?
- (2) Is the Minister aware whether the development is to be a joint venture with any Government instrumentality; if so, would the Minister provide details?

Hon KAY HALLAHAN replied:

(1)-(2)

If the member would care to place the question on notice I will provide the information for him at a later time.

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