Legislative Council

Thursday, 14 May 1992

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

SELECT COMMITTEE ON PROFESSIONAL AND OTHER OCCUPATIONAL LIABILITY

Interim Report Tabling

HON MAX EVANS (North Metropolitan) [2.36 pm] - by leave: I am directed to present an interim report of the Select Committee on Professional and other Occupational Liability. I move -

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

Question put and passed.

[See paper No 138.]

Report Tabling - Extension of Time

HON MAX EVANS (North Metropolitan) [2.37 pm]: I am further directed to report that the Select Committee requests that the date fixed for the presentation of the committee's final report be extended from 15 May 1992 to 24 August 1992. I move -

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

Question put and passed.

[See paper No 139.]

MOTION - STANDING ORDERS DRAFT AMENDMENTS

Answers to Questions - Ministerial Responsibility

Amendment to Motion

Debate resumed from 13 May.

HON J.M. BERINSON (North Metropolitan - Leader of the House) [2.39 pm]: To continue the remarks which I commenced yesterday I propose to deal briefly with the three specific items in Hon Peter Foss' motion. The first one requires that the Standing Orders should ensure that the form of an answer -

The PRESIDENT: Order! Yesterday the Leader of the House conveyed his incredible desire to ensure that we do not deviate from the basic rules in this place. We are dealing only with the amendment moved by Hon Garry Kelly which deletes the words in the preamble commencing "be directed" and ending "Standing Orders". The Leader of the House should confine his comments to the question of whether those words should be deleted.

Hon J.M. BERINSON: Of course, Mr President, I accept that and I share with you this incredible urge to comply with Standing Orders. However, we are faced here with an amendment to a proposal seeking to have the Standing Orders Committee instructed to draft certain amendments to Standing Orders. I support Hon Garry Kelly's view that these items should not be an instruction but a request for consideration by the committee. My only purpose in referring to the three items is to indicate why it would be unwise to bind the Standing Orders Committee to three such absurd, one might say incredible, propositions. I refer, first, to the proposal that the Standing Orders Committee should be bound to draw a Standing Order requiring that an answer to a question on notice should, on the face of it, demonstrate that the Minister takes responsibility for that answer. If Hon Garry Kelly wishes that to be considered by the Standing Orders Committee, that is reasonable enough, but when it reaches the point of consideration I hope the committee does not take too much time rejecting it. This part of the motion is an invitation to the committee, and in fact to the House, to engage in a quite absurd use of language for no good purpose. The only apparent way in which item (1) could be accommodated would be by going to the present form of answer and modifying it in a quite ridiculous way. I open the Supplementary Notice Paper at

random at question 172 where Hon P.H. Lockyer put a question on notice to the Minister for Education representing the Minister for the Environment, which has as a preamble to the answer, "The Minister for the Environment has supplied the following reply". The only possible way that that form of answer could on the face of it indicate that the Minister takes responsibility -

Hon George Cash: Are you going to speak to the amendment or the substantive motion?

Hon J.M. BERINSON: I am speaking to the amendment.

Hon George Cash: No, you are not.

The PRESIDENT: Order! When the time comes for the Leader of the House to be advised that he is breaching the rules, I will do the advising. I suggest that everybody else concentrate on what they are supposed to be doing.

Hon J.M. BERINSON: As I was about to indicate, the only possible way of approaching that question would be by expanding the preamble to the reply to read, "The Minister for the Environment has supplied the following reply, but I, of course, accept responsibility for it." Will we really repeat such a meaningless phrase in all of the 338 questions that have been answered in the period between the beginning of this session and today, as that is the number of questions that have been placed on notice? No point would be served by that.

Several members interjected.

The PRESIDENT: Order!

Hon J.M. BERINSON: Hon Garry Kelly recommends in relation to point (2) that the Standing Orders Committee consider, rather than be forced to adopt, the proposition that our Standing Orders should provide that "the answer does not refer to answers given in the Legislative Assembly". Hon Peter Foss has been very concise on this point. However, it hardly serves any purpose. Hon Peter Foss seems to be indicating that it is somehow all right to have an answer which says "See Legislative Council answer number so and so" but not "Legislative Assembly answer so and so" despite the fact that all questions and answers from both Houses appear in the same *Hansard* and locating them does not represent any difficulty at all.

Hon George Cash: How many Houses of Parliament have we in Western Australia?

Hon J.M. BERINSON: Two, but only one *Hansard*, so no more difficulty arises in looking at answers from the Assembly than in looking at answers from the Council.

Hon George Cash: So *Hansard* magically joins both!

Hon J.M. BERINSON: Hon Peter Foss often draws our attention to historic factors related to legislation. I find them quite instructive at times and even entertaining, but he appears to be slipping back here to an archaic and anachronistic parliamentary form reflecting earlier days when members did not refer to the name of the other House. In former days one had to refer to the Legislative Assembly as "the other place". In recent times we have come to understand that "the other place" is the Legislative Assembly and that if we call it that, that does not detract from the powers, status, position, or any other desirable feature of the Legislative Council. Similarly, we now accept that members in the Legislative Assembly refer to this place as the Legislative Council rather than "the other place". That is simply reflecting the view that we ought to keep up to date on such matters and avoid anachronisms when they are of no purpose.

Hon Peter Foss may reconsider his position on item (2) of his motion and, if he does not, I hope that, given the acceptance of Hon Garry Kelly's amendments allowing the Standing Orders Committee to freely review the propositions being put to it, the committee will give this matter short shrift.

I complete my comments by repeating my view that the motion is terrible and that the amendment at least brings some semblance of reasonableness to the proposition, so if we are to support either then certainly it should be the amendment.

HON PETER FOSS (East Metropolitan) [2.46 pm]: In one respect I agree with Hon Doug Wenn that perhaps we could spend far too much time arguing this point. One of the ways we could spend far too much time arguing it is by continuing to shuffle it between the Standing

Orders Committee and this House. I could have drafted and moved an amendment to Standing Orders which would have immediately been discussed. The matter has already been discussed by the Standing Orders Committee. Had I done that, we would have immediately discussed the merits of that amendment in this House. I thought it would not be a bad idea to pay the Standing Orders Committee the courtesy of actually suggesting the precise wording of such an amendment because I think it appropriate that that committee, which has general control of the Standing Orders of this House, should be asked to suggest the precise wording to the House.

In addition, it is still not beyond the competence of the Standing Orders Committee, if it wishes to comment, to do so. That committee regularly comments to this House by way of its reports without having been requested by the House to do so. The important thing about it is that the actual merits of the suggestion will be debated when the draft Standing Order is returned to the House. If we do not observe the procedure of asking, "Will you please draft the Standing Order amendment" we will face the problem of a number of references possibly going to the committee and being sent back to the House before the amendment is moved. The substance of this motion should be dealt with. To shuffle the amendment back and forth between the committee and this House would be a waste of time. Let us get to the essence of this point and get the draft Standing Order back to the House so that we can debate it.

I will not deal with the speech made by the Attorney General which dealt with the substance of the motion, which I will deal with when I reply.

Division

Amendment (deletion of words) put and a division taken with the following result -

	Ayes (15)	
Hon J.M. Berinson	Hon Graham Edwards	Hon Tom Stephens
Hon T.G. Butler	Hon John Halden	Hon Bob Thomas
Hon J.N. Caldwell	Hon Kay Hallahan	Hon Fred McKenzie
Hon Kim Chance	Hon Tom Helm	*(Teller)*
Hon E.J. Charlton	Hon B.L. Jones	
Hon Cheryl Davenport	Hon Garry Kelly	
	Noes (11)	
Hon George Cash	Hon N.F. Moore	Hon Derrick Tomlinson
Hon Max Evans	Hon Muriel Patterson	Hon D.J. Wordsworth
Hon Peter Foss	Hon P.G. Pendal	Hon Margaret McAleer
Hon Barry House	Hon R.G. Pike	*(Teller)*

Pairs

Hon Mark Nevill	Hon Murray Montgomery
Hon Doug Wenn	Hon P.H. Lockyer
Hon Sam Piantadosi	Hon W.N. Stretch

Amendment thus passed.

Amendment (substitution of words) put and passed.

Motion, as Amended

HON P.G. PENDAL (South Metropolitan) [2.52 pm]: I want to go back to something that was quoted by the Leader of the Opposition in the early part of this debate, to try to determine what we are seeking to do. Members are aware that questions are more than just a facility; they are about as integral a part of the parliamentary system as it is possible to be. Probably no-one put it more clearly than Tony Fitzgerald. Before I make my own brief comments about this I want to quote Mr Fitzgerald, who said in 1989 at page 124 of his report -

> Unless the Opposition can discover what has happened or is happening and give consideration to events with expert assistance, it cannot expose and criticise activities and the people involved. It is effectively prevented from doing its job.

That appears by way of an addendum to an earlier comment which says about the role of an Opposition -

> In practice the role of Parliament to probe, question and criticise government on behalf of the people is largely discharged by the Opposition parties.

Mr Fitzgerald then went on to say what I have quoted him as saying which, roughly put, was that it was the Opposition's task to discover what was happening inside Government.

If the House were satisfied with the way in which questions were answered, thereby giving the Opposition the chance to discharge the duties outlined by Mr Fitzgerald, we would never need to bring a motion of this kind to the Parliament. I want to refer briefly to a matter that has been referred to by previous speakers on this side of the House in the course of this debate, because one of them touched on a question which I asked and which was not answered. As I understand it, a Minister can choose not to answer a question; but if a Minister chooses to answer a question we are entitled to have an answer that is informative, precise, and a few other things as well. Last week I arranged for a question to be asked in the Legislative Assembly of the Minister for the Environment, and it appears at page 1777 of *Hansard* of 5 May, as follows -

> 127. Mr KIERATH to the Minister for the Environment:
>
> Has he, the Government or Cabinet had under discussion or consideration any proposal to appoint Adele Farina to head a new Environmental Protection Authority appeals system?
>
> Mr PEARCE replied:
>
> No.

That is all there was. There was no equivocation - at least, not then. A few minutes later there was, because Mr Pearce rose to his feet and made some very clear equivocation. He said -

> In answering no to question 127, the simple fact is that neither the Government nor I has given consideration to who might be appointed to that position. I certainly was not suggesting or implying that the person alluded -

And the word "to" is missing -

> - might not be an applicant for such a position if one were to be advertised, and she certainly has not been ruled out, but we simply have not considered that matter.

Then he went on to say -

> When the question was asked I had the same feeling as you, Mr Speaker, that the question could be most misleading in the way it was asked and perhaps even answered.

I do not think there was any way in which a person could have been misled by the question. In fact, Mr Pearce made it clear in his response that he was saying no, the Government, the Cabinet and he had not had that matter under discussion or consideration. If the Government did not have that matter under consideration there was no reason or need to clarify what was meant by a simple no.

Hon Tom Stephens: The implication is that it could come under consideration. It had not come under consideration, but the clarification says that if she were an applicant -

Hon P.G. PENDAL: I will come to that, because that is the second part of my complaint. I ask Hon Tom Stephens to be patient. Mr Pearce went on needlessly to explain something which had not been asked in the first place. He was trying to answer a point, but he did not answer what we wanted to know; instead, he proceeded to tell us things that had not been asked.

Hon Tom Stephens: You should not be complaining.

Hon P.G. PENDAL: By doing so, I submit that he raised doubts about his original answer.

Hon Tom Stephens: Not at all! You cannot understand the answers when they are given. Why do you ask questions?

Hon P.G. PENDAL: I then asked the same question in this House, the one Mr Pearce had answered with a no, after which he proceeded to equivocate. That question was placed on the Notice Paper as question 293 which appeared in the 7 May *Hansard* -

> Has the Minister, the Government or Cabinet had under discussion or consideration any proposal to appoint Ms Adele Farina to head a new Environmental Protection Authority appeals system?

In replying to that question on behalf of Mr Pearce, Hon Kay Hallahan answered -

> The Minister for the Environment has provided the following response -
>
> The Minister has advised that the member would be well aware that any position established under Public Service guidelines would have to be filled in accordance with those guidelines.

However, that is not what I asked. The question did not ask whether Dr Wood, the bloke at the front counter or the doorman at the Public Service Commission knew about, or had in mind, the appointment of Ms Adele Farina. One does not need to have proceeded beyond bubs grade to know that it is a concise question. I asked whether the Minister had the matter under discussion or consideration; I asked whether the Government had the matter under discussion or consideration; and I asked whether Cabinet had the matter under discussion or consideration. Nevertheless, the answer told me something that was not only irrelevant but also unrelated to the question.

The Minister for the Environment also replied with the words "the member would be well aware", but I am not aware of that fact. Quite apart from that, I did not ask that question. The answer refers to a position being filled in accordance with guidelines, but I would not give tuppence ha'penny for the guidelines established by this Government. As I have already indicated in response to guidelines tabled in this House regarding the payment of solicitors or the Government's friends down at the Royal Commission, guidelines mean nothing. Also, there is evidence to suggest that the law means nothing to the Government. There is nothing on which to hang our hats in a reply indicating the importance of guidelines in the scheme of things.

Hon T.G. Butler: Your problem is that you did not catch anything on your fishing trip.

Hon P.G. PENDAL: On the contrary. I did not ask the question - using Hon Tom Butler's words - on a fishing trip. A most reputable person told me -

Hon John Halden: Thank you, Mr Pendal!

The PRESIDENT: Order! The honourable member cannot discuss that matter during the course of this debate. I allowed him to refer to the question and the response he received in order to expound the justification for his stand on the motion. However, to go on now to explain why he asked the question in the first place certainly has nothing to do with the motion.

Hon P.G. PENDAL: Thank you, Mr President.

The dilemma of an Opposition is that we could decide, I suppose, to ask no questions, based on the adage that if one does not ask any questions one is not told any lies. The Opposition could say, "Well, we never receive answers to our questions, or more specifically to the important ones which might actually embarrass the Government, so we will not ask questions."

Hon John Halden: I think you are being particularly naive, Mr Pendal.

Hon P.G. PENDAL: However, that is not much of an option for an Opposition prepared to do its job. However, given that the Opposition decides to ask questions in a variety of ways, the questions are either not answered or, as I have indicated to you, Mr President, wrong information is provided. This leads to the Opposition having no option but to move this kind of motion. I commend Hon Peter Foss for moving the original motion, and although I regret that an amendment was carried, it will still ultimately achieve the same ends. Therefore, Mr Foss' intention will be met, albeit in a modified way.

That brings me back to the question before the House. The Government has learnt nothing in recent years - it has not learnt to understand the implications of the Fitzgerald Royal

Commission report. One would have thought that there were sufficient occurrences in this Parliament over which the Government would feel shame. Do members remember - I do - when we asked questions on the eve of the last State general election regarding whether the petrochemical plant, worth approximately $400 million, had any Government underwriting? We were told in words of one syllable by the now departed former Deputy Premier, "There are no Government guarantees; there is no Government guarantee." What was the outcome? The election was held and while wiping their brow Government members said, "Phew, we have managed to fool people in the interim." I notice that Mr Butler smiles at that comment; yes, that tactic worked.

Hon T.G. Butler: I smile at the gracious way you cop the loss.

Hon P.G. PENDAL: Following the election the answer provided in April 1988, the previous year, was found to be false. That is one example, albeit a dramatic one, where the Parliament asked a question and was given information which had no integrity, as was found when the truth finally merged. That is why the motion is before the Parliament.

The day will come when members opposite will feel our sense of outrage; the wheel will turn and members opposite will be on this side of the House. They will then understand the need to be told the truth and for Ministers to arrive at the truth. To be told things which are directly contrary to the truth, as has occurred on some occasions, and to be given answers which are evasive, is an attack on the parliamentary system itself. One day it will catch up with the Government. It should not have been necessary for Mr Foss to move a motion along these lines. One would have thought that after all these years of cover-ups regarding WA Inc matters at least the Government would turn over a new leaf. Ministers will say from now on that they will not answer in the way they answered Hon Phil Pendal's question 293. I cannot say, because of the President's advice a few moments ago, why I am pursuing this matter, although it will not have escaped members' attention that a very short time ago I gave notice of a motion which, if agreed to, will require the Minister for Education to explain some matters to the House before the end of this month. Perhaps there is a perfectly innocent explanation for the Minister in another place answering the question the way he did. If that is the case, one wonders why it has not been provided up front previously and why this Government puts itself through the trauma of constantly not providing information which it knows the Opposition can force it to produce in the Parliament.

A couple of days ago Hon Eric Charlton gave notice that he would move a motion that the Government should lay on the Table of the House an enormous number of documents. Why did he move that motion? It is not because Hon Eric Charlton has nothing better to do with his time than read a pile of documents which, by the sound of it, will hit the ceiling of this place. No; it is because he cannot get answers to his questions. Another example is the fact that the Minister for Emergency Services refused point blank recently to release or table a report on the safety of the community in the Kwinana area.

Hon Graham Edwards: I offered you and local government a copy of the report. You will not take it because you cannot treat it confidentially. You want to play politics just as Richard Court wants to play politics with things. You have been caught out, both here and in the community, and you know it!

Hon P.G. PENDAL: The Minister has told untruths.

Withdrawal of Remark

Hon GRAHAM EDWARDS: I ask for that remark to be withdrawn and I invite Hon Phillip Pendal to repeat it outside.

The DEPUTY PRESIDENT (Hon Muriel Patterson): Will the member withdraw the remark?

Hon P.G. PENDAL: I withdraw it.

Debate Resumed

Hon P.G. PENDAL: The Minister has given information to this Parliament about the journalists - he knows, because I have spoken to both of them - that is not accurate and is not the truth.

Hon Graham Edwards: You should come outside and say that. You do not have the guts.

The DEPUTY PRESIDENT: Order! That has nothing to do with the debate.

Hon P.G. PENDAL: Exactly; the Minister should not try his thuggery with me. It may work in the Labor Caucus room, but not here.

Hon Graham Edwards: Step outside this cowards' castle and say that. You do not have the guts; you are a wimp like your leader.

The DEPUTY PRESIDENT: Order! Hon Phillip Pendal should address the Chair.

Hon P.G. PENDAL: That is exactly what I have been doing for several minutes. I presume that the Premier - "Miss Holyfoot" - will see the transcript showing this language used by the Minister and will discipline him, because she has said she will not tolerate that behaviour. The Minister offered, not a copy of the report which we could discuss, but to bring me in on the little cover-up of which he is part.

Hon Graham Edwards: All the local governments are part of it.

Hon P.G. PENDAL: If that is the case, why withhold it from the Parliament of this State?

Hon Graham Edwards: I have offered you a copy.

The DEPUTY PRESIDENT: Order! I ask that this debate not develop into a public brawl. This is the House of Review. The Minister must refrain from any more interjections; Hon Phil Pendal will address the Chair.

Hon P.G. PENDAL: I will continue to address you, Madam Deputy President, and presume the Minister will stop his interruptions. He is part of the reason this motion is before the House. He is part of a Government which has made a profession out of covering up matters.

Hon Tom Stephens: He is one of the most popular Ministers the State has ever had, and you know it.

Hon P.G. PENDAL: I could not care less about his popularity. However, I wonder about the integrity of a Government which keeps covering up these matters. I repeat: I will not be a party to Hon Graham Edwards' offering me a look at a confidential report on the basis that I will not discuss it.

Hon Graham Edwards: You want to play politics with it; that is what you want.

The DEPUTY PRESIDENT: Order!

Hon P.G. PENDAL: The Minister may forget that he is in politics. When a Minister says that an Opposition wants to play politics it usually means that something is being covered up. As I said to the reporter who found out the Minister today -

Hon Graham Edwards: You have never had the guts to follow up that.

Hon P.G. PENDAL: - the Opposition will move a motion in this House to have the report tabled if the Minister chooses to suppress it.

Hon Graham Edwards: Do that.

Hon P.G. PENDAL: He should not worry about that. The only reason this motion is before the House, as members on this side have said during this debate, is that the Government will not answer questions.

Hon T.G. Butler: It answers questions.

Hon Graham Edwards: And you will not step outside and make allegations.

Hon P.G. PENDAL: I beg the Minister's pardon.

The DEPUTY PRESIDENT: Order! The Minister is well aware that this matter is totally irrelevant to the debate.

Hon P.G. PENDAL: As long as this Government continues to evade and cover up the truth and refuses to allow public reports prepared at public expense to be tabled in this House, motions of this kind will appear. Irrespective of whether it is this raucous Minister who keeps interjecting and trying to explain his behaviour or someone who is absent, in the end the Opposition will have its way. It is entitled, on behalf of Parliament, to expose those issues the Minister would prefer to keep covered up. The matter of Adele Farina could have been cleared up two weeks ago, but that did not happen, because the Government decided to

answer in one way and a few minutes later changed its answer and began giving answers to questions which were never asked. I am, therefore, pleased to support the motion moved by Hon Peter Foss. It will not be the last time a motion of this sort will be moved in this place.

HON J.N. CALDWELL (Agricultural) [3.18 pm]: As Hon Phil Pendal has already said, the amendment to the motion has watered it down somewhat. Nonetheless, it provides that the Standing Orders Committee should have the right to investigate the matter. I objected to the previous proposed direction because the motion seemed to suggest that Parliament did not have the confidence in the Standing Orders Committee to do what it was set up to do. I understand completely that the House has the right, if it has the numbers, to direct a committee. But why should a committee be set up at all? If we did not have a Standing Orders Committee the House could do its own directing and set up its own committee. However, a special committee has been set up to consider the Standing Orders and that committee should decide whether the Standing Orders should be altered. That is the reason it has been appointed. In this instance, the committee is being directed to look at these amendments. I understand and sympathise with members who have criticised Ministers for not answering questions satisfactorily. Instances have already been given by Hon Phillip Pendal. However, the motion, as amended, contains a direction to the Standing Orders Committee and it is that committee that should consider the matter. I am a member of that committee and I will definitely consider the matter and perhaps suggest amendments that can be made to the Standing Orders. I hope Hon Peter Foss heard me use the word "perhaps". It is that word that he wanted to get around in his motion, which suggests the amendments to be made. I do not think that is the question. The Standing Orders Committee will consider all relevant matters and study the motion and decide on the appropriate action. That is proper and the House has confidence in the committee to do that. If it did not, there would be no need for a Standing Orders Committee. If the House cannot rely on it to do a good job it might as well do away with it. The wording of the amendment is adequate.

HON PETER FOSS (East Metropolitan) [3.22 pm]: I understand the position now is that all parties are prepared to support the motion if I am correct in what I understood the Leader of the House to say. However, I want to pick up two points raised by him. First of all, he asked what a Minister could possibly do to reflect the intent that he should take responsibility for a question. It is simple. All he has to do is do what has been the form of the House until now in putting replies into *Hansard*; for example, the answer to question without notice 286 asked by Hon Murray Montgomery is headed "Hon Kay Hallahan replied:". That is all he needs to do. Further words such as "The Minister for Health has provided the following reply" are not required.

Hon Doug Wenn asked what happened in 1982 because the system was all right until then. What happened was that this Government was elected and its Ministers stopped taking responsibility for their replies.

Hon Tom Stephens: There were never any answers to our questions. I was there and I know exactly what it was like. There were never any answers.

The DEPUTY PRESIDENT (Hon Muriel Patterson): Order!

Hon PETER FOSS: If Mr Stephens looks at *Hansard* he will see that at least Ministers took responsibility for their replies.

Hon Tom Stephens: Because they never gave us any answers.

Hon PETER FOSS: I am surprised, then, that Hon Tom Stephens is not supporting me more vigorously because at least then the requirement for ministerial responsibility for answers might become part of the Standing Orders and he would be able to use them when we are in Government.

The question put by the Leader of the House is easily answered: Leave out the bits he has been adding and leave the preamble to answers as "The Minister replied:". He asked why we should make a distinction between the Legislative Assembly and the Legislative Council; in his normal way he tried to trivialise it and play it down. The reason I do not wish to have to refer to questions in the Legislative Assembly, quite apart from the problem of having to search for them, is that if a reply is furnished in this House by a Minister, we have that Minister within our grasp and we can do something with that Minister for giving that reply. The difficulty we have if we are referred to an answer given in another House is that we are

being referred to a Minister who is not in this House and therefore not within our grasp. Even though Hon Doug Wenn said that the Leader of the House understood the principle that he took responsibility, the fact is that two interjections by the Leader of the House in the last debate indicated that he did not because he tried to make a distinction between an answer given on behalf of another Minister and the answer given by him.

Hon Doug Wenn's suggestion that questions should be directed to Ministers in the other House shows how little he understands the situation. He suggested that we ignore the constitutional division between the two Houses and ignore the fact that we have no control over Ministers in the other House. What abysmal ignorance! I wonder whether anyone on that side of the House has any idea of how the Constitution works. I suppose it is excusable when, although the Leader of the House pays some sort of lip service to the idea, he proceeds by way of interjection to show that every time he will wriggle out of the responsibility by saying that he did not supply the answer; somebody else did.

Notwithstanding that some of the remarks by the Leader of the House and his colleagues were incomprehensible, I am pleased that the Leader of the House supports the concept that this matter should be referred to the Standing Orders Committee. I look forward to the committee supporting the concept.

Question (motion, as amended) put and passed.

STANDING COMMITTEE ON LEGISLATION

Crime (Serious and Repeat Offenders) Sentencing Act and Criminal Law Amendment Act Report Tabling

HON GARRY KELLY (South Metropolitan) [3.26 pm]: I present the first report of the Standing Committee on Legislation on the Crime (Serious and Repeat Offenders) Sentencing Act and the Criminal Law Amendment Act and move -

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

Question put and passed.

[See paper No 140.]

Hon GARRY KELLY - by leave: It is not normal for the presenters of Standing Committee reports to make statements when reports are tabled. However, on this occasion it is necessary. Paragraph (3) of the report states -

> The Legislation Committee has been very mindful of the magnitude of the task in reviewing this legislation and as a consequence has determined that its investigations shall be divided into two reports. This first report is intended to deal with the broad legal and human rights implications of the legislation and a subsequent report will set out the social implications and consideration of the detail of the Act, including administrative and legal aspects and suggest alternatives for dealing with the underlying issues that lead to juvenile crime.

A second report which will deal with the administrative and legal aspects and detail of the Act will be presented in due course.

MOTION - STANDING ORDER No 35

Amendment

HON GARRY KELLY (South Metropolitan) [3.28 pm]: I move -

That Standing Order No 35 be amended by -

(a) deleting "session" and substituting "Parliament";

(b) deleting "3" and substituting "5".

This motion arises from the first report of the Standing Orders Committee on various matters and it seeks to amend Standing Order No 35 by deleting "session" and substituting "Parliament" and increasing the number of deputy chairmen from three to five.

Although the President is not in the Chair at the moment, I am sure he would concur with me

that trying to find a deputy chairman can be compared with trying to find a policeman when one is needed - they are very hard to find. The proposal to increase the number of deputy chairmen from three to five and for the appointment to cover the duration of the Parliament is an advance, because after prorogation it often takes some time for the Leader of the House to move for the appointment of deputy chairmen.

[Debate adjourned, pursuant to Standing Order No 195.]

ROAD TRAFFIC AMENDMENT BILL

Third Reading

Bill read a third time, on motion by Hon Graham Edwards (Minister for Police), and transmitted to the Assembly.

PUBLIC AND BANK HOLIDAYS AMENDMENT BILL

Report

Report of Committee adopted.

ACTS AMENDMENT (SEXUAL OFFENCES) BILL 1991

Second Reading

Debate resumed from 13 May.

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.32 pm]: I thank Hon Derrick Tomlinson and Hon John Caldwell for their support for this Bill. I especially thank Hon Derrick Tomlinson for his commonsense - he called it pragmatic - approach to conceivable problem situations. Hon Derrick Tomlinson was also correct in referring to child sex offences as an area of increasing concern. Certainly, it is an area in which the number of prosecutions is far above the level experienced in earlier years, to the extent that I understand it has been a major factor in the increased criminal case load of the Supreme Court. It seems to be generally accepted that this situation is not so much a reflection of an increased incidence of offending, but of a more ready willingness by complainants to come forward. Whatever the reason, the problem needs to be addressed forcefully and that is the point of this and associated legislation.

Hon Derrick Tomlinson's concerns, and those on which he elaborated, seem to primarily involve the question of potential liability to prosecution of what might be referred to as consenting juveniles in private. His reference to the medical journal article, which indicated sexual activity by high school Year 9 students, might suggest that schools would be unable to operate Year 10 classes because of the absence of students who were appearing in court, or worse. Of course, Hon Derrick Tomlinson was not suggesting that, and no-one would. Even under the present law many sex acts by juveniles could theoretically be prosecuted, but they are not. The present offence of unlawful carnal knowledge covers many of the situations to which Hon Derrick Tomlinson referred. The reason for this absence of prosecution is that, in both the existing law and the present Bill, the clear intention and target is not sexual activity as such, but sexual activity involving some element of abuse. The whole point of this legislation is to protect children and not to prosecute them. In this context, there is no reason to doubt that the prosecuting authorities and the courts will continue to act on that basis.

I have expressed my appreciation to the members opposite who have spoken on and supported this Bill. I should also express the Government's appreciation to the many concerned people in the community who, whether by participation in the various committees considering this problem or by their activity in the community, have been seeking some appropriate resolution of the problem, quite apart from penalty provisions, over a very lengthy period and have made very useful proposals to the Government. As these have been successively refined, the Government has been led into initiating the legislation now before us. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

The Chairman of Committees (Hon Garry Kelly) in the Chair; Hon J.M. Berinson (Attorney General) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Chapter XXXI inserted and consequential amendments -

Hon J.M. BERINSON: I move -

Page 12, line 17 - To delete "or (4)" and substitute the following -

, (4) or (6)

This amendment will make it a defence to a charge of indecently recording a child that the accused is married to the child. That makes the position consistent with the defence of being married to a child in relation to charges under proposed subsections 321(2), (3) and (4), which are all offences against children.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 12, lines 24 to 26 - To delete "an offence under section 320(2),(3) or (4), 321(2), (3) or (4), 324, 326, 328, or 329(2),(3) or (4)." and substitute the following -

a prescribed offence.

This amendment proposes to do two things: Firstly, to delete the reference to specific sections in proposed section 321A and, secondly, to insert the words "a prescribed offence", which is defined in the new section 321A(11) which will be inserted by an amendment I will move later in the proceedings.

Proposed section 321A creates a new offence of having a sexual relationship with a child under 16. To be guilty of that offence an offender must have committed three separate sexual acts with the child. This amendment to substitute "prescribed offence" will do two things. Firstly, it will avoid duplication of the acts which can constitute a sexual relationship. For example, proposed section 324 which presently appears in the list of acts in proposed section 321A does not appear in the definition of prescribed offence. This is because the act which would constitute an offence under proposed section 324 - that is, aggravated indecent assault - would also be the act which would constitute an offence under proposed section 321(4) - that is, indecent dealing with a child - which is in the definition of prescribed offence. The reference to new sections 326, 328 and 329 has been omitted from new section 321A for the same reason. Thus, in summary, this amendment is to avoid duplication. Secondly, it will avoid the possibility of an act of incitement being counted as one of the three acts required to constitute the new sexual relationship offence. This is because incitement to do an act does not mean that the sexual act itself was committed.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 13, after line 3 - To insert the following -

(4) An indictment under subsection (3) shall specify the period during which it is alleged that the sexual relationship occurred and the accused shall not be charged in the same indictment with any other offence under this chapter alleged to have been committed against the child during that period.

The proposed new subsection (4) will prevent a person being charged with both the new offence of a sexual relationship with a child and individual offences which can constitute the acts which go to make up the new relationship offence. That is, it prevents an accused being charged with two offences in respect of the same act.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 13, lines 22 and 23 - To delete the words "of the offences referred to in subsection (1)" and substitute the words "prescribed offences".

This is a consequential amendment because of the amendment already agreed to by inserting "prescribed offence" in proposed section 321A(1).

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 13, after line 24 - To insert the following -

(10) If a person has been tried and convicted or acquitted on an indictment alleging the commission of an offence under subsection (3), that fact is a defence to any charge of an offence under this chapter alleged to have been committed against the same child during the period when it was alleged the sexual relationship with the child occurred.

(11) In this section, "**prescribed offence**" means -

(a) an offence under section 320(2) or (4) or 321(2) or (4); or

(b) an offence under section 320(3) or 321(3) where the child in fact engages in sexual behaviour.

This amendment proposes to add a new section 321A(10) and a new section 321A(11). Proposed section 321A(10) is somewhat similar to the amendment inserting new section 321A(4). The new section 321A(10) will create a defence to any charge relating to a sexual offence which occurred during the period covered by a section 321A charge of having had a sexual relationship with a child, and where that charge has been dealt with by the court. The proposed new section 321A(11) is to insert a definition of "prescribed offence". The reasons for this amendment have been previously explained in relation to the amendment to new section 321A(1).

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 14, after line 23 - To insert the following -

(8) It is a defence to a charge under this section to prove the accused person was lawfully married to the child.

This amendment provides that being married to a child is a defence to sexual offences under new section 322 by a person in authority over that child. For example, where a teacher is married to a child, that would be a defence to a charge under new section 322(3) of engaging in sex with a child.

Amendment put and passed.

Hon J.M. BERINSON: I move -

Page 16, lines 17 to 22 - To delete the lines and insert the following -

"***de facto* child"** means a step-child of the offender or a child or step-child of a person (whether or not of the same sex as the offender) who lives with the offender as if they are married;

This amendment deletes the definitions of de facto child and de facto spouse and inserts a new definition of de facto child. The new definition is wider and includes the situation of a child being with or being cared for by adults of the same sex who are living together as if they were married.

Amendment put and passed.

Sitting suspended from 3.45 to 4.00 pm

[Questions without notice taken.]

Hon PETER FOSS: Will proposed section 322A effect any substantial changes to the nature of offences previously contained in the code? What is the net result of the repeals and the effect of proposed section 322A on this area of the law? Is what previously was an offence no longer an offence, and are there any changes to penalties or to any other matter dealt with in this proposed section?

Hon J.M. BERINSON: Generally speaking this part of clause 6 was drafted so as to be

consistent with the provisions of the sodomy Bill. It is possible that in one or more respects there might be here an amendment to applicable penalties. If that is the case it would be in the direction of an increased penalty. I do not have the precise matching provisions to be certain about that, but I know that was the principle that was generally followed by the advising committee.

Hon PETER FOSS: That is correct for proposed section 322A(3); however, proposed subsection (2) shows a reduced penalty. Is it the intent of this amendment not to effect a change in the law but to render within the same scheme the range of sexual offences and the wording of the Act in the way they were previously?

Hon J.M. BERINSON: Yes.

Clause, as amended, put and passed.

Clauses 7 to 23 put and passed.

Schedules 1 and 2 put and passed.

Title -

Hon DERRICK TOMLINSON: Perhaps this is an opportunity to ask a question which I was not able to ask previously because I was too slow. I make the observation that I simply think slower than the Attorney General reads, and I am not sure who is at fault.

At the outset, I thank the Attorney General for reaffirming the position which I think has always been understood with this legislation; that is, that the intention of the Government and the prevailing values of our society are that the law is intended to prosecute and not to persecute. That summarises the position the Attorney General gave to this Committee. Of course, the focus of prosecution is not young people caught up in these sorts of offences which I alluded to in arguing an attenuation of some aspects of the Bill. The focus is really the prosecution of older people who abuse children.

I ask the Attorney General to explain the meaning of proposed clause 321(5), which reads -

> A person who procures, incites, or encourages a child to do an indecent act, other than an indecent act that is committed in the presence of or viewed by the spouse of that child is guilty of that crime and is liable to the punishment in subsection (8).

I can understand that a person who procures, incites, or encourages a child to do an indecent act would be guilty of a crime and is liable to the punishment in subsection (8). However, what does "other than an indecent act that is committed in the presence of, or viewed by the spouse of that child" mean in that context?

Hon J.M. BERINSON: This proposed subsection must be considered in the context of a general view which emerged quite late in the process that marriage should be a defence to a range of offences.

I have said before, and I think Hon Derrick Tomlinson has also acknowledged, that the present Bill follows a very exhaustive process of consideration and reports. In spite of that it was not until all the public reports had been presented and we looked to the drafting of legislation that the question of marriage in the various circumstances contemplated by the Bill was raised. The consideration at that time was given by an informal advisory group constituted of representatives of the Crown Law Department, the police, the advisory committee on child abuse, the Department for Community Services, Parliamentary Counsel and the Crown Counsel, Graham Scott, QC.

In general, and this is reflected in new subsection (10), the Committee proceeded on the basis that marriage should in almost all situations put a child into the same position as an adult for the purposes of a defence. The present subsection about which we are talking falls short of that in that it would still be an offence for a child's spouse to be subject to some of these activities in the absence of his or her spouse, but for the rest it looks to that general equivalence applying in the presence of the spouse. That was done with a view to adopting as a general principle that marriage does have a significant effect on the applicability of the general range of offences covered by this legislation.

Title put and passed.

Bill reported, with amendments.

ACTS AMENDMENT (EVIDENCE OF CHILDREN AND OTHERS) BILL 1991

Second Reading

Debate resumed from 6 May.

HON DERRICK TOMLINSON (East Metropolitan) [4.43 pm]: In discussions during the Committee stage of the previous Bill, and during the Attorney General's second reading response, the point was made that the intention of the legislation was, if I may paraphrase, to prosecute rather than to persecute offenders. The focus, as has already been said, was on offences involving the sexual abuse of children by persons older than them and, in particular, by adults. The truth of that is borne out in this second Bill, the Acts Amendment (Evidence of Children and Others) Bill. I will try to encapsulate the spirit of this second Bill; it is to protect children from unnecessary hurt in the conduct of court proceedings in which they are involved, particularly in circumstances where they are involved as the victim.

The centrepiece of the Bill is the introduction to the schedule of a new form of proceeding which is referred to in several places in the Bill as a "Schedule 7 proceeding". The schedule 7 proceeding is one in which a person stands charged with an offence against a child or where a child is a significant witness or significantly involved in the offence or the affected child is under the age of 16 years on the day on which the complaint of the offence was made; and certain protections in the proceedings are outlined in various clauses of the Bill.

The Bill is principally designed to protect the interests of the child. For example, in new section 106A a provision allows the admission of a child's statement made outside a court. In new sections 106I and 106L provision is made for a child's evidence to be video taped. In new section 106N provision is made for evidence to be given via closed circuit television. In all of those new sections the deliberate intent is to protect the child from those circumstances which might best be described as an intimidation of the child by the accused, or to protect a child, or to minimise the trauma that a child suffers in such a proceeding.

Although the schedule 7 proceeding is as I described it - that is, the centrepiece of the Bill - it also includes other amendments or innovations to the law which again focus on minimising the trauma that a child experiences in bringing an offender to justice. For example, the provision for the appointment of a communicator to explain questions to a child; the limitations on the cross-examination of a child witness by an unrepresented defendant, and so on. There are also important changes to the law relating to the unsworn evidence of a child not having to be corroborated. That is particularly significant.

In total, the purpose and spirit of the legislation is commendable. As the Attorney General and I have said in relation to the companion Bill, it has been the subject of a long period of gestation following a great deal of public input and exchange between the public and several committees which had input into the development of the legislation before us. I say now what I said in relation to the Acts Amendment (Sexual Offences) Bill: My independent assessment is that it should proceed through both Houses unamended except for those amendments that the Attorney General has already placed on notice.

As I said during debate on the Acts Amendment (Sexual Offences) Bill, while I support the legislation and commend the spirit of it I do not want the impression to be gained that it does not contain some potential flaws. They are not fatal flaws but they are flaws which may demonstrate the need for amendment once the legislation is in force. I anticipate that will happen very quickly, in the very first of these cases tried in our courts.

In closing my remarks on the sexual offences Bill I looked at the question of the closure of courts and commented that while there were some reservations about the closure of courts possibly affecting the right of a defendant to be present at all times during his or her trial, for the protection of the child witness the closure of courts was, if not commendable, then certainly an acceptable procedure provided that the rights of the defendant were protected at all times. I indicated that I wanted to discuss the relationship between the rights of the defendant - not the rights of the child - in the closure of courts provision contained in the sexual offences Bill and other aspects of the protection of the rights of the defendant in this Bill.

To start considering the connection between the two Bills relating to the defence of the protection of the rights of the defendant, I want to focus on clause 7 on page 4 of the Bill by which section 101 of the Evidence Act 1906 is to be repealed. Section 101 provides that the

uncorroborated evidence of a child shall not be the basis of conviction; in other words, to convict there must be a corroboration of the evidence of a child. Clause 7 seeks to repeal that provision, so it will no longer be necessary to corroborate the unsworn evidence of a child under the age of 12. The rationale for that amendment has its origin - that is, its origin in terms of the immediate process of drafting the legislation - in the report of the Child Sexual Abuse Task Force to the Government of Western Australia presented in December 1987. The task force considered the laws relating to evidence and in particular focused on section 101 of the Evidence Act. In its consideration of that the task force looked at the effect of the provision that a child's evidence must be corroborated as it operated both in the courts and in the prosecution of offenders, and drew attention in paragraph 6.7 on page 102 of its report to this fact -

> The Task Force has been made aware that, in many cases where an alleged offender denies the offence, charges are not laid because of the lack of corroborating evidence, in spite of the belief of child protection officers, other care givers, and adults in the community that the charges are well-founded. During 1985/86, of the 598 sexual offences reported to the CIB Child Care Unit of the Police Department, 28% resulted in no charge due to lack of corroborating evidence. It is generally thought that the disadvantages of proceeding with prosecution in such cases substantially outweigh the advantages.

I think we would all have had in our respective electorates experiences where rather traumatic instances of alleged child abuse have been brought to our attention. We could probably all recite anecdotal evidence supporting the observation of the task force. We could all cite instances such as one brought to my attention, where a 12 year old girl had been allegedly abused by her stepfather and the police investigating the matter were convinced of the guilt of the stepfather but were unable to prosecute because the only evidence they had - as reliable as they believed it to be - was the uncorroborated testimony of the child. The trauma following that inability of the police to prosecute affected not just the child but the whole family. As it turned out in that instance, a 16 year old sister also alleged that the stepfather had abused her and the police were then able to proceed with a prosecution. However, all that did was to compound the trauma; because the 16 year old, who had been trying to conceal the fact, was compelled by the inability of the police to prosecute the alleged offences against her sister to then admit to the things that had happened to her and to undergo the trauma of the court proceedings in order that justice could be done. Given that sort of anecdotal evidence that is almost endemic in our community at the moment with the changing awareness and willingness of children and parents to admit abuse, as a community we are very ready to accept the observations of the advisory committee that the corroboration of evidence should not be necessary.

The committee added to its observation that it might be better, in order that justice could be properly pursued in all cases, to repeal the provision of the corroboration of unsworn evidence of a child in order that a prosecution could proceed. The committee substantiated that proposition by saying that the evidence of children generally is reliable, and that it is certainly not less reliable than uncorroborated evidence of an adult. In paragraph 6.9 the committee report reads in support of that proposal -

> There is no reason to believe that children, when giving evidence, are any more unreliable in the case of allegations of a sexual nature against them than in the case of any other offence. In most circumstances a judge would be obliged, as part of the duty to conduct a trial, to make comments on the weight of the evidence and to caution the jury where appropriate.

The first point is an important matter to consider, and clearly the Government has considered that proposition and has accepted it in proposing the amendment to repeal section 101 of the Evidence Act to ensure that justice is done. This will ensure that when a child makes a genuine claim of abuse, that child's evidence is believed.

The problem which arises is that we are really talking about matters of probability. It is highly probable that one can accept the evidence of a child, that the evidence of the child will be reliable and that the child will understand the gravity of making a statement in a court of law. However, even though the probability is high, it is not infallible. As much as we can accept the probability of the evidence being reliable, conversely there is a probability that

sometimes a child's uncorroborated evidence is unreliable. Sometimes children will not be truthful; sometimes children will be wilfully malicious; and sometimes they will lie. They will do this for their own reasons in making allegations against an adult of sexual abuse or molestation.

Just as we all have anecdotal evidence of young children who have been abused and families who have not seen justice done because the police cannot prosecute without evidence other than that which is not corroborated, we also have anecdotal evidence of injustices caused because a child has not been a reliable witness. Just as I have anecdotal evidence in the instance of the 12 year old who was abused by her stepfather, I have equally traumatic cases dealing with a constituent whose de facto husband was alleged, by responsible Department for Community Services officers, to have abused her daughter. The consequences of the accusations of abuse were swift and decisive: The child was taken into protective care and separated from her mother. In order for the mother to get her child back from protective care, and in order for the child to return, to speak figuratively, to the mother's bosom, it was necessary for the de facto husband to move out of the house. The condition of the child's return was that the child did not live in the same house as the person who had been accused of molesting her.

Regarding the principle of protection of children in those circumstances, I guess that is a reasonable proposition, except for this: The abuser was not the de facto husband; it was the child's father who, through a court order, had access to the child at weekends. In her emotional torment and trauma, to which she was subjected by her father, the child was unable to distinguish in the evidence she gave between the father and the de facto husband. She said, "He did it to me." Did what? The case involved all kinds of indecent things. In that instance the "he" became the de facto husband. The last time I had contact with the mother the de facto husband was living somewhere in the north of the State and she was living in the East Metropolitan Region. She was not quite sure which was the greatest trauma for her: The separation from the man she loved or the separation from the child. Also, she had the torment of not knowing who was honest. Was it the de facto husband who was denying the allegation or was it the child who, according to those who interrogated - I use the term advisedly - and questioned her, believed that the de facto husband was the guilty party? We can all raise such anecdotal evidence or, for example, we could cite innocent men who have been gaoled for sex offences. We could refer to such reports as that in *The Australian* of Monday 9 October 1989 where in an article by Stewart MacArthur the following claim is made -

> At least four men are serving jail sentences in Queensland for sex offences against their daughters that they did not commit, an eminent Brisbane psychologist claimed yesterday.
>
> Dr Brian Hazell who has given professional evidence in about 200 court cases involving alleged child sexual abuse, said the four "innocent" men were the victims of psychologically disturbed stepdaughters and over-energetic Government child care officers.

As is demonstrated in the proposal to repeal section 101 of the Criminal Code the uncorroborated evidence of a child under 12 might be sufficient to convict an alleged offender. However, in order that the interests of the victim are protected it is also important to remember that in all cases which come before the Criminal Courts a defendant as well as a complainant is involved. If the child is the complainant - or the victim - it is exceedingly important that the spirit of this legislation is pursued. However, in our zeal to protect the interests of the child victim we should never lose sight of the procedures of the court which guarantee the rights of the accused. If we do not do that, justice cannot be done. In pursuit of that notion, when the Child Sexual Abuse Task Force considered the use of closed circuit television for child witnesses during trial, their conclusions were much more guarded than their conclusions on uncorroborated evidence. At part 6.16 on page 104 the task force recommended caution in the use of closed circuit television during child witness trials. It recommended caution in proceeding along this path in the interests of fairness to alleged defendants. The report reads -

> This need not be inconsistent with the overall approach which is to protect a child from intimidation. There are many ways of achieving that objective, including improved design of court rooms and improved procedures.

If use of closed circuit television is to be carried into effect the task force suggests that any proposed legislation should include some protection of the accused's right to a fair trial. When the Law Reform Commission considered the question of the use of technology for the receipt and giving of evidence, its conclusions were different. I refer to its report - project No 87 of the Law Reform Commission of Western Australia presented in 1991 - on the evidence of children and other vulnerable witnesses. Having reviewed evidence from New Zealand recently studied by Westcott, Davies and Clifford on the credibility of child witnesses seen on closed circuit television it came to the view that the -

> . . . experience of other jurisdictions in using CCTV for the giving of evidence by children in cases of sexual abuse or assault, together with the experience gained from the use of CCTV in the East Perth Children's Court in 1987 suggests that the court should have power to order that CCTV be used in cases where child witnesses give evidence.

That is provided for in the legislation now before us. In advice to the Government at successive stages in developing the legislation the Child Sexual Abuse Task Force advised caution. The Law Reform Commission of Western Australia, having considered other evidence, concluded that it saw no insuperable objection to the use of closed circuit television. One of the matters which the Law Reform Commission considered was the right to confrontation. The assumption in the right to confrontation is that there is a guarantee that an accused person in a trial will be confronted with witnesses against him. The Law Reform Commission cited the Pigot Report and the case of Smellie v. Rex 1919 criminal appeal case in which the Court of Criminal Appeal dismissed the appeal. Its finding held that if the judge considers the presence of the prisoner will intimidate a witness, there is nothing to prevent him from securing the ends of justice by removing the former from the presence of the latter.

The question of the closure of a court is provided for, not so much in the Bill before the House, but in the Bill voted on earlier today. The Bill on sexual offences provides that a judge under appropriate circumstances can exclude all persons from a hearing. I made the point that the Criminal Code guarantees that the accused shall be present at all times. I suggested that perhaps the Attorney General may have entertained an amendment which would allow the judge to clear from the court all except those who had a direct involvement in proceedings. I assume the Attorney General saw fit not to proceed that way because I have not seen an amendment. The matter raises the question in both this Bill and in the previous legislation of the right of the accused. The right of the accused to cross-examine is somewhat constrained by various clauses of this Bill. I was pleased to observe that the Attorney General has on notice an amendment to the clause relating to pre-trial hearings to provide that one of the provisions now will be the right of the accused to cross-examine. In other clauses of the Bill before us, the right of the accused to cross-examine is reserved but constrained. For example, the Bill provides for an appropriate communicator to be appointed by the courts, and an unrepresented defendant may cross-examine a child witness only through the communicator. In other words, the questions must be put to the child through the communicator and the communicator in turn will transmit the child's answers to the court. Criminal lawyers - the word "criminal" is used as a noun and not as an adjective - have expressed some reservations about that. They argued in a submission that the Law Society made to the Standing Committee on Legislation - I am confident that the Law Society also sent a copy of its position paper to the Attorney General - that the communicator interposed between the child witness and the defendant would interrupt or intrude in a negative way upon the process of cross-examination. I am in two minds about that because my experience of dealing with children is that of an educator rather than that of a courtroom practitioner. My knowledge of questioning children in a teaching/learning experience is that children very often have to be asked questions in at least three ways because of a phenomenon that some people refer to as iconic thinking, symbolic thinking and enactive thinking. Iconic thinkers tend to represent thoughts as pictures. They draw a map of an argument and proceed through the argument through those pictorial representations of various stages. That map might be something they draw by using their hands or something they construct in their minds. However, they are pictorial - iconic - thinkers. Their thought processes proceed along pictorial images. Enactive thinkers cannot look at a tap and work out how the tap might be stopped from leaking. They cannot in their minds disassemble the tap; they must disassemble the tap physically. They are doers and think in a tactile way. The third group of

thinkers are abstract thinkers who think in terms of language. If that is applied to children it means that whenever a child is asleep in your classroom -

Hon Kay Hallahan: Asleep in your classroom?

Hon DERRICK TOMLINSON: Yes, in my classroom. I cannot imagine anyone sleeping in the Minister's classroom.

An educator quickly learns that, in presenting in dialogue with the child there must be always that interplay of those three processes of thinking. If that were put into the courtroom situation where one is trying to unravel such things as profound in abstract terms as sexual abuse with a five year old, a six year old, a 12 year old or even a 15 year old, there is that need. I suggest that if courtroom practitioners have reservations about the interposing of a communicator between themselves and the child, they need very quickly to learn a bit of child psychology and learn different interrogation procedures. For that reason, I have some caution about the reservations that the Law Society presented.

I take the House back to my earlier proposition, that in all of these amendments, we must not lose sight of the protection of the rights of the accused and the rights of the defendant. While the legislation is at pains to protect the rights of the children, and rightly so, it should also protect the rights of the accused. The right to cross-examination is most important. It gets to the very heart of the due processes of the courts and must be protected.

Finally, while the closure of courts and the accepted principles of juvenile justice prohibit the publication of anything to identify the child, there is no provision relating to the identification of the defendant. I again express caution about that. While it is not a matter that is entertained in any of the reports which, as I have read them, shaped the legislation now before us, in the application of the law one of the matters which I believe should be observed closely is the question of whether, in matters of child sexual abuse, we should also be cautious about procedures which will identify the defendant.

I know the Attorney General is anxious that this debate not be prolonged; I will not prolong it. I will draw my remarks to a close with the observation that the spirit of the legislation is commendable and should be supported by this House. I hope that it will proceed through both Houses of Parliament and be quickly put into practice. It does have a commendable justification for protecting the children as witnesses and as victims of sex offenders. I commend it to the House.

Debate adjourned to a later stage of the sitting, on motion by Hon J.N. Caldwell.

[Continued on p 2372.]

MINISTERIAL STATEMENT - BY THE MINISTER FOR EDUCATION

Land Amendment (Transmission of Interests) Bill 1991 - Standing Committee on Legislation Review Report

HON KAY HALLAHAN (East Metropolitan - Minister for Education) [5.30 pm] - by leave: Members will be aware that the Land Amendment (Transmission of Interests) Bill 1991 has been reviewed by the Standing Committee on Legislation and that the Standing Committee has since submitted its report. The Bill requires further consideration by this House in due course. I note the conclusions of the Standing Committee and, with the approval of the Minister for Lands, I make a ministerial statement in this regard before the Bill is further considered.

The Bill and the procedures which it details are complex. Understanding of it has not been helped by amendments made at the suggestion of Parliamentary Counsel after its introduction. It should, however, be noted that to a large extent this Bill is breaking new ground in a very exacting legal and registration environment. A team of three lawyers and one experienced Crown land administrator was heavily committed to the legislation's development, and I am assured that the complexity and detail of the Bill's provisions are unavoidable. It would be difficult to justify the time and expense involved in completely redrafting the Bill. In any event, it would be difficult to make it more readable because of the complex issues with which it deals. Refinements of the Bill's provisions will be addressed as part of the total rewrite of the Land Act. A proposal for a new land administration Bill was circulated some time ago to interested parties. Work is well

progressed towards preparing instructions for drafting of that new consolidated Bill, following extensive consultations with industry and local government on this fundamental legislation.

The Standing Committee has sought clarification on the effect of proposed section 149B(9), and I provide that now. Lines 1 to 7 of proposed section 149B(9) simply provide for approval of a plan of subdivision which will then allow issue of individual certificates of title to parcels the subject of each interest. This is the normal freehold subdivisional process. That passage of proposed section 149B(9) being questioned by the Standing Committee is assumed to be lines 8 to 14. This is intended to be a clear statement that existing interests shall not impede the approval of a plan of subdivision and the subsequent issue of certificates of title for each lot. Furthermore, consistent with proposed section 149B(6), it clearly states that the absence of written consent of the various interest holders will not hinder these two actions. Current practice in relation to subdivision of land owned by two or more parties as separate holdings is to insist on the land being brought into single ownership, with multiple owners being shown as tenants in common. Any secondary interests, such as leases, are noted as encumbrances by the examiner, but presently do not constrain plan approval.

Land, as referred to in this Bill, and being formally subdivided, will be in the name of one party - a Crown Minister, State agency or instrumentality - with any number of interests affecting the land as registered encumbrances. In this sense, the relevant passage of proposed section 149B(9) is a statement of present law as it is understood, but it has been included to ensure there is no misunderstanding and no problems arise later. Since the Bill is breaking new ground, and is already detailed and prescriptive, it was decided to cover this aspect also. Proposed section 149B(9), therefore, does not adversely affect interests in land, nor does it interfere with indefeasibility of title. The estate, interest or caveat continue to affect the land. Proposed section 149B(9) is a simple statement of the procedure to be followed to implement the intentions of the Bill, in accordance with established practices.

WESTERN AUSTRALIAN LAND AUTHORITY BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [5.35 pm]: I move -

That the Bill be now read a second time.

The Treasurer's 1990-91 Budget speech announced the Government's intention to establish an Office of Land Services to facilitate a coordinated and integrated program of urban development and land supply. The new organisation is now to be called the Western Australian Land Authority, and is to be formed by the amalgamation of the Industrial Lands Development Authority, the Joondalup Development Corporation and LandCorp, the residential land development arm of the Western Australian Development Corporation. The East Perth project was originally to be part of the new authority but, as members will be aware, it has been established by separate legislation. However, the East Perth project will receive administrative and personnel support services from the new authority. There is also expected to be some commonality of board membership between the two agencies.

The purpose of the Western Australian Land Authority is to provide land, infrastructure and associated facilities to meet the social and economic development needs of the community. To achieve this purpose the Western Australian Land Authority will acquire, plan, undertake, promote and coordinate the development of land in Western Australia, having regard to Government policies and objectives. More specifically, the functions of the Western Australian Land Authority are to -

(a) provide well planned and sensitively developed residential estates at reasonable prices in a range of localities;

(b) identify and provide appropriately located and serviced industrial and commercial sites and associated buildings and facilities of a high standard in order to generate employment opportunities and assist economic growth;

(c) continue the Joondalup Centre subregional development and undertake other land development and redevelopment projects for the provision of community infrastructure and facilities, enhancement of public assets and creation of employment; and

(d) in undertaking these functions, achieve and maintain self-sufficiency.

The Western Australian Land Authority is to be established as a Government agency which will complement private sector land development activities, not compete with them. In regard to the provision of land for residential and community purposes, the authority will undertake the role of assisting to smooth the peaks and troughs which often occur in the land development industry. This role will focus in particular on the provision of low cost residential land in times of recession to boost economic activity. During times of greater activity the authority will be required to make available land from its reserves at a reasonable cost to help meet demand and thereby relieve market pressures.

In relation to industrial land, the Western Australian Land Authority has a longer term planning horizon and will focus on the provision of serviced lots and infrastructure necessary to foster the continued economic development of Western Australia. In addition it will be an immediate priority of the authority's to complete the development of the Joondalup city centre, and included in this will be the provision of community, cultural, recreational and sporting facilities for this rapidly expanding subregional area. Members should note that the Joondalup Centre Act does not presently have express provisions requiring the construction of such a range of facilities. To this end, my colleague in the other place, Hon David Smith, has established a committee to look at community infrastructure needs and the identification of funding sources for their construction, not only for the Joondalup city centre but also for the surrounding Wanneroo area over the next 10 years or so. The Western Australian Land Authority will have a major role in working with the City of Wanneroo and in the provision of funding to bring the Joondalup subregional facilities to fruition.

No Government can afford to allow the urban sprawl to continue unchecked without regard for proper planning of subregional centres and the need to make better use of existing infrastructure. Therefore, in undertaking other future urban development projects, the Western Australian Land Authority will promote quality of design and engineering, and will oversee as project manager the planning, construction and provision of facilities for other subregional centres. The Joondalup Development Corporation experience is important for the Western Australian Land Authority's future role as a developer of subregional centres, associated nodes of activity and employment generation in such centres. This will be a vital aspect of the Western Australian Land Authority's operations which cannot presently be undertaken by the Joondalup Development Corporation, it having no charter to go beyond the precinct set out in the Joondalup Centre Act. The new legislation not only provides for other similar developments, but also enables development to continue in the Joondalup precinct with access to a far longer term revenue stream than might be available from the current Joondalup Development Corporation land sales, which potentially could expire prior to development of the Joondalup Centre being completed. Consistent with the Government's desire for decentralisation, the new authority will be based at Joondalup in accommodation presently occupied by the Joondalup Development Corporation. Both Industrial Lands Development Authority and LandCorp operations and staff have already relocated to Joondalup. Officers of the Industrial Lands Development Authority, Joondalup Development Corporation and LandCorp are presently undertaking the task of coordinating and integrating the separate financial and administrative systems into one to serve all the new authority's needs. This work is well advanced and will enable a smooth transition from three agencies to one in time for the Western Australian Land Authority's proposed commencement of operations on 1 July 1992.

In recognition of the wider scope of the Western Australian Land Authority's activities, its board will comprise up to seven members. The Government will be giving every consideration to one member being from the City of Wanneroo, in view of the importance of the Western Australian Land Authority's activities in this fast growing northern sub-region. The Western Australian Land Authority will be an agent of the Crown and have all the immunities, rights and privileges that this confers. It will however have to comply with the appropriate planning, Aboriginal heritage, and Environmental Protection Authority legislation. It will be subject to ministerial direction, and scrutiny by the Ombudsman, and

will be fully accountable under the Financial Administration and Audit Act. The new authority will be able to act together with or on behalf of other Government agencies. In the longer term it is expected to have some role in developing country land on behalf of the Department of Land Administration.

The Bill seeks to repeal the Industrial Lands Development Authority and the Joondalup Development Corporation legislation and transfers to the Western Australian Land Authority the activities of ILDA, JDC and LandCorp. The transfer of LandCorp's assets and liabilities is effected by clause 49 of the Bill, whether or not the Western Australian Development Corporation Act is repealed. In this regard, it must be said that the Government is committed to winding up the WADC, and the Minister for Microeconomic Reform is presently giving consideration to separate repealing legislation for the Western Australian Development Corporation Act.

The Western Australian Land Authority Bill also provides for appropriate transitional arrangements for staff, continuity of legal rights and obligations and preservation of any thing or action commenced by the agencies being subsumed. The Bill requires both the Industrial Lands Development Authority and the Joondalup Development Corporation to prepare a final report to Parliament under the Financial Administration and Audit Act 1985. The Western Australian Development Corporation will prepare a final report in conformity with the provisions of its separate repealing legislation. The Western Australian Land Authority Bill is important not only for the rationalisation of the Government's land development activities, but also because it provides for the continuation of ILDA's activities beyond 30 June 1992, the date upon which its current legislation lapses. Additionally, it will provide a home for and improve accountability of LandCorp's operations, pool expertise of existing staff, result in fewer public bodies and provide for better use and management of land assets. Government officers have briefed various members on the contents of the Bill over the past few months, and I trust that this briefing has been of benefit for the purposes of parliamentary debate on the Bill. I commend the Bill to the House.

Debate adjourned, on motion by Hon Barry House.

ACTS AMENDMENT (EVIDENCE OF CHILDREN AND OTHERS) BILL 1991

Second Reading

Debate resumed from an earlier stage of the sitting.

HON J.N. CALDWELL (Agricultural) [5.43 pm]: The Acts Amendment (Evidence of Children and Others) Bill has been well covered by Hon Derrick Tomlinson. The Bill seeks to reduce the pressure on children who give evidence in courts. It deals primarily with children, but also applies to other vulnerable witnesses such as mentally unstable persons and persons with physical disabilities.

The major initiative of the Bill is the presenting of evidence by a child by way of a pre-recorded video tape. The Bill enables cross-examination and re-examination to be recorded and the video to be presented to the court. Unauthorised editing of such video evidence is forbidden.

The National Party is concerned about a situation where evidence is given in a country court where no such facilities are available for video recording. We have been told that to counteract that deficiency screens can be set up in courtrooms to protect children giving evidence. That is not as good as a child giving evidence away from the atmosphere of court proceedings. I guess that could be done in certain circumstances. I hope the other approach is not used frequently. As I understand, such video recording can presently only be done in Perth. No doubt it is anticipated that such tapes will be available in country areas in due course.

The Bill enables evidence and cross-examination to be taken live using closed circuit television so that a child does not have to be in a courtroom. Provision is made for a child to give evidence through a one way screen so that he or she cannot see the accused. This is a major step forward so that a child can give evidence without feeling intimidated by the court atmosphere or the person charged. In many cases the accused is a close relative or friend of the child or someone the child as been associated with for all of its life.

It is important that children be protected and not have to give evidence in the presence of an accused. Members should bear in mind the apparently high level of false allegations of child abuse as well as a probable high rate of child abuse that is never reported. We heard evidence yesterday that of every 100 offences approximately 90 to 95 are not reported, so a small number of offences involving children are reported. This Bill will assist in that area and result in a higher percentage of reports.

Although it may be politically difficult to do so, there should be some focus on the rights of the accused. This has come out time and again. The Law Society has been particularly concerned about the rights of the accused in such cases. I believe the part of the legislation it is worried about is new sections 106H, I and J which will be dealt with during the Committee stage of the Bill.

I would like the Attorney General to acquaint himself with those sections. I am not sure whether amendments are proposed to be moved to those new sections during the Committee stage. The rights of an accused must be protected at all times. This happens at present, anyway. However, the name of an accused parent is not published because that would identify the child concerned. Spelling this out may reduce the extent to which the child abuse law is abused by those who simply want to defame somebody else. For instance, a person could be defamed where parents are involved in a divorce procedure and one wishes to get back at the other by bringing such an allegation before the courts.

This Bill was dealt with by the Legislative Council's Standing Committee on Legislation, which received comments from all interested groups. The only group which did not support the Bill was the Law Society, which objected fairly strongly, mainly on the grounds of the reduction of the rights of the accused and that the Bill was cumbersome. However, the Committee supported the Bill and suggested that it be reviewed by the Government after 12 months. This Bill accompanies the previous Bill that we passed, and the two pieces of legislation have such far reaching implications for the future in trying to rectify the problems which young people and children are experiencing in today's society that it is absolutely essential that there be such a review.

Care must be taken to ensure that this Bill does not lead to the creation of another layer of bureaucrats and social workers who may come between caring families and their children. We have all seen cases where families have been devastated by a child being taken away from them or by a social worker interfering with the family. Those social workers may have thought they were doing the right thing but the outcome is sometimes that they have interfered grossly with the life of the family.

This Bill will create the position of a communicator in the courts, who will be responsible for facilitating the communication between the child and the prosecution or the people who are questioning the child. The communicator will talk to the child in language that the child can understand. That is a reasonable suggestion, because the language used in courts is not always easy to understand, even by an adult.

The Legislation Committee suggested that this legislation proceed through both Houses of Parliament with haste because it has been warranted for a long time and has been looked at by many people. I hope the Government will proceed with the legislation in that way. I support the Bill.

Debate adjourned, on motion by Hon Peter Foss.

ADJOURNMENT OF THE HOUSE - SPECIAL

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

That the House at its rising adjourn until Tuesday, 26 May 1982.

House adjourned at 5.53 pm

QUESTIONS ON NOTICE

REGIONAL PARKS - LEGISLATION PROMISE
"A Future You Can Believe In" Document - Regional Parks Establishment Promise

5. Hon P.G. PENDAL to the Minister for Education representing the Minister for the Environment:

(1) Did the State Government issue a document entitled *A Future You Can Believe In* prior to the 1989 State election?

(2) In that document, under the heading of "Labor and the Swan Coastal Plain", did the Government promise to establish regional parks in the Canning River Valley, the Beeliar wetlands, Lake Joondalup and Lakes Cooloongup and Walyungup?

(3) Have any of these parks been established?

(4) If so which ones?

(5) Why have the regional parks promised for the Beeliar wetlands and Lakes Cooloongup and Walyungup not been established?

(6) When will they be?

(7) Did the Government also promise that it would ensure the security, protection and management of these parks through legislation?

(8) Why has it taken so long to complete the drafting of this legislation?

(9) Does the Government intend to honour this promise of regional parks legislation?

(10) If yes, when will this legislation be introduced into the Parliament?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1)-(2)
Yes.

(3)-(6)
The establishment of a regional park is a lengthy process involving reservation of land in the metropolitan region scheme, the purchase of land, and subsequent amalgamation and vesting of land in management authorities.

All of the parks referred to are well advanced and are ready for amalgamation and vesting of lands. Remaining lands at Beeliar will shortly be protected by an amendment to the metropolitan region scheme. Rockingham Lakes will be enlarged at a later date by the addition of wetlands south of Lake Walyungup, some of which have already been purchased.

(7) Yes.

(8) Preparation of the report of the task force on regional parks took far longer than intended because of the complexity of the concept of creating regional parks from lands under various vesting or ownership, and determining appropriate management and financial arrangements for such parks. Consequently the Government has only recently received the task force report.

(9) Yes.

(10) This matter is presently under consideration.

GOVERNMENT DEPARTMENTS AND AGENCIES - MINISTER FOR THE ENVIRONMENT

Bodies Administered; Current Organisational Structure; Employment Positions

61. Hon PETER FOSS to the Minister for Education representing the Minister for the Environment:

With respect to the Minister's department and to each of the bodies administered within that department -

(1) What are the bodies administered within the department?

(2) What is the current organisational structure of the department and those bodies?

(3) What are the Senior Executive Service positions within the department and those bodies?

(4) What are the other senior positions within the department and those bodies?

(5) What are the policy adviser positions within the department and those bodies?

(6) What are the public relations positions within the department and those bodies?

(7) With respect to each of the abovementioned positions, who holds those positions; and

(a) what is their period of service within the Public Service or in employment by the Government or contracted to the Government;

(b) what were their previous positions held within the Public Service or in employment by the Government or contracted to the Government and the dates for which they were held;

(c) what was their experience immediately prior to entering the Public Service or contracting with Government;

(d) are they presently on contract and what is the date of expiry of that contract?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

The member is referred to the Premier's response to question on notice 49.

YIRRIGAN SANITARY LANDFILL SITE - MONITORING BORES FOR GROUND WATER QUALITY

Establishment Requirements

86. Hon GEORGE CASH to the Minister for Education representing the Minister for Health:

(1) What requirements have been imposed on the operators of the Yirrigan sanitary landfill site or other authorities, for the establishment of monitoring bores to obtain information on ground water quality, both on site and off site, at the Yirrigan sanitary landfill site?

(2) Have these monitoring bores been established?

(3) If so, will the Minister provide details of the location of each bore and the depth of each bore?

(4) What analysis has been made of water samples from these bores to establish the water quality prior to sanitary landfill operations commencing?

(5) Which Government departments or authorities are required to be informed of the results of the ground water quality monitoring?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) During the 1980s a network of monitoring bores was installed around the site by the operator at the direction of the Health Department. These bores were supplemented with monitoring bores installed by the CSIRO who undertook an extensive monitoring study of the site with funding support from the operator. These bores have now been replaced, at the direction of the Health Department by a single multiport bore.

(2) Yes.

(3) The multiport bore is located approximately 100 metres from the operating face of the landfill in a south, south westerly direction. This bore is equipped with sampling ports at the following depths -

10.9 metres
20.0 metres
30.0 metres
40.0 metres
50.0 metres

(4) No water samples were taken prior to the landfill being established. Background water quality has been determined by taking water samples from bores upgradient of the landfill.

(5) There is no formal requirement to inform any Government departments of the results. However, the Health Department ensures that details of all analyses are made available to the geological survey branch of the Department of Mines, the Water Authority and the local authority.

CANNING RIVER - SEWERAGE EFFLUENT SPILLAGE
Report Tabling

104. Hon P.G. PENDAL to the Minister for Education representing the Minister for Health:

(1) Can the Minister confirm that four times the volume of sewerage effluent went into the river and nearby swamp area than has been officially admitted?

(2) Will the Minister arrange for the tabling of the full report into that spillage?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) No sewerage effluent went into the Canning River. The amount discharged was the amount reported.

(2) I direct the honourable member to the Minister for Water Resources who is responsible for the report into the spillage.

MINDARIE REGIONAL REFUSE SITE - MONITORING BORES FOR GROUND WATER QUALITY
Analysis Frequency

108. Hon GEORGE CASH to the Minister for Education representing the Minister for the Environment:

(1) How often is analysis carried out of water samples from the monitoring bores at the Mindarie Regional Refuse Site?

(2) When was the most recent analysis carried out?

(3) Did the results of this analysis indicate any change in ground water quality compared to that found in samples taken prior to the commencement in 1991 of sanitary landfill operations, either -

(a) on site; or

(b) off site?

(4) If so, what was -

(a) the nature of the change in ground water quality; and

(b) the location of the bore or bores from which the samples were taken?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) Every six weeks.

(2) 9 April 1992.

(3) (a)-(b)
No.

(4) (a)-(b)
Not applicable.

JOLLY GREEN GIANT (COMPANY) - ENVIRONMENTALLY FRIENDLY SYMBOL

122. Hon P.G. PENDAL to the Minister for Education representing the Minister for the Environment:

Further to question on notice 1056 asked on 22 October 1991 and which remains unanswered -

(1) Is the Minister aware of the work of a Western Australian company "Jolly Green Giant" whose environment awareness campaign centres around a symbol to the effect that the products bearing it are environmentally friendly?

(2) Is the Minister prepared to facilitate the use of this in Western Australia?

(3) If no, why not?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) I have met with principals of this company and given them some advice as to how they may be able to relate this product to Environmental Choice - Australia.

(2)-(3)
It is up to the company to establish its products in the marketplace.

LEAD - PETROL LEVELS
Reduction Demand

123. Hon P.G. PENDAL to the Minister for Education representing the Minister for the Environment:

Further to question on notice 1219 asked on 13 November 1991 which remains unanswered -

(1) What are the levels of lead in all types of motor fuel sold in Western Australia?

(2) Has the Government demanded a reduction in the level of lead in any particular type of motor fuel sold in Western Australia?

(3) If yes,

(a) in which type of motor fuel;

(b) what level of lead content has the Government demanded be achieved;

(c) what is the timetable set by Government for achieving the reduction in lead level; and

(d) what is the itemised cost of achieving the demanded reduction in the lead level to the company/ies concerned according to the company/ies concerned?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) The levels of lead in leaded petrol at present do not exceed 0.65 grams per litre with an average of 0.60 grams per litre. The levels of lead in unleaded petrol are at present 0.01 grams per litre or less.

(2) The Environmental Protection Authority in negotiation with BP Australia has achieved a reduction in the lead in leaded petrol from a level of around 0.8 grams per litre to 0.65 g/l. BP has been conforming to this level since July 1991. These standards will be formally controlled under regulations being drafted.

(3) (a) Only leaded petrol.

(b)-(c)

The EPA has recommended levels be set at 0.65 grams of lead per litre immediately and 0.4 grams of lead per litre by 1 January 1996.

(d) Reducing lead levels from 0.8 to 0.65 was estimated by BP to cost $1 million to $2 million over 12 months. The overall change from 0.8 to 0.4 grams per litre is estimated by BP to cost $100 million dollars. An itemised costing is not appropriate as the information was supplied on the understanding of proprietary privilege.

WEEDS - CONTROL, INADEQUATE LEGISLATION
Wildflower Society of Western Australia (Inc) Concern - Government Action

156. Hon P.G. PENDAL to the Minister for Education representing the Minister for the Environment:

(1) Is the Minister aware of renewed concern by the Wildflower Society of Western Australia (Inc) over the lack of legislation to control environmental weeds, such as Watsonia and Bridle Creeper?

(2) Does the Minister concede these and other weeds are having a major impact on our national parks and remnant areas of urban bush?

(3) What steps would need to be taken to give the Minister's department power to advise Government on plants that pose a serious risk to localities not covered by the Agriculture Protection Board vis-a-vis agricultural land?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) Yes.

(2) Yes. However, the impact of bushland weeds on national parks is not uniform and may vary widely from park to park.

(3) Subject to the availability of resources, the Department of Conservation and Land Management has been implementing its policy and programs for the control of weeds on the land it manages for many years. The department has also recently established a task force to develop a Statewide policy and strategy to deal with bushland weeds. Amendments proposed within new wildlife conservation legislation will also address this issue. Legislation power duplicating that provided in agricultural legislation would be required in addition to substantive additional resources to oversee and implement such legislation.

WILSON INLET MANAGEMENT ADVISORY COMMITTEE - MEMBERSHIP
Community Representation

162. Hon MURIEL PATTERSON to the Minister for Education representing the Minister for the Environment:

Can the Minister advise why the Wilson Inlet Management Advisory Committee does not have more community representation?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

The Wilson Inlet Management Advisory Committee is a committee of the Shire of Denmark and the Shire of Albany and as such its membership is their responsibility. I understand that the Wilson Inlet Management Advisory Committee has about 15 members. It is chaired by a prominent community member, Matt Stephens, and has representatives from the Shire of Albany, the Shire of Denmark, the key Government agencies involved with the inlet and a number of community representatives.

The question then arises as to who exactly is a community representative, but if one includes the chairman, the local government councillors and local people, WIMAC has 10 community representatives out of 15. If one excludes the chairman and the local government councillors, which I think is unfair, it has five community representatives out of 15. In addition, I believe WIMAC holds a public forum before each meeting. It would seem to me there is ample community representation and opportunity for public input.

If the honourable member is still concerned about the membership I suggest she contact the two shires as they appoint the members.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - CARNARVON OFFICE CLOSURE INTENTION

172. Hon P.H. LOCKYER to the Minister for Education representing the Minister for the Environment:

(1) Is it the Government's intention to close the Department of Conservation and Land Management office in Carnarvon?

(2) If yes -

(a) where will the officer presently stationed at Carnarvon be transferred to; and

(b) what is the reason for closing the office?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) No.

(2) Not applicable.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - CLEARING OF PRIVATE LAND
Prevention Authority - Survey of Rare Flora and Fauna Cost Responsibility

173. Hon MURRAY MONTGOMERY to the Minister for Education representing the Minister for the Environment:

(1) Does the Department of Conservation and Land Management have the authority to prevent clearing of private land?

(2) If yes, under what act is this authority given?

(3) Where a land owner has been instructed by the department to carry out a survey of a property to ascertain the possible presence of rare and endangered species of flora and fauna, who is responsible for the costs of conducting the survey?

(4) If the responsibility rests with the land owners, can the Minister outline under what legislative authority this duty comes?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1)-(2)

No. However, under the Wildlife Conservation Act 1950 the Minister's written consent is required to take any protected flora that has been declared to be rare flora in accordance with section 23F of this Act.

(3)-(4)

Landowners are not instructed to carry out surveys pursuant to the Wildlife Conservation Act or Conservation and Land Management Act. However, they are advised of the requirement described in (1) above and the Department of Conservation and Land Management often advises that surveys should be conducted in the course, for example, of environmental assessments for mining and land development projects. If a landowner conducts a survey or arranges for a survey to be conducted to ascertain the presence of rare flora or fauna then such a survey is carried out at his or her own expense. There is no provision under the Wildlife Conservation Act compelling landowners to carry out such surveys.

SHARK BAY - WORLD HERITAGE LISTING
Joint Legislation Consideration Date

210. Hon P.H. LOCKYER to the Minister representing the Minister for the Environment:

(1) When will joint legislation concerning World Heritage Listing at Shark Bay be considered by the State and Federal Governments?

(2) Will the Shire of Shark Bay be substantially involved in the allocation of funding for the Shark Bay World Heritage Listing?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) It is planned to introduce the legislation in the spring sitting.

(2) Not substantially.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - JARRAH FORESTS
Aerial Prescribed Burning, Autumn 1992

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

(1) As the Department of Conservation and Land Management is recorded as saying that approved burning of the jarrah forests is carried out in autumn and spring, will the Minister advise whether aerial burning has been done this autumn?

(2) If little or no aerial burning has been done, would the Minister advise why this is so?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) Aerial prescribed burning was carried out this autumn in Manjimup, Pemberton, Walpole, Nannup, Collie and Albany districts.

(2) Not applicable.

CONSERVATION STRATEGY DOCUMENT - PUBLICATION DATE
Current Status

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

(1) When was the state conservation strategy document published?

(2) What is its current status?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

(1) The State conservation strategy was published in January 1987.

(2) The State Government endorsed the theme of the strategy and designated the Environmental Protection Authority as the lead agency responsible for its implementation. One of the major proposals of the strategy was for the EPA to be the lead agency in the preparation of a state of the environment report. With the cooperation of other Government agencies the EPA has been working on this report and it is expected to be published in June of this year.

KRUK, DR - FREMANTLE HOSPITAL TO KARRATHA RELOCATION

240. Hon N.F. MOORE to the Minister representing the Minister for Health:

(1) When is it anticipated that Dr Kruk from Fremantle Hospital will be relocated to Karratha?

(2) What financial or other assistance will be provided to Dr Kruk which is not provided to other doctors in Karratha?

(3) How long will Dr Kruk remain in Karratha?

(4) Did Fremantle Hospital agree to Dr Kruk's transfer to Karratha?

(5) Did Dr Kruk request a transfer to Karratha or was he sent against his wishes?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) Dr Kruk commenced duties on 11 May 1992.

(2) Assistance is provided to a number of doctors including help with residential and surgery accommodation and transport costs. The assistance being given to Dr Kruk is consistent with this approach.

(3) Dr Kruk has been appointed to Karratha as an interim measure while efforts continue to attract additional general practitioners to the area who will establish practice on a permanent basis. Dr Kruk will remain in Karratha for an initial period of three months, at the end of which the position will be reviewed and extended if necessary.

(4) Yes.

(5) He willingly accepted a secondment, as part of a training program.

HOSPITALS - BROOME DISTRICT
Upgrading Plans

251. Hon P.H. LOCKYER to the Minister representing the Minister for Health:

(1) What specific plans are in place for the upgrading of the Broome District Hospital?

(2) When will alterations and upgrading take place?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) A review of the health service needs of Broome is currently being undertaken from which a statement of facility need will be developed and used as the basis for the redevelopment plans.

(2) Stage 3 of the Broome Hospital redevelopment is already included in the Health Department's capital works program. Timing of the redevelopment is dependent on the outcome of decisions about the whole of Government capital works priorities which will be determined through the normal budgetary process.

ASBESTOS - HANDLING OF AS HAZARDOUS WASTE
Local Government Responsibility - Health Department Support

287. Hon MURRAY MONTGOMERY to the Minister representing the Minister for Health:

(1) Is the handling of asbestos, as a hazardous waste material, the responsibility of local government?

(2) What support, including the provision of information, does the Health Department provide in relation to the handling of asbestos?

(3) Who is responsible for monitoring and regulating the contractors who clean, repair or coat asbestos roofing?

(4) Will the Minister table the latest information on the health risks associated with the handling of asbestos?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1) Yes.

(2) The support provided by the Health Department includes the following -

(a) administers the "Health (Disposal of Asbestos Waste) Regulations 1984"

(b) advises local authorities and the general public on all aspects of asbestos handling

(c) undertakes scientific investigation and if necessary on-site assessment within the limits of its resources

(d) prepares and distributes relevant publications, e.g. "How Safe is Asbestos Cement."

(e) liaises with the Department of Occupational Health, Safety and Welfare and the Environmental Protection Authority as required

(f) assists other Government departments in formulating policy for Wittenoom

(g) Provides policy documents for use within Health Department premises. These have been distributed beyond the Health Department on request.

(h) provides expert advice to scientific committees such as the Mesothelioma Committee

(i) participates in the assessment of workers' compensation cases with regard to asbestos-related diseases through the pneumoconiosis medical panel.

(3) The Department of Occupational Health, Safety and Welfare as the regulatory authority for workers.

(4) Latest authoritative information includes -

"Asbestos Code of Practice and Guidance Note" prepared by Worksafe Australia - April 1988. This is available through the Australian Government Publishing Service.

"Asbestos Cement Products" produced by an expert working party of

the Western Australian Advisory Committee on Hazardous Substances - August 1990. Copies are available on request to the Health Department. I will be happy to table a copy of this document as requested.

BRAILLE AND TALKING BOOK LIBRARY - ASSOCIATION FOR THE BLIND OF WESTERN AUSTRALIA (INC)
Review Recommendations - Implementation Date

304. Hon MURIEL PATTERSON to the Minister for The Arts:

With reference to the recommendations of the review committee which examined future funding arrangements for the Braille and Talking Book Library for the Association for the Blind of Western Australia (Incorporated) -

(1) Have any recommendations yet been implemented?

(2) If not, when are these recommendations likely to be implemented?

Hon KAY HALLAHAN replied:

(1)-(2)

The report has been received and is under active consideration.

OPTHALMIA DAM, NEWMAN - FORTESCUE VALLEY DEGRADATION
Dead and Dying Trees

311. Hon N.F. MOORE to the Minister representing the Minister for the Environment:

What action is being taken regarding the millions of dead and dying trees downstream of Broken Hill Proprietary's Ophthalmia Dam in the Fortescue Valley?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

There have been a number of investigations done by the Environmental Protection Authority, Department of Agriculture, Water Authority of WA and the Department of State Development to determine the impact of the dam and grazing history on the downstream vegetation.

In August 1990 the Environmental Protection Authority approached the Mount Newman Mining Company - as owners of the dam - and BHP-Utah Minerals International - as owners of the Ethel Creek Pastoral Company - and the Department of Resources Development as administrators of the Iron Ore (Mount Newman Agreement Act). The EPA requested them to ensure urgent remedial action is undertaken to prevent further degradation and to rehabilitate degraded areas. However, the EPA has no power to direct the mining company in relation to potential effects of the Ophthalmia Dam.

The Crown Law Department in June 1990 advised that the Environmental Protection Act's section 5(2) does not give the EPA any power over the State's Agreement Act with the company, under which the dam was built. However, the EPA is continuing to seek the cooperation of these key agencies in establishing a means of rehabilitating the area in question.

CONSERVATION AND LAND MANAGEMENT, DEPARTMENT OF - PINE FOREST, SOUTH WEST
Pruning - Decrease Factors

320. Hon W.N. STRETCH to the Minister representing the Minister for the Environment:

With reference to the Minister's answer to question on notice no 195 on 2 April 1992, does the apparent current decrease in the area of pines being pruned in Conservation and Land Management forests indicate -

(a) a change of pruning policy by the Government, and if so, what is the new policy;

(b) a shortage of manual or physical resources to undertake the desired amount of pruning; or

(c) other factors, and if so, what are those factors?

Hon KAY HALLAHAN replied:

The Minister for the Environment has provided the following reply -

Following the implementation of new silviculture regimes it has been possible to reduce pine pruning.

PRAWNS - SWAN AND CANNING RIVERS
Fishing Effects

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

(1) What is known by the department and agencies about the effect on the Swan and Canning Rivers of prawn fishing?

(2) Is the Minister aware of the effect of up to 400 people prawning, at the same time, in sections of the river from Canning Bridge and Mt Henry Bridge?

(3) Is the Government concerned as are the local community that huge amounts of biomass are extracted from the river system by prawners and then discarded?

(4) Will the Minister arrange for the Swan River Trust to begin a serious program of assessment and data collection to better understand the impact of prawning on river life generally?

Hon KAY HALLAHAN replied:

The Minister for the Environment has produced the following reply -

(1) Prawn fishing is dependent on the availability of prawns, which, according to the Fisheries Department, varies greatly from year to year in response to variations in winter rainfall. There is no evidence of a significant effect on the ecology of the Swan and Canning Rivers.

(2) I am aware of large numbers of people enjoying the pastime of prawning when the prawns are running. The Canning Bridge-Mt Henry area is popular for school prawns.

(3) Yes. The Government is specifically concerned about the material discarded by prawners because it litters the foreshores. Prawners are actively encouraged to put organic matter, mostly week, jelly fish and blow fish back into the water. The Fisheries Department has provided pamphlets and the Swan River Trust cleans the beaches each summer.

(4) The Fisheries Department and Murdoch University have carried out extensive research into the prawn fishery and the Swan River Trust has a continuing program to monitor the health of the Swan and Canning Rivers.

AGRICULTURE, DEPARTMENT OF - AGRICULTURE PROTECTION BOARD
Meekatharra, Pending Appointments

328. Hon P.H. LOCKYER to the Minister representing the Minister for Agriculture:

(1) Are there any appointments to positions in the Department of Agriculture or Agricultural Protection Board in Meekatharra pending at the present moment?

(2) If so, what are these positions?

(3) Is housing to be made available to the appropriate appointee?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following reply -

(1) There are three Department of Agriculture CRF-funded vacant positions located at Meekatharra with one position, officer in charge, filled in an acting capacity.

(2) P1618052 Adviser
P0002884 Technical Officer
P1410702 Technical Officer

(3) P1618052 Accommodation available
P0002884 Single accommodation available
P1410702 Accommodation available.

QUESTIONS WITHOUT NOTICE

MULTANOVAS - REVENUE
Consolidated Revenue Fund - Costs

204. Hon MAX EVANS *to the Minister for Police:*

Recent Press reports indicated that the Multanova camera and the radar guns had raised $5 million by way of fines. Most of these police operations are carried out at night, on the weekends, and on public holidays, which involve overtime rates. Can the Minister advise the approximate direct costs of salaries, petrol and so on, incurred through raising that amount of revenue for the Consolidated Revenue Fund?

Hon GRAHAM EDWARDS replied:

All the funds collected in that way do not go to the Consolidated Revenue Fund. Members may recall that at the time we passed the legislation to enable infringement notices to be sent by mail we also provided that one-third of the revenue raised would go to the road trauma trust fund. I do not think that I can provide a breakdown of the costs involved. I have not worried about going into that aspect because even though it is difficult - indeed, almost impossible - to convince people of this, the police are not out there trying to raise revenue. If the police were raising revenue in this way, perhaps we would undertake a profit and loss exercise - but they are not. I cannot provide the information. I will check with the Commissioner of Police but I do not think that information will be available.

MULTANOVAS - REVENUE
Consolidated Revenue Fund - Costs Reimbursement

205. Hon MAX EVANS to the Minister for Police:

Is the Commissioner of Police reimbursed by the Government by an additional appropriation for the costs incurred to raise revenue for the CRF or must the costs be absorbed, thereby precluding the use of these funds in other urgent areas?

Hon Graham Edwards: One-third of the funds go to the road trauma trust fund. That is administered by the Traffic Board.

Hon MAX EVANS: Will the Minister discuss this matter with the Commissioner of Police?

Hon GRAHAM EDWARDS replied:

These funds do not jeopardise the work of the police. Trying to police speed limits and other traffic laws is a very important part of police work. Trying to reduce road trauma is also a very important part of that work, as is the use of the Multanova camera or the other radar machines. They are simply some of the strategies that the police can employ. The original argument surrounding the introduction of the Multanova camera was that their use would free up the police for other duties. Generally, these days the police are much more visible on the roads than they were perhaps a couple of years ago. There is a healthy threshold for the use of the Multanova camera. When the police are out and about they are not hell bent on issuing infringements. The latest annual report indicates that a significant number of cautions had been issued. I encourage the police to work in that way. This is very much part of police work, and generally they are successful.

LAW REFORM COMMISSION - MINISTERIAL STATEMENT BY THE ATTORNEY GENERAL
Reports Implementation Plans

206. Hon PETER FOSS to the Attorney General:

The latest annual report of the Law Reform Commission of Western Australia mentioned a ministerial statement by the Attorney General on 27 October 1987 in which the Government announced its intention to implement a number of reports, namely Report 26, Part II Administrative Decisions: Judicial Review; Report 33 Dividing Fences; and Report 55, Part II Courts of Petty Session - although that has been already partly implemented. Can the Attorney General advise when the Government intends to carry out the intentions announced in October 1987?

Hon J.M. BERINSON replied:

The question of administrative review has been one of the more frustrating areas of achieving development from recommendation to implementation. Quite a lot of work has been done on it but not enough to put the Government in a position to introduce the necessary legislation. On current indications, the legislative program which is effectively set for the rest of this year will not allow this matter to be pursued this year. I am sorry I cannot say anything very definite about the Dividing Fences Act. I think it comes within the portfolio of the Minister for Consumer Affairs; I am not sure of that, but it is not an area within my own portfolio so I have not had the management of it. I think I am correct in saying that the issue reached the stage of submissions to Cabinet at one time, but without a direct inquiry to the responsible Minister I do not know where that is now.

The report on the Court of Petty Sessions has been partly implemented. Again, I must elaborate on the answer with an E & OE introduction: I think that I am right in saying that other aspects of that report will be included in a Bill now reaching the final stages of drafting for presentation in the Parliament this year. That is a very substantial Bill though, with many aspects to it. I prefer to have the opportunity to check on that position before I am tied to it.

JUDICIAL REVIEW ADMINISTRATIVE DECISIONS BILL - DELAY REASON

207. Hon PETER FOSS to the Attorney General:

Could the Attorney General indicate the principal matters which are holding up the judicial review administrative decisions Bill?

Hon J.M. BERINSON replied:

No particular issue is holding it up, but on present indications it will not have sufficient priority in the legislative program this year to reach the stage of being introduced.

ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF GOVERNMENT AND OTHER MATTERS - TAX FILES ACCESS REFUSAL
Attorney General's Advice

208. Hon P.G. PENDAL to the Attorney General:

(1) Has his advice been sought in the matter of the Royal Commission having access to taxation files?

(2) If so, what has been the nature of his advice?

Hon J.M. BERINSON replied:

(1) So far as I am aware, no. I put the qualification in only to cover the possibility that an inquiry has come into my office and been redirected for advice before being presented to me. I am as sure as I can be that the answer is no.

(2) Not applicable.

ACTS AMENDMENT (GAME BIRDS PROTECTION AND LAND MANAGEMENT) BILL - MANAGEMENT PLAN
"Bazza" Game Bird Inclusion - Question Ruled Out Of Order

209. Hon SAM PIANTADOSI to the shadow Minister for the Environment:

(1) Will Mr Pendal outline his management plan for the Acts Amendment (Game Birds Protection and Land Management) Bill which is Order of the Day No 14.

(2) Does his management plan include the game bird "Bazza" which is now extinct?

(3) Seeing that his management plan failed to prevent the extinction of the game bird "Bazza", will Mr Pendal -

(a) withdraw his game birds protection Bill; and

(b) resign as shadow spokesman on such matters?

The PRESIDENT: I rule that question out of order on the basis that I do not know of a game bird of that name.

Hon SAM PIANTADOSI: I have checked at the Parliamentary Library and there is a bird called "Bazza" and it is extinct; and Order of the Day No 14 talks about game birds.

SITTINGS OF THE HOUSE - EXTRA SITTING WEEK ADVICE

210. Hon JOHN HALDEN to the Leader of the House:

What is the current position on the earlier advice that members should plan for an extra sitting week commencing 9 June?

Hon J.M. BERINSON replied:

The firmest advice I can give is that the position is quite indefinite. Subject to further discussion with the Leader of the Opposition and Hon Eric Charlton it does appear, from a discussion between us earlier today, that it could well be possible for the House to complete an agreed list of business by 4 June - and I speak of an agreed list of Government business. As well as that we have tentatively agreed on the consideration of a further two private members' Bills after completion of consideration of the Town Planning (Old Brewery) Bill. Those two in their present order on the Notice Paper are the Royal Commission into Commercial Activities of Government Bill and the Wildlife Conservation Amendment Bill. Our past experience has been that with a reasonable degree of cooperation the essential program each session has been dealt with. I am finding it a bit difficult to be too definite at the moment because we are largely in the hands of the Legislative Assembly process, and that has really been extraordinarily slow this session. For that reason and before discussing matters further with the Leader of the Opposition and the leader of the National Party in this House, it will be necessary for me to have some quite detailed discussions with the Leader of the House in the Legislative Assembly and one or two affected Ministers.

FIGHTBACK WA - EDUCATION POLICY
New Initiatives - Question Ruled out of Order

211. Hon JOHN HALDEN to the Minister for Education:

Does the Liberal Party's Fightback education policy announced today provide any new direction for policy initiatives in the education field?

The PRESIDENT: That question is out of order.

Hon JOHN HALDEN: Could we have an explanation?

The PRESIDENT: Because it is asking for an opinion.

Hon Kay Hallahan: It was not asking for an opinion.

The PRESIDENT: Does the Minister want me to convey the Standing Order against which she can take action? Members cannot ask a Minister for a point of view.

ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF GOVERNMENT AND OTHER MATTERS - TAX FILES ACCESS REFUSAL

Rights to Access - Attorney General's Support

212. Hon P.G. PENDAL to the Attorney General:

Will he as the first law officer of Western Australia unequivocally support the Royal Commission's right to have direct access to the taxation files in a way similar to the facility gained by the Fitzgerald inquiry in Queensland?

Hon J.M. BERINSON replied:

I have indicated previously that all Royal Commission matters are dealt with directly by the Premier. I have no role in that respect and in particular I have no role in intergovernmental relationships of this nature. Essentially we are dealing with a view of the Commonwealth Government, and in the ordinary course of events any contact between the State and Commonwealth Governments would be on a Premier to Prime Minister basis.

PRISONS - NEW PRISON

Location; Accommodation; Status; Cost; Construction Timetable

213. Hon GEORGE CASH to the Minister for Corrective Services:

I refer to the answer the Minister gave to a question yesterday on the new prison that the Government is considering and ask -

(1) What is the likely location of the new prison?

(2) How many persons are to be accommodated?

(3) What is the classification status of the prison?

(4) What is the anticipated cost?

(5) What is the likely construction time schedule?

Hon J.M. BERINSON replied:

(1)-(5)

It is proposed that the new prison should be constructed on the Canning Vale site. It is proposed that it should accommodate 200 prisoners of maximum security status. The estimated cost is $35 million and the timetable for planning and construction is with a view to that new facility being available in 1996.

FIGHTBACK WA - EDUCATION POLICY

Minister for Education's Comments - Question Ruled out of Order

214. Hon JOHN HALDEN to the Minister for Education:

Would the Minister comment on the Liberal Party's Fightback Western Australia education policy announced today?

The PRESIDENT: That question is out of order.

Hon P.G. Pendal: Where do they get these Parliamentary Secretaries from?

The PRESIDENT: Hon John Halden is entitled to know why I ruled his question out of order. His first question was asking for an opinion, which I do not believe he is entitled to do. More to the point, if he reads Standing Order No 136A he will see that it is proper to put a question to a Minister relating to public affairs with which she is connected, to proceedings in the Council or to any matter of procedure for which she is responsible. The Minister for Education is not responsible for the document mentioned, and the contents of somebody's document does not relate to her portfolio. I do not want to have an argument with the honourable member.

FIGHTBACK WA - EDUCATION POLICY
Government Initiatives Comparison - Minister for Education's Comments

215. Hon TOM STEPHENS to the Minister for Education:

(1) Has the Minister's attention been drawn to the recently released education policy of the Liberal Party?

(2) Has she had the opportunity of comparing that policy document with the current initiatives of the State Government?

(3) Is she in a position to comment on any of those comparisons?

Hon KAY HALLAHAN replied:

(1)-(3)

The Liberal Party Fightback WA education policy is an interesting document. I would not say that it is good macho stuff.

The PRESIDENT: Order! The Minister should not press her luck. I remind her that the specific reason I did not rule the question out of order was that the question was asked in such a professional and competent way. Equally, the Minister should stick to answering the question, otherwise I will have to rule her answer out of order.

Hon KAY HALLAHAN: Since it was given to me this afternoon, the policy has proved to be of a great deal of interest to me. I note the comparison of some measures currently being pursued by the Government. However, the Liberal document is pretty much behind the times. It does pursue the question of Statewide tests, an initiative that will be in place this year; compulsory education for five year olds, a position that will be taken by the Government early next year in a phased in way; and, language development, which is well in hand in the current curriculum. The document also calls for a strong position to be taken by the Federal Government to make additional places available in higher education. That is precisely the position I have adopted. The document suggests that there should be more senior colleges, and that is something with which I agree absolutely and which the Government has established. It also outlines a strong portfolio and administrative structure which is complicated and unnecessary. From the media coverage so far it seems the Liberal Party wants to separate TAFE from education. That occurred in 1989!

Hon J.M. Berinson: That's three years ago!

Hon KAY HALLAHAN: Indeed. Although the policy document is a valiant attempt it is not costed. I understand a controversial issue today was that the new and current Leader of the Opposition was unable to provide any idea of the cost of the measures within it. I have found Mr Tubby to be a pleasant shadow Opposition spokesman and I am sad to hear that he is to be dumped.

FAIRY RADAR GUN - REGULATION
Introduction Date

216. Hon GEORGE CASH to the Minister for Police:

(1) Which regulation provides for the use of the Fairy radar gun?

(2) When did the Fairy radar gun become operational in the Western Australian Police Force?

Hon GRAHAM EDWARDS replied:

(1) Section 98A of the Road Traffic Act.

(2) On 21 November 1986. It appeared in the *Government Gazette* No 43 at page 4270.

SCHOOLS - FIVE YEAR OLDS
Placings Announcement - Fightback WA Education Policy Launch

217. Hon P.G. PENDAL to the Minister for Education:

Will the Minister confirm the accuracy of Robert Reid's observation in this morning's *The West Australian* that the Government announcement on the placing of five year olds in schools in Western Australia was brought forward this week in the knowledge of the Liberal Party's proposed launch of its policy at 7.15 am today?

Hon KAY HALLAHAN replied:

I cannot confirm such a thing.

PRISONS - NEW PRISON
Casuarina Cost Difference

218. Hon MAX EVANS to the Minister for Corrective Services:

(1) Will the Minister reconsider his answer to Hon George Cash's question that the new prison will cost $35 million for 200 persons - that is about $175 000 per unit - whereas Casuarina cost about $100 million for 360 persons or $300 000 per unit?

(2) Is that difference due to the different types of construction of the prisons?

Hon J.M. BERINSON replied:

(1)-(2)

From memory the total capacity of Casuarina is more than 360. It did change in the course of construction and the total number of places is higher, although they are not all occupied at any one time. The next prison to be built should be significantly cheaper to construct because it is proposed to have an entirely different design from Casuarina. Casuarina is the largest and most secure prison in this State and, by its nature, must accommodate the longest serving prisoners. For that reason and others it was developed on a campus style of planning - which no doubt the member has seen - and has extensive work opportunities to the extent that, in marked contrast to Fremantle, it proceeds on the basis that every prisoner is expected to work every weekday.

One of the factors which will enable the new prison to be more compact and, therefore, more economic to construct, is that it will have about half of its capacity; that is, about 100 places. It is designed to accommodate short term maximum security prisoners of which there are two main categories: Firstly, prisoners on remand who are treated as maximum security prisoners - and in respect of whom the capacity of the remand centre at Canning Vale has long since been outstripped - and secondly, prisoners held in maximum security for short terms because they have just been sentenced and are awaiting security status assessment. It is most disruptive to Casuarina, and, for that matter, to the present maximum security prison at Canning Vale to be dealing with these prisoners. Therefore, we are seeking maximum security status but not with the type of planning which long term prisoners require. It is the combination of those factors that will enable the new prison to proceed on a much more economical basis.

WESTERN WOMEN FINANCIAL SERVICES PTY LTD - UNSIGNED, UNDATED ANONYMOUS DOCUMENT
Authorship Discussions

219. Hon P.G. PENDAL to the Deputy Leader of the House:

Further to question 203 yesterday which touched on the matter of the unsigned, undated and anonymous document related to Western Women Financial Services Ltd -

(1) Has the Minister had any discussions today with any officers of the Government or people outside the Government to determine the authorship of the document?

(2) If so, has she determined who was the author of the document?

Hon KAY HALLAHAN replied:

(1) No.

(2) Not applicable.