

Legislative Council

Tuesday, 21 August 1990

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 3.30 pm, and read prayers.

BILLS (17) - ASSENT

Messages from the Governor received and read notifying assent to the following Bills -

1. Offenders Probation and Parole Amendment Bill
2. Acts Amendment (Perth Market Authority) Bill
3. State Planning Commission (Amendment and Validation) Bill
4. Justices Amendment Bill
5. Seniors (Water Service Charges Rebates) Bill
6. Acts Amendment (Chemistry Centre (WA)) Bill
7. Stamp Amendment Bill
8. Collie Coal (Western Collieries) Agreement Amendment Bill
9. Acts Amendment (Gold Banking Corporation) Bill
10. Land Tax Assessment Amendment Bill
11. Acts Amendment (Petroleum) Bill
12. Petroleum (Submerged Lands) Registration Fees Amendment Bill
13. Petroleum (Registration Fees) Amendment Bill
14. Casino (Burswood Island) Agreement Amendment Bill
15. Lotteries Commission Bill
16. Marketing of Potatoes Amendment Bill
17. Reserves and Land Revestment Bill

JEFFERY, MRS ROMA - THE LATE HON GEORGE EDWARD JEFFERY

Members' Condolences - Appreciation

THE PRESIDENT (Hon Clive Griffiths): I wish to bring to the attention of members that I have received from Mrs Roma Jeffery a letter dated 22 July in which she communicates her grateful thanks to the members of this House who expressed their condolences at the time of her husband's death.

URGENCY MOTION - POLICE OFFICERS

Equal Opportunity Commission Report - Brutal Treatment Against Aboriginal Persons Allegations

THE PRESIDENT : I have received the following letter -

Dear Mr. President,

At the time provided by Standing Order 63, it is my intention to move at to-day's sitting;

That the House, at its rising, adjourn until 10.30 am. Friday 28th September, 1990, in order to discuss the following matter:

That the Legislative Council expresses its grave concern at the recent publication by the Equal Opportunity Commission Report No. 8 "Review of Police Practices" in which serious unsubstantiated allegations have been made on the alleged conduct of unnamed police officers in their treatment of Aboriginal persons, such unsubstantiated statements having contributed to the undermining of the status and authority of police officers in Western Australia

and calls on the Minister for Police to publicly disassociate himself from the unsubstantiated allegations contained in the Report.

Yours faithfully,

GEORGE CASH, J.P., M.L.C.

The mover of this motion will require the support of at least four members.

[At least four members rose in their places.]

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [3.44 pm]: I move -

That the House at its rising adjourn until 10.30 am on Friday, 28 September 1990.

Members would be aware that the report to which the urgency motion refers was released by the Equal Opportunity Commissioner some weeks ago. The report has been made available to interested persons in Western Australia and has produced a fair amount of media comment. It is important that members of this House understand some of the unsubstantiated allegations made in the report because in my view - a view shared by members on this side of the House - the unsubstantiated allegations have caused a lessening of morale in the Western Australia Police Force; indeed, the allegations attack the very foundation of justice in this State.

In launching this attack on the WA Police Force the Equal Opportunity Commission used evidence that, by the admission of the commissioner herself, was based on many allegations which were unsubstantiated. The Equal Opportunity Commission, and anybody who stands by this report, impugns the reputation and integrity of every serving, and every recently retired, police officer in this State. In reading the report and its allegations one is able to ascertain that police officers have been accused collectively of brutal acts against Aboriginal people such as vicious rapes of young female Aboriginal prisoners, and the display of a callous disregard for members of this community in general. Members would also be aware in reading the report that no particular officer has been named, no dates have been quoted and no places have been cited; nor have the names of any witnesses been included in the report. In short, it is fair to say that no evidence which would be accepted by a court of law in this country has been presented in the report to support the malicious allegations. This report is a gross travesty of justice and the Minister for Police must immediately dissociate himself from it. If the Minister is not prepared to dissociate himself from the report in this House, the community will judge the Minister as supporting the content of the report.

For the interest of members I will quote from a page of the report to give some indication of the types of allegations that are contained in it. The report states -

In Perth and Kalgoorlie, it was claimed that police have threatened young people with guns, one officer being notorious to the Aboriginal community in the Eastern Goldfields for "... taking kids into the bush and terrifying them."

The report also states -

Another grave allegation was heard in a number of meetings and from some individuals in the metropolitan area, Kimberley and Eastern Goldfields. This related to the sexual harassment and rape of Aboriginal women and girls by police while in custody. Although few details were given about specific incidents, some informants claimed that it was 'common knowledge' amongst Aboriginal people about who the offending police were and where the offences took place.

That type of unsubstantiated allegation should never have been printed in a form that was intended to be made public to the community as a whole. If those allegations were made, the Equal Opportunity Commission had an obligation to go to the police with the evidence it had in respect of the incidents and request that the police conduct an inquiry to determine whether there was any truth in the statements. If the complainants were not of a mind to take their complaint to the police it would have been possible to raise the matter in this House by referring the allegations to members of Parliament. That did not happen; if it did, members have not brought that information forward in the Legislative Council.

Apart from what I regard as a travesty of justice in publishing this report in its present form, a number of questions need to be answered by the Government; they relate to whether the

Equal Opportunity Commission had the statutory authority under the Equal Opportunity Act to engage a private company in what I believe was a contravention of section 82 of the Public Service Act and, indeed, employ that private company and extend to it delegated authority which only the commissioner held. It would also be interesting to find out how many other reports or functions the Equal Opportunity Commission or Commissioner has contracted out to private companies.

Other questions which need to be answered include how much the report cost; who commissioned the report; on whose authority it was commissioned; whether it was lawfully compiled within the provisions of the Equal Opportunity Act; and whether the Government will take disciplinary action against the Commissioner for Equal Opportunity or any member of the commission if it is found they have in fact breached the law. Will the Government be prepared to protect its commission and commissioner if they are subject to civil action by police officers who believe they have been libelled by the content of the report? Members will be aware that in asking that question I am referring to the recent situation in which the Government paid the legal fees and costs of Mr Dowding for a defamation which he committed against a leading barrister and solicitor in Perth and for which he apologised. What compensation is the Government prepared to offer the police officers who have been maligned and libelled by this unsubstantiated report?

During the parliamentary recess I had the opportunity to travel around the State and to talk to a number of police officers, and up until the point at which this report was released it seemed to me that things were progressing reasonably well in the Police Force. As soon as this report was released and the content of it was published in the media the attitude of the community towards the police changed, particularly in some north west and country towns. Only last week when I was in the Gascoyne region I was told by a number of police officers who had recently been appointed to that region that they had the experience, after the report had been released and published, of walking down the street and having young Aboriginal people spit at them in the belief that they may have been the policemen who were accused in the report. The police officers told me they were new to the region and they had very little understanding of what the young Aboriginal people had against them, but they certainly understood that relations generally between the Aboriginal community and the police had disintegrated almost overnight.

Other questions which need to be answered: What knowledge did the Government have of this report; which Ministers of the Government had access to the report before it was released, and what input did Ministers of the Government have before the report was published? My understanding is that the report was completed in a draft form some many months ago. Changes were made to it after input from certain people and, indeed, the report was amended on a number of occasions before it was published. It may be that those amendments removed some other allegations that could not be substantiated, but the fact is that certain Government officers were aware of the report but did very little to protect Western Australian police officers.

This report has caused a perception in the community that the raping of women, the brutalising of women and other harassments in general in respect of women and, in particular, Aboriginal persons, by police officers is commonplace in Western Australia. I do not believe that is the case and I do not believe it is a fair perception. The only way to change the perception in the community is for the Minister for Police to say in this place that he does not agree with the unsubstantiated allegations contained in the report. He must be prepared to stand up and protect, and speak on behalf of, the police officers in Western Australia who do such a good job protecting the community.

My greatest concern about the report is the fact that it did not produce any evidence to substantiate the claims. Had the Equal Opportunity Commission taken the time to review the evidence which has been given over the past year to the Royal Commission into Aboriginal Deaths in Custody it would have found that similar allegations have been made, but none has been proved and that Royal Commission has put aside, on a number of occasions, that sort of allegation as nothing more than a fabrication not worthy of further comment.

This report is grossly unfair to police officers in Western Australia. It shows a serious disregard by the Equal Opportunity Commission for natural justice and, indeed, the process of civil and criminal law. It does not lend any credit whatsoever to either the commissioner

or commission in their actions. I was heartened to read a number of media articles that also expressed the view that the Equal Opportunity Commissioner had gone too far or over the top in publishing this report. The onus rests on the Government, on the Equal Opportunity Commission, the Equal Opportunity Commissioner, and, in particular, the Minister for Police, to try to make good the damage that has been caused by this report. I have moved this urgency motion today to give the Minister for Police the opportunity to dissociate himself completely from the scandalous unsubstantiated statements contained in the report.

HON E.J. CHARLTON (Agricultural) [4.00 pm]: I support the remarks made by the Leader of the Opposition. I do not think we have ever before seen the distortion of facts we see in this report. It is one thing for an individual to make allegations or innuendoes about certain matters but another when a supposedly responsible organisation releases this sort of report. It is despicable.

Some organisations established by this Government are creating divisions and distortions of the truth, as in this report from the Equal Opportunity Commission. It makes one wonder what they are about. We in this nation are seeing the result of years of people creating divisions in the community. An uneasiness exists in the community because an unhappy group of people seeks to influence the public against certain longstanding organisations which we should look up to for safeguarding community interests rather than dragging them down.

If these sorts of goings on are to be repeated throughout this nation, one does not have to be very smart to see where we will be heading. We are already heading down that track and this is why the nation is so economically derelict. I do not stand here to defend a police action that, it seems, either by direction or because of the will of those at the top of the Police Force, is an agenda to be implemented that is not supported by many people in our society. In recent years the Police Force of this State has taken a path which has seen it drift away from mainstream society, but that is a totally different issue from that covered by this motion.

When I heard the Commissioner for Equal Opportunity interviewed about this matter I felt nothing but contempt for her words and innuendoes. What she is saying is that, "It may be true or it may not be true, but somebody said it so we will print it." One is never likely to see an action less responsible than that. It is essential that when he responds the Minister does so in a way not only as requested but also in a way which says the Government will take appropriate action in relation to this matter. An organisation such as the Equal Opportunity Commission cannot be allowed to act in this manner.

The commissioner should be called upon to develop and substantiate the statements she has allowed to be incorporated in her report. If that is not done the Government and those responsible are not doing their jobs properly. If we allow this to happen, next time someone takes a similar action he or she will use this action as a precedent to be taken one step further. We must take a stand on this matter. These sorts of issues demoralise the Police Force, which will respond in the only way it can. It cannot take the appropriate public action, which most of us would like to see taken, of calling upon the commissioner to substantiate what has been said, so it may respond in some other way.

I have seen matters worsen year after year as the police have been called upon by groups such as the Aboriginal community to intervene in their problems. When I read these sorts of statements they make me sick, because the main group in our society which gets into trouble goes to the Police Force asking for help at all hours of the day and night. This group invites the police to intervene in domestic squabbles and other violent activities, yet this report says that the police interfere with their private lives. I can assure members of this House that that is not the way things happen. Complaints are made and the police are called upon to assist this group. As a consequence of that appropriate response we now see this report based on allegations made by people who have no intention of carrying out their responsibilities in life.

I repeat that the community has made valid criticisms of other aspects of police work such as traffic control where we are called upon frequently to give the police more power. I do not believe in that sort of action because as soon as a group is given extra power to overcome a perceived problem the rights and powers of other people in the community to go about their day to day activities without interference are removed. The Minister must not only totally dissociate himself from these comments but also take action to ensure that the Commissioner

for Equal Opportunity's report is totally rejected and that appropriate action is taken to ensure that this sort of division and distortion is not allowed to occur in future.

All this sort of report does is guarantee that the divisions existing in our community will continue during a time when we should be trying to sort out ways of bringing community members closer together to overcome the social and economic problems confronting this State and this nation.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [4.10 pm]: I welcome this opportunity of addressing the issues raised by the Opposition. However, I am disappointed that we have had to wait so long to hear so little from the Opposition.

Several Opposition members interjected.

Hon GRAHAM EDWARDS: I was disappointed to hear the bleatings and the weak excuses which came from members opposite, who now so readily interject when earlier they were listened to in complete silence. This issue is very serious, and it is quite pathetic to hear members opposite say they had to wait for Parliament to resume. Were Mr Cash as strong a supporter of the police as he claims to be, why did he not make a statement immediately after the report was released, outside the privilege of this House, in defence of the police? I did not hesitate to make statements outside this House. The fact that Mr Cash has waited so long to make these statements concerns me a little and suggests to me that perhaps he is not as dinkum as he might be and that he may have succumbed to the temptation to play politics with this issue. I was interested to listen to the comments made by members opposite, who have shown a sudden concern for unfounded allegations and innuendo when they have set themselves up in this community as the role model for unfounded allegations and innuendo.

I could almost agree with the Opposition's motion, and I certainly view with grave concern the report of the Equal Opportunity Commission. That report has done a great disservice to the Police Force and to the relations between the police and the Aboriginal community in this State.

I now refer to some of the comments that I have already made in the community, outside the privilege of this House. I was in the eastern goldfields when the report was released, and my comments were reported in the *Kalgoorlie Miner* on 10 August 1990 under the heading "Police complex work on target", which said -

He said he had discussed the findings of the report with Police Commissioner Brian Bull.

"Many of the matters referred to in the report concerning the training of recruits have already been reviewed and updated," Mr Edwards said.

Referring to specific allegations of harassment and sexual abuse of Aboriginals by police officers, Mr Edwards said the allegations were unsubstantiated.

"However, we are going to set those allegations aside and try to get more to the balance of the report and I think we have to address some of the recommendations that are pertinent to the police," he said.

Mr Edwards said the community too often left the onus of responsibility and change on the police.

"I think everyone in the community has a responsibility to work towards creating a better environment that would make it a lot easier for the police to work in," he said.

Training in relations with Aboriginals and other minority groups had been updated and recruits now had to pass exams to test their knowledge on these subjects, the Minister said.

Some of the allegations in the report referred specifically to the Eastern Goldfields region.

Mr Edwards said he had every faith in police officers stationed in remote areas. They did an excellent job under difficult circumstances.

"I think it needs to be said some of the things contained in the report appear to be of a historical nature which were used to describe the background of things," the Minister added.

I strongly condemn those unfounded allegations, and I agree with some of the comments made by Hon Eric Charlton. While I was in the eastern goldfields I spoke to a number of Aboriginal communities and expressed the view that the police do an excellent job in those areas. That view is confirmed by the fact that Aborigines want an expanded and more permanent police presence in the region. The fact that members of the Aboriginal community will often go to individual police officers before they will go to other Government servants in those regions is a reflection of the mutual support that exists in many of these remote regions.

I refer now to a report on the Golden West Network News of 10 August 1990, which said -

NEWSREADER

Police Minister, Graham Edwards believes claims this week of widespread police abuse of Aborigines could be fabricated. Mr Edwards says serious allegations contained in a report to the Commissioner of Equal Opportunities haven't been substantiated. He will take no action over the claims until they are backed up with evidence.

REPORTER

The independent report alleges widespread police harassment of Aborigines, particularly in Perth, the Kimberley and the Goldfields. Allegations range from general police discrimination, threats and abuse, violence against Aborigines in custody, sexual harassment and rape.

EDWARDS

No, I've not heard of those allegations, and it is disturbing that these allegations are made, but are not substantiated . . .

EDWARDS

I would almost suggest that the allegations have been put in there so as to attract some media attention, so as to sensationalise things a bit.

I firmly believe that the allegations were put in the report to attract media attention to what is a very difficult and often controversial area. I agree with Mr Cash that the allegations should never have been printed, and were I able merely to dissociate myself from those allegations in order to repair the damage that has been done to police-Aboriginal relations, I assure members I would do that without hesitation. However, that will not fix things up. The report continued -

REPORTER

Mr Edwards says WA police officers are trained in Aboriginal liaison. He says this will continue in the future. According to Mr Edwards there's no real problem to address.

EDWARDS

No, I don't believe there is a major problem. I think it's important, taking an opportunity to further assess things that are being done, and that report gives us that opportunity.

I refer also to the transcript of an interview on ABC Regional, which was broadcast Statewide. That interview was conducted by Ashley Malone, whom I am sure is well known to members of this House, and I quote -

MALONE

How do you feel about this commission report?

EDWARDS

Well, I suppose it's a report that we need to look at. It's a report that we need to take some notice of, but it's a report too that we should be wary about because it contains a number of serious but unsubstantiated allegations.

MALONE

In particular it's disturbing that there are allegations that police have raped Aborigines that have been held in custody?

EDWARDS

Yes unsubstantiated allegations, and it seems to me that these allegations may well have been put in simply to attract some media attention to the report. Apart from that, I think the report is not bad. It does have some balance and it does have some recommendations in there that the police need to, and indeed have, acted upon. . . .

MALONE

Do you think that we expect too much of our police? Are we regarding them as some sort of elite force that are somehow removed from the community?

EDWARDS

I certainly think that some people in the media and some minority groups expect too much of the police, particularly, for instance, when the media are not prepared to publicise or promote any of the excellent work that our police are doing in the community. The media want to attach themselves to and focus on anything that is sensational. We also have some minority groups, including some groups of Aboriginals, who don't want to get on with the police, who do everything that they possibly can to frustrate sections of the force whose job it is to try and look at good relations, and indeed to try to foster those. But those groups are too in a minority, and generally, I think the police do have a very good relationship with all of the West Australian community.

Now policing is a difficult job, it's a job that's done in difficult circumstances, and I would simply hope that all of the groups that make up our community would be aware of that, and I would simply ask that all those groups that make up the community do what they can to contribute themselves to a better society in which the police don't have to take some of the steps that from time to time they do, simply to maintain good law and order.

Of course, I am happy to make these statements made outside the House available to the Opposition. Certainly I have made them available to representatives of the union, with whom I have had an opportunity to discuss the report.

Hon E.J. Charlton: Is the Government going to take any other action?

Hon GRAHAM EDWARDS: Just let me finish. I am also happy to quote from a letter that I recently sent to the union following a meeting I had with it. The letter is addressed to the Western Australian Police Union of Workers and I think it clearly sets out my views on the report.

Hon George Cash: What was the date of the letter?

Hon GRAHAM EDWARDS: It was dated 20 August.

Hon George Cash: Who called the meeting?

Hon GRAHAM EDWARDS: It is a regular meeting I have with the Police Union. The letter reads as follows -

As discussed please find enclosed transcripts of media statements made following the release of the Equal Opportunities Commission Report No. 8.

I reiterate that while I categorically refute unfounded allegations such as those relating to rape, I am not prepared to disregard the total report.

I strongly support the action already taken by the Commissioner to address matters raised by way of recommendation and I will continue to give him strong support with further initiatives which address aboriginal-police relations.

While sections of the report are repugnant I believe the strong support given by myself, the Commissioner, the media and the general public to the police force is ample rejection of those allegations. Indeed, in my view, the support that has come from those areas must be seen as a strong judgement in favour of the force.

As you are aware I am willing to do all I can to address aboriginal-police relations.

I am not prepared, therefore, to reject those matters in the report which have some balance and which may lead to a greater opportunity to improve relations in the future.

It must be realised that a great impediment to the general work of police officers is the inherited prejudices that remain with a minority of police officers to aborigines and a similar hardened attitude which a number of aborigines have toward the police.

There is no easy solution to this problem but that it exists is undeniable. As long as it exists the task of policing, the task of your members, and the environment in which they work, will remain much more difficult than it should ordinarily be.

Have no doubt that your members, by and large, are entitled to my support. Be assured that they have it. Not just in the matter of the unfair and unfounded allegations of the report, but in the broader responsibility of working to repair the damage caused by those allegations and working to bridge the historic differences between police and aborigines. I also urge the Union to do all it can to assist myself and the Commissioner in this regard.

That letter fairly sums up my attitude. I might say, too, that while going crook at the media - and I reiterate my criticism of them - I was also extremely pleased to see the very strong editorials in the two local daily newspapers, which came out and gave very deserved strong support to the police. I think that, coupled with the other public reaction to the report that I have seen, is a fair judgment of the excellent job our Police Force does and that, too, is a pretty apt judgment of the Equal Opportunities Commission report. However, I just wish that some of the excellent initiatives that are taken by our Police Force were more widely reported in the community by the media. I am sure that, if they were, many of the difficulties that exist in the community today would more easily evaporate.

I have made my views on this report very clear. I strongly dissociate myself from those sections of the report which are unfounded and I regret that they were printed in the first place. However, I am not prepared to dissociate myself from those other matters which are balanced and which I hope will go some way towards repairing the longstanding differences between some sections of the Police Force and some sections of the Aboriginal community. In saying that, I recognise that, unfortunately, those unfounded allegations have in many ways damaged that relationship; but it is my responsibility, as I see it, to do what I can to repair that damage, although not in the way Hon George Cash suggested, because that is a lollipop way of addressing what is a very grave and serious issue.

In conclusion, I think we all have a responsibility to try to work with the police, who take so many initiatives, and with those responsible members of the Aboriginal community who respond, and indeed who take initiatives themselves, which are aimed at bridging that longstanding gap between the police and Aborigines. I believe that I, as Minister for Police, have a large responsibility to try to do what I can to improve that environment in the community, because it is that environment in which the police must operate. I am sure that, if we could improve that environment and that working relationship, in the longer term the difficult job the police have to do would be made less difficult and would be much more quickly achieved.

At this stage I am not sure what will happen with that report, but if and when it is addressed by Cabinet I will make the same very strong comments I made both outside and inside this House and I will not have a bar of those allegations which are unfounded and unfair.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [4.29 pm]: I thank Hon Eric Charlton and other members on this side of the House for their support of the motion I have moved this afternoon. I was pleased to hear those comments of the Minister which offered some positive contribution to the debate, and I am sure the police officers in Western Australia will be pleased to hear them too. However, it is fair to say that the Minister took a 360 degree turn during the period of his comments.

Initially, the Minister suggested that he supported the content of the report; it was not until he concluded -

Hon Graham Edwards: The contents had balance. Do not misrepresent my statement.

Hon GEORGE CASH: The Minister decided it was not convenient to support all the report and that he would dissociate himself from the unsubstantiated allegations, which is exactly what the motion set out to do.

[Resolved, that the motion be continued.]

Hon GEORGE CASH: The motion was moved in a constructive way to give the Minister the opportunity to support the Police Force of Western Australia.

During his opening remarks the Minister suggested I had waited until this first day of this new session to act. That is patently not the case, and the Minister is aware that is not the case. Indeed, it seems some of the statements I made after the publication of the report goaded the Minister into action.

Hon Graham Edwards: The first statement was made on the 11th; if the member can produce previous statements, I will be happy to look at them.

Hon GEORGE CASH: The Minister can become as hysterical as he likes, but the facts are -

Hon Graham Edwards: Would the member care to quote the statements and the dates?

The PRESIDENT: Order!

Hon GEORGE CASH: Clearly, the Minister has been caught out again by his lack of support for the Police Force. I do not wish this debate to degenerate into a slanging match. The motion was moved in a positive manner to allow the Minister the opportunity to speak up and support the Police Force. Had I believed that the Minister would make a statement I would have had no need to move the motion.

Hon Graham Edwards: I made my statements outside the House, not under the protection of privilege.

Hon GEORGE CASH: Had I not moved this motion today, the Police Force in Western Australia would still be entitled to believe that the Minister for Police does not support it and that he supports the content of the report.

Hon Graham Edwards: The member would like people to believe that.

Hon GEORGE CASH: I thank Hon Eric Charlton, members of the National Party, and the Liberal Party for their support of the motion.

Motion, by leave, withdrawn.

ROAD TRAFFIC AMENDMENT BILL (No 2)

Second Reading

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [4.33 pm]: I move -

That the Bill be now read a second time.

Of all the issues in which this Parliament must have an interest and a duty to address and debate, the issue of road safety is one which must become a priority and be above party politics. It is also an issue which must be dealt with on a non-political basis. I know that it is difficult to remove the philosophical differences that exist, or partially exist, regarding critical components on road safety and I recognise that 0.05 per cent blood alcohol content is an area where a difference may exist. Notwithstanding some philosophical differences, in other areas I am certain a humanitarian similarity and common purpose also exists. The time has come for parliamentarians to find that common purpose in the matter of road safety. The time has come for the community also to find that common purpose in the matter of road safety. However, the responsibility for setting leadership and for finding that common purpose must rest with us - the elected representatives. We must find a resolve to roll up our shirt sleeves and to tackle the issue of road safety head-on.

Apathy is killing members of our community. It is almost as if a docile and meek acceptance has clouded our will to confront the challenge of dealing with the issue. Recently I visited Victoria and met with the Minister for Police and the Minister for Transport in that State and was deeply impressed by the dramatic effect on road trauma achieved through a combination of a 0.05 per cent BAC limit, random breath testing, strong deterrence of speeding and a powerful public education campaign. The Bill is an integral part of a major offensive against that apathy which, if allowed to continue, will see - on current predictions - 2 500 Western Australians lose their lives on Western Australian roads by the year 2000, less than 10 years away. It is timely to remind members that in this State in 1989 road deaths numbered 242, of which 128 occurred on country roads. So far this year there have been 123 deaths, of which

60 occurred on country roads. It is against this background that debate on this Bill takes place.

I emphasise that the reduction of BAC to 0.05 per cent is part of an overall strategy to improve road safety. Other elements of that strategy will be the introduction of legislation to enhance the efficient use of Multanova speed cameras and provision for an ongoing road safety and education campaign to be administered by the Traffic Board. The intent of the Bill is to create a new drink-driving offence for persons found to be driving with a blood alcohol content of 0.05 per cent or above; to extend the probationary driving period to three years; and to remove an anomaly currently contained in section 64A relating to 0.02 per cent offences.

In December 1989, the Prime Minister announced a range of road safety measures as part of a nationwide approach to increase road safety. The Western Australian Government accepts that alcohol and speed are two of the major contributing factors to road trauma. An important element of the national initiative is the adoption of a uniform blood alcohol concentration of 0.05 per cent. The Government has sought advice from the Traffic Board which is by virtue of its charter required to investigate any matter which will achieve a higher standard of road safety within the community. To this end, the board has made a thorough investigation of the merits of adopting a blood alcohol concentration of 0.05 per cent. As part of its deliberation, the Traffic Board invited a number of interested parties such as the RAC, the Western Australian Hotels Association, the Liquor Industry Council of Western Australia, the Alcohol and Drug Authority and Roadwatch to attend a special meeting with a view to obtaining their views on the matter.

The Traffic Board was of the unanimous opinion that sufficient evidence existed to warrant the introduction of the new offence of 0.05 per cent, complementing the current 0.08 per cent and 0.15 per cent BAC offences. Further, the board considered that a 0.05 per cent BAC offence should be dealt with by way of an infringement notice, with no automatic loss of licence, but with a loss of six demerit points - which would alert the offender to the fact that any subsequent 0.05 per cent offence may result in a three month disqualification of his or her licence by reason of the operation of the demerit point system.

In its report the Traffic Board has outlined evidence that a reduction to 0.05 per cent BAC will result in many individuals moderating their usual alcohol intake in order to control their blood alcohol concentration. I shall seek leave to table that report at the conclusion of my second reading speech. In short, the Traffic Board is of the strong view that the introduction of 0.05 per cent BAC will result in more persons drinking less before driving.

A reduction of the BAC to 0.05 per cent in the manner set out in the Bill is further supported by the following opinions -

1. The National Centre for Research into the Prevention of Drug Abuse has stated that the proposed adoption of a 0.05 per cent BAC level is entirely consistent with scientific evidence currently available.
2. Dr Ross Homel, a researcher at Macquarie University, has noted that the reduction to 0.05 per cent BAC in New South Wales saw a 13 per cent decrease in Saturday fatalities prior to the introduction of random breath testing in that State.
3. Dr Peter Cairney of the Australian Road Research Board has indicated that the evidence is that the risk of crashing at 0.05 per cent BAC is double that at 0.00 per cent BAC and that the risk doubles again at 0.08 per cent BAC. This evidence confirms that drivers, especially young drivers, are substantially impaired in the performance of critical functions at relatively low BACs.
4. The Commissioner of Police has considered the resource requirements and has informed me of his view that the proposal would not adversely affect enforcement strategies or resources.
5. An opinion poll conducted in June 1990 in both metropolitan and country areas concluded that 65 per cent of people surveyed either support or strongly support a reduction to a BAC of 0.05 per cent.

As members of this House are well aware, drivers under the age of 25 are involved in a high percentage of the total number of serious accidents in Australia.

Statistics for last year reveal that persons in this age bracket accounted for 45 per cent of the total number of serious injury accidents, of which 40 per cent were serious injury driver-related accidents, and 44 per cent were serious motor cycle rider-related accidents, which is excessive when one considers that in total this age bracket makes up only 18 per cent of the total number of holders of motor drivers' licences.

The Government has decided to increase the probation period from one year to three years in an endeavour to reduce the high accident rate involving young drivers. However, where a probationary driver has not been convicted of any serious offences within the first two years of holding a probationary licence, the Traffic Board will have a discretion to waive the last 12 months of the probationary period. To overcome possible criticism due to subjective assessment of a person's driving record, the serious offences which the Traffic Board will consider are to be prescribed.

Recent amendments to the Road Traffic Act have highlighted an anomaly in section 64A relating to 0.02 per cent, in that a learner driver or a person who does not hold a driver's licence does not commit an offence unless their blood alcohol level is equal to or exceeds 0.08 per cent. This Bill proposes to remove this anomaly by providing that a person who has not been issued with an unrestricted motor driver's licence and who drives a motor vehicle will be restricted to a BAC level of less than 0.02 per cent.

I commend this Bill to the House and, in so doing, seek leave to table "Legal Blood Alcohol Limit for WA Drivers", a report from the Traffic Board of Western Australia.

[See paper No 456.]

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

ABORIGINAL HERITAGE AMENDMENT BILL

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [4.44 pm]: I move -

That the Bill be now read a second time.

This Bill has four principal aims. First, it provides that the Aboriginal Heritage Act will henceforth bind the Crown. It also seeks to clarify the procedures to be followed by the trustees and by the Minister on receipt of a notice seeking ministerial consent under section 18 of the Act, to confirm the right of appeal by a landowner, to add a right of review to other persons who may be particularly affected by a Minister's decision, and to validate the exercise of certain powers purportedly delegated by the trustees to the Aboriginal Cultural Material Committee.

In 1989 litigation in respect of the old Swan Brewery was struck out by the Supreme Court as disclosing no cause of action on the basis that the Aboriginal Heritage Act did not bind the Crown in right of Western Australia. The plaintiffs in that litigation obtained certain temporary orders from the Federal Minister for Aboriginal Affairs and, as a result of negotiations with the Federal Government, the State undertook that it would in future act as if the Aboriginal Heritage Act did bind the Crown, and that it would amend the Act to that effect. In all fresh litigation commenced since the action which was struck out the Crown in right of the State, in accordance with its undertaking, has not sought to take the point that the Crown was not bound by the Act.

Despite the undertaking, and the actions of the Government in behaving as if bound by the Act, the plaintiffs appealed first to the Full Court of the Supreme Court and then to the High Court against the striking out of the action. The decision in the Full Court was that the Act did not bind the Crown, but the High Court reversed this decision. Not only did the High Court reverse the Supreme Court's decision in respect of this particular legislation, but it also reversed the effect of what had until then been the well-settled rule, upon which Parliaments in this State had always acted, as to when Acts bind the Crown. It therefore became necessary, in order to preserve the intention of successive Parliaments, to legislate to declare that existing Statutes should be interpreted in the light of the law as it had always been understood to be. Amending the Interpretation Act in that way, without simultaneously amending the Aboriginal Heritage Act, would once more have left open the argument that the Act did not bind the Crown. That would not be consistent with the spirit of the

undertaking given. As a result, this amendment is introduced to allow it to be considered simultaneously with the Interpretation Act amendment.

If the Act were to bind the Crown in all situations, and if it were necessary for all agencies of the Crown to follow the very detailed provisions for seeking consent, which are considerably strengthened by amendments in this Bill, there could be very grave consequences of public health and safety. For example, for the preservation of public health it might be urgently necessary to take action to deal with damaged pipelines containing sewage or other pollutants which might cross or impinge upon a site. Again, in the course of dealing with a fire it might be necessary to damage vegetation upon a site or even perhaps to recontour a site to some degree. In such circumstances, the safety of members of the public could be threatened by a requirement that all Government agencies should go through the time consuming procedures of this Act.

For this reason, the Act, although providing as the general rule that the Crown is bound, allows the Minister to declare that provisions of the Act do not apply in respect of certain works. This procedure is subject to safeguards which require the publication of a declaration in the *Government Gazette*, and the overriding powers of the Parliament under section 42 of the Interpretation Act. The procedures for obtaining ministerial consent have been amended in a number of respects. It was of course necessary to amend them to reflect the fact that the Act would henceforth bind the Crown by, for example, redefining "the owner of any land" as including a person who wished to carry out work on the land under authority of the law, even if not the landowner.

As to the procedures to be followed by the trustees and by the Minister, the new provisions clarify a number of matters in the existing Act which could be considered to be doubtful, and which could lead to considerable litigation. For example, having regard to the nature and structure of the Act and to the interests involved, it might be arguable that the Act did not contemplate that any Aboriginal person should have a right to require the trustees to take note of his or her opinions concerning the application. Where such doubts have existed, they have been clarified for the most part by leaning towards requiring the giving of notice and the obtaining of information from the widest possible range of sources.

Under the new provisions, when an owner informs the trustee that he or she wishes to use land which may contain an Aboriginal site for a particular purpose, the trustees are required to publish a notice stating that fact, describing the land, and specifying the places at which the information can be inspected, and stating that submissions in writing may be made to the trustees. The trustees are then required to consider the initial information, any submissions in writing received, any other information they think relevant, including oral submissions received by them during or after the advertising period, reports, books, periodicals, their own expertise and the like. Although they are not to be obliged to grant an oral hearing to any person, the structure of the required procedures does not preclude them from doing so.

The new provisions then set out in more detail than previously the opinions which the trustees are to form and the matters which they must submit to the Minister. The provisions covering the Minister's consideration of the recommendations by the trustees and the giving or withholding of consent are largely unchanged but, in order to facilitate review of or appeal from the Minister's decision, the Minister is required to inform in writing the owner of the land and each person who has, in the opinion of the Minister, a substantial interest in the use of the land, and to give notice in the *Government Gazette* of that decision. As was previously the case, the Minister has power to direct the trustees to expedite their consideration of a notice under the section, but that ministerial requirement cannot eliminate or curtail the required advertising period. As was also previously the case, the owner of land has a right to require the Minister to give reasons and to appeal against the Minister's decision where the Minister either declines to give consent or gives consent subject to conditions. The owner will have 42 days to undertake this procedure - a period longer than that available under the existing provision.

The new review procedure allows any person who has made a submission in writing to the trustees and who has an interest greater than that of other members of the public generally, which is affected by the Minister's decision, to apply to the Supreme Court for an order reviewing the Minister's decision. To facilitate that review procedure, the person who seeks such an order has the right to require the Minister to give reasons for the decision, and to do

justice between the parties the court has a power, before such an application can be heard, to make orders in respect of costs or security for costs, or to stay the operation of the Minister's decision. On the return of the order to review to the court, the court can in effect exercise any of the powers it might currently exercise in proceedings in the nature of certiorari, mandamus, prohibition, declaration or injunction. This procedure is in substitution for the usual administrative law avenues.

So far as it relates to persons other than the landowner who might be concerned by the Minister's decision, for example, the members of an Aboriginal community interested in a site, this legislation has several advantages. It gives such persons a right to require reasons of the Minister. It provides that a right to review exists, where under the common law such a right would be in doubt. Under existing litigation relating to this Act various orders have, in fact, been granted on the application of non-landowners who are interested in a site. However, such relief has to date been of an interlocutory nature, and the substantive issues as to the availability of the usual review procedures to such persons under the structure of the existing Act have not been decided. The new provisions define in a generous way the standing requirements for those who might wish to bring such an application, and provide a timetable, with provisions for interim relief.

It is recognised that the interests of the particular sections of a community in a site must be balanced against the interests of a landowner in doing what he wishes with his own land, and the interests of the wider community in certainty of decision making. For that reason the new review procedure provides a time limit of 42 days within which action must be taken by persons seeking to review a decision, and provides that it is in substitution for, and not in addition to, the more uncertain common law remedies.

The review provisions are structured in this way to ensure that the legitimate interests of those concerned with the Minister's decision are preserved, while providing some check on the activities of those who wish merely to use the courts to impose a decision better suited to themselves on the community as a whole. These amendments seek to ensure that the courts are available to enforce proper decision making at the instance of a person with a real interest in the subject, but to restrict to some extent the scope for what has been described as "the juridical guerilla" to act at the public expense in repetitious actions.

Past litigation has revealed a technical defect in the previous decisions of the trustees. By section 13 of the Act the trustees were allowed with the approval of the Minister to delegate their powers. On 11 August 1983, acting with the approval of the Minister, the trustees purported to delegate their powers under section 13 of the Act to the Aboriginal Cultural Materials Committee, a body with particular expertise in respect of Aboriginal sites which was created by the Act. Because of a lack of clarity in the existing section 13, that purported delegation may well have been invalid, and as a result many hundreds of decisions from the period 11 August 1983 to 21 December 1989 may for that technical reason alone be invalid, although there is no challenge to their correctness or to the propriety of the procedures adopted by the Aboriginal Cultural Materials Committee. The Bill, therefore, seeks to validate the actions of the Aboriginal Cultural Materials Committee which were taken in good faith in reliance on the purported delegation.

The position is complicated somewhat by the existence of some litigation in which the point was taken that the delegations were invalid. The Government in that litigation has conceded that the delegation probably was to be regarded as invalid. Although the point is purely a technical one, it was not thought proper that anyone who had already instituted proceedings relying in part on the invalidity of the delegation, should have any avenue of challenge retrospectively made unavailable to them. For this reason decisions questioned in litigation instituted before 1 July this year are exempted from the scope of the validation in the Bill.

Not only does the Bill seek to honour the Government's undertaking to ensure that the Aboriginal Heritage Act binds the Crown, but also it seeks to prescribe with greater clarity, in a balanced manner, the duties of the trustees and of the Minister in arriving at decisions under the Act, and to clarify the way in which the Minister's decision may be reviewed. I commend the Bill to the House.

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

**COMMERCIAL TENANCY (RETAIL SHOPS) AGREEMENTS AMENDMENT
BILL***Second Reading*

Debate resumed from 10 July.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [4.57 pm]: This Bill contains amendments to the Commercial Tenancy (Retail Shops) Agreements Act of 1985. When discussing these amendments it is important to refer to the history of the original Act. As most members will be aware, in 1983 the Government appointed Nigel Clarke to consider the plight of small business and its relationship with land owners, and to review commercial tenancy agreements between those parties. In general terms Mr Clarke made a number of recommendations, some of which are contained in the Commercial Tenancy (Retail Shops) Agreements Act.

From time to time requests have been made by small business for the Act to be reviewed, and the amendments before the House go some way towards instituting those amendments. It is important to understand the terms of reference given to Nigel Clarke when he was appointed by the Government in 1983, and to work through the processes that have occurred since that time. The terms of reference for the Clarke inquiry were -

- (1) to receive and evaluate submissions on problems associated with commercial tenancy agreements, with particular reference to shopping centres and procedures for resolving conflicts arising from the problems;
- (2) to undertake such further inquiries, discussions, investigations, and inspections as may be considered necessary and desirable;
- (3) to examine reports and reviews of investigations and studies into matters associated with commercial tenancy agreements, with particular reference to shopping centres, which have been conducted throughout Australia and elsewhere;
- (4) report to the Minister for Economic Development and Technology as soon as practicable on commercial tenancy agreements, with particular reference to shopping centres, with recommendations for consideration by the Western Australian Government on policies which should be implemented by industry self-regulation, legislation, or other means.

Nigel Clarke duly reported to the House and in 1985 the Government introduced a Bill into the Parliament which contained many of the recommendations he made. In the ensuing period small business representatives have been in touch with the Government and the Opposition. The Bill now reflects some of the changes that small business wants to proceed. However, it is important to understand that the Bill was introduced into the Legislative Assembly for its first reading in mid-1989. It went through the first reading and part of the second reading stages during 1989 and was adjourned on 3 October 1989. At that time the Government gave no reason for that adjournment. It was an adjournment that caused considerable distress to small business throughout the State. In the final week of the last session the Government again decided to resume debate on the Bill in the Legislative Assembly and it was discussed on 4 July 1990. The Legislative Assembly had suspended its Standing Orders at that time and the Bill passed through all stages of debate in the other place and was sent to the Legislative Council. The history of how this Bill was dealt with by the Government in the Legislative Assembly relates to certain statements that were made about the receipt of this Bill in the Legislative Council.

[Questions without notice taken.]

Hon GEORGE CASH: The Bill before the House was introduced into the Legislative Assembly in mid-1989. It was debated at that time but for some reason best known to the Government it got lost, or the Government lost interest in pursuing its amendments, and the legislation was not considered again by the Legislative Assembly until 4 July 1990, one day before that House rose for the winter recess.

It is important that I relate these timings to the House. On 5 July, about 6.10 pm, the Leader of the House, Hon Joe Berinson, the Leader of the National Party, Hon Eric Charlton, and I sat down at the request of Mr Berinson and agreed that 15 Bills should be dealt with by the

Legislative Council before it rose for the winter recess. It is important for the House to understand that the commercial tenancy legislation was not one of the Bills that Mr Berinson asked to be considered. I emphasise that point because it has come to my attention that on Wednesday, 11 July some sort of undertaking may have been given by the Minister for Consumer Affairs in the other place to a group known as the Western Australian Council of Retail Associations and that, on 12 July, that organisation wrote to Mr Berinson asking him why the amendments were not to be dealt with by the Legislative Council before it rose on Thursday, 12 July.

Hon Murray Montgomery: On Friday morning.

Hon GEORGE CASH: It was due to rise on Thursday, 12 July, but as Hon Murray Montgomery pointed out, because of the prolonged debate on the SESDA legislation, the House did not rise until about 3.00 am on Friday, 13 July.

The important point is that, in a reply to Mr D.G. Thomas, the President of the WA Council of Retail Associations dated 12 July 1990, Mr Berinson said -

Dear Mr Thomas

Re: Commercial Tenancy Act Amendments.

The Government is prepared to deal with the Commercial Tenancies Act Amendments.

However, it is not on the list of Bills which the Opposition has agreed to deal with this session, and as the Government does not have a majority in the Legislative Council, we are unable to proceed without that agreement.

The implication in the last paragraph is that the Opposition, because of its numbers, controls the Notice Paper. We all know that that is patently not the case. In fact, on a number of occasions, the Leader of the House has risen, often in an hysterical manner, and demanded that the Opposition not take the business of the House out of the hands of the Government even though the Opposition has the numbers. On most occasions, the Opposition is prepared to concede that point to the Government. However, if Mr Berinson makes political points to organisations which write to him asking that certain legislation be considered and claims that matters cannot be considered because the Government has not got the numbers, he is misleading those to whom he writes because at no time did Mr Berinson request that this legislation be considered during that final week. The Opposition, including the National Party, as was agreed on 5 July in a meeting with Mr Berinson, completed the 15 Bills that Mr Berinson asked it to complete. I take exception to Mr Berinson's misrepresentation of the facts in that letter. More than that, I make it very clear to the Western Australian Council of Retail Associations and other small business associations that Mr Berinson clearly misled them for political reasons.

Hon P.G. Pental: He has done exactly the same on the heritage legislation and has been caught out.

Hon GEORGE CASH: Yes, the Government has also misled the public in respect of the heritage legislation.

If the Government did not want to deal with the Bill, why was it not honest enough to say it did not want to deal with it? It should not write letters that contain false statements to try to justify a lack of liaison between a Minister in another House and the Leader of the Legislative Council. It is important that the community, which has an interest in seeing this legislation proceed, understands that it was the Labor Government and not the Opposition that prevented the legislation from proceeding in the last session. The Opposition is keen for this legislation to proceed. As an indication that we are genuine in wanting it to proceed, I met with members of the National Party, members of the Liberal Party and members of the small business community to ensure that the amendments we will move during the Committee stage are acceptable to small business in Western Australia. It will be up to the Government to decide whether it wants this Bill to proceed with the haste that it deserves.

It is important that this Bill proceeds without further delay because section 31 of the parent Act provides that, as soon as practicable after 30 September this year - less than six weeks away - the Minister shall cause an investigation and review of the Act to be carried out. Unless this Bill is passed through the House and the proposed amendments form part of the

review process, it will take another couple of years before anything comes to fruition. The Opposition is keen to see this Bill proceed. It wants the Government to act with haste and will see that it does.

Another point that needs to be made in respect of this Bill is the position of small business versus big business. When I say big business I am referring to the Building Owners and Managers Association of Australia Ltd. BOMA represents many of the large landowners in Perth from whom many of these small business organisations rent their premises. It has been suggested that some people in the Liberal Party are more interested in the interests of BOMA than in the interests of small business. That is a matter that I have taken up with a number of my colleagues and I will put on record that that is not the case. The Liberal Party has a real regard for the plight of small business in Western Australia. One has only to look at the current vacancies in the central business district and retail centres around the metropolitan area to see the desperate situation in which many small businesses find themselves. In the *Daily News* a few weeks ago an article showed that Western Australian businesses were the hardest hit in the current recession facing Australia. In the last 12 months insolvencies increased by more than 75 per cent in this State alone.

Hon D.J. Wordsworth: You cannot blame the landlords for that.

Hon GEORGE CASH: I am not blaming the landlords, but I am suggesting that small business has severe difficulties at the moment which the community as a whole, including the landlords, has to face up to. The point I was making is that anyone who says that the Liberal Party supports only big business is sadly mistaken. That is not the case. That is a proposition that this Labor Government tries to advance to further its own cause, and it is a view that must be struck down at every possible opportunity.

The Bill seeks to amend the Act in a number of ways. I am sure that members have read it with great interest. In general terms it seeks to clarify the sections of the current Act in which complications were discovered as a result of the operation of the Act. It is a Bill to attend to some of the anomalies that have occurred in the first few years' operation of the original Act. Some particular amendments need to be considered. The first one will be dealt with at the Committee stage. I give notice to the House that we will support the amendments proposed by the National Party.

Hon Murray Montgomery will move an amendment proposing that the commencement of the Act takes place on the day on which the Bill receives Royal Assent, and not on its proclamation. We do not want any further delays with this legislation. The second amendment relates to a situation where a landlord has made application and been granted a liquor licence, but does not commence to trade or use that licence, and sells it to a tenant who wants to conduct a business using that licence. That landlord should be entitled to receive a premium for that licence. The Government is prepared to accept the proposed amendments because they will overcome the conflict between the Liquor Act and the provisions of this Bill. That has been discussed in another place and it is generally believed that the anomaly should be corrected in the Legislative Council. The third amendment relates to the authority of the registrar when considering decisions put before him. I instance a case where the registrar has the authority to determine a situation where agreement cannot be struck between two valuers, one working for the lessee and one for the lessor. Under the current Act the registrar is able to make a decision in respect of such a matter. However, his decision should be subject to an appeal to the tribunal if either party is not satisfied with his decision. It is important that that appeal provision be included in this Bill. If it is not, the registrar would be put in a position where his powers were greater than that of the tribunal. That is a matter to which the Government has given some consideration. It is prepared to accept our amendment.

Most discussion on this Bill can be conducted at the Committee stage. The Liberal Party is keen to see this Bill progress through this House. It will not put any obstacles in the way of the Government. It is keen to see this legislation come into effect so that it can be considered in the overall review that will be conducted at the end of September this year. I trust that a review of the operations of this Act, and those amendments which are contained in this Bill, will form a report that will be returned to this House in due course so that members can see whether the legislation is working in the way that the Government claimed it would when it was originally introduced in 1985.

I support wholeheartedly the position of small business. However, it seems to me that by introducing elements of legislation which attempt to do the work that normal commercial agreements are meant to do, and are structured to do, often other complications are introduced; that is, the Government's becoming involved in business arrangements and dealings. Business generally would be a lot better off if market conditions were able to prevail rather than having the Government come in and set levels for business to work towards. I look forward to the Committee stage of this Bill and to the Government's response to the amendments which will be moved.

HON MURRAY MONTGOMERY (South West) [5.51 pm]: I endorse the comments made by Hon George Cash, particularly in respect of the owners of retail centres having a part to play in our economy by protecting the small businesses which operate from those centres. These are times when people have no regard for small businesses. Large businesses in particular have no regard for the occupiers of their premises; they are more interested in receiving a return on their capital investment.

The PRESIDENT: Order! I interrupt the debate to draw members' attention to the fact that in the President's Gallery we have just received the Speaker of the National Assembly of the Republic of Zambia, Hon F.M. Mulikita and the Zambian High Commissioner, His Excellency, Mr Z.C. Mfula, accompanied by the Acting Clerk of the Zambian Parliament, Mr Yumba and the Protocol Officer, Mrs S.K. Mfula. I welcome them to the Western Australian Legislative Council.

[Applause.]

Hon MURRAY MONTGOMERY: I agree with Hon George Cash that it has taken a long time for this Bill to come before the House and this has disadvantaged a number of small business people. It is not the National Party's intention to delay the Bill in any way, but to assist with its expeditious passage. Small businesses do not have the same clout in the retail centres as some of our large retailers such as Coles and Myer. They control about 40 per cent of the retail dollar through not only the stores bearing their names but also their subsidiaries. The retail centre owners can receive no credit for imposing charges that small business owners cannot bear. Many small businesses face problems and, as Hon George Cash noted, the number of vacant business premises reflects the charges imposed on them as well as the state of the economy. Another provision in the Bill which covers some petrol stations will also assist those people trying to make a living from their own businesses. That provision should be examined and their efforts protected.

The Liberal and National Parties generally agree with the Bill and wish to see it proceed quickly so that when the review takes place these measures will be put forward within that review. We also wish to see the amendments, to be moved during the Committee stage, taken on board by the Government; small business will then be better protected.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [5.55 pm]: I thank members for their contributions and for their brief summaries of the history of this Bill. I note that both Opposition speakers are keen to see the legislation proceed and that they are keen to expedite the Bill to avoid any delay. Hon George Cash and Hon Murray Montgomery are dead right in recognising that this is a Committee Bill. I will give consideration to the amendments that have been put forward as quickly as I possibly can so that we can move to the Committee stage without undue delay. I thank members opposite for their indications of support for the Bill. I hope to be able to deal with the Committee stage at the next day of sitting.

Question put and passed.

Bill read a second time.

Sitting suspended from 6.00 to 7.30 pm

LEGAL PRACTITIONERS AMENDMENT BILL

Second Reading

Debate resumed from 10 July.

HON DERRICK TOMLINSON (East Metropolitan) [7.30 pm]: This Bill deals with three quite separate matters: It provides for the prescribing of fees for services provided by the

Barristers Board; it increases from \$2 000 to \$10 000 the maximum fine which the Barristers Board can impose on a practitioner for misconduct; and it makes it possible for the Law Society of Western Australia to establish and operate a litigation assistance fund. The Opposition has no argument with any of these proposals and will support the passage of the Bill, but in so doing we must take note of the observations made by the Attorney General in his second reading speech about the demand for legal aid and the difficulty faced by the Legal Aid Commission in meeting that demand. The Attorney General said -

At present legal assistance is mainly provided through the Legal Aid Commission of Western Australia. However, because of the commission's limited funding, many applications for legal aid must be rejected. Many of those whose applications are rejected are unable to afford legal costs. The applications which are approved are mainly criminal and family law matters.

The Attorney General then said that the aim of the Law Society's legal assistance fund is to provide an alternative source of funding for civil claims other than family law cases. I am not sure whether the imbalance between supply and demand for legal aid is a consequence of members of our community becoming more litigious, whether the cost of litigation is increasing disproportionately faster than the total of funds available through the Legal Aid Commission, whether the amount of funding available for legal aid is diminishing, or whether it is due to a combination of some or all of those factors.

Hon J.M. Berinson: You have to add a fourth category: The increased number of cases, not necessarily arising because people are becoming more litigious but because more charges are being laid.

Hon DERRICK TOMLINSON: Yes, and there is also a tendency in our community to seek the dissolution of marriage with more frequency than was the case in the past. The fact that many applications for legal aid are rejected must cause some concern, especially when that is followed by the knowledge that some of the applicants cannot afford to pay their own legal costs. That begs the question: Does that mean they will be denied an equal opportunity for justice?

Members will recall that during the last session we passed amendments to the Law Society Public Purposes Trust Act 1985 and to the Legal Contribution Trust Act 1967. The effect of the amendments to the Law Society Public Purposes Trust Act is that 60 per cent of the annual interest on trust moneys will be credited to the Legal Aid Commission. I should note that the Attorney General went to great pains at that time to guarantee that the sum available in the public purposes trust would remain at a sufficient level to enable the other legal aid activities of the Law Society to not be threatened or diminished in any way.

That shift in the method of funding of the Legal Aid Commission was occasioned by a change in the balance between Federal and State funding for the commission. I understand that the Federal Government has indicated that it will provide an even smaller proportion of the actual fund, which means that in order for the State to maintain a sufficient level of legal aid - and recognising that there is already an insufficient level of legal aid in the sense that there are more applications than there is money to satisfy them - it will be compelled to look elsewhere for funding.

It was deemed to be an appropriate use of the public purposes trust fund to direct some of it to the Legal Aid Commission. The Law Society of Western Australia, while recognising the need for legal aid funding and the legitimacy of the action to channel some of the interest gained from its fund into the Legal Aid Commission, expressed some disquiet that it was, in effect, losing control of funds which it had directed previously to genuine, other avenues of legal aid, not necessarily direct financial assistance for people engaged in litigation, but activities which were deemed to be of value in aiding the processes of law in this State.

The Bill before us to amend the Legal Practitioners Act and, by that amendment, to establish the litigation assistance fund operated by the Law Society, does enable a new direction of legal aid funding; that is, legal aid funding for ostensibly civil litigation other than family law matters. However, I think the important contrast between the Bill now before us and the amendments we passed in the last session is that the current Bill enables the Law Society to retain control of its own funding while at the same time satisfying that demand for an increased amount of money or different sources of money to be available for legal aid. I

suppose one could argue that the end result is the same - that those people in need of financial assistance so that they can be properly represented before the courts do get the funds, whether they be channelled to the Legal Aid Commission from the public purposes trust fund or through the Law Society's litigation fund. The advantage of the second, in my opinion, is that the profession retains control over its own funding, and I would commend this process of self-regulation. One of the characteristics of a profession - whether it be law, medicine or engineering - is that the members of that profession control and regulate their own activities. I think there is value in setting up a structure whereby the professional association exercises control over its own funds for its own programs.

Apart from those observations the Opposition has no argument with the provisions of the Bill and commends it to the House.

HON PETER FOSS (East Metropolitan) [7.44 pm]: I also support this Bill, and in doing so I commend the Law Society of Western Australia for its initiative in proposing the new form of legal aid funding that is authorised by virtue of subsection (2) of section 63 of the principal Act.

I think we all are aware that legal aid funding has been a very difficult problem Australia-wide, and the Attorney General and I have exchanged remarks previously that one would need an endless supply of money if one wished to ensure that all people who wanted to take legal action were enabled to do so. There is probably some social benefit in not everybody being able to obtain legal aid, because if it were that easy to obtain legal aid we would find that everybody would be suing at a moment's notice. However, it is quite clear that a substantial number of people in Western Australia and throughout Australia have a genuine need for legal aid but that need is not capable of being supported. Quite a lot of people who have no funds at all are denied legal aid, but probably those are the people who most often are the recipients of legal aid. A vast number of people who fit into the middle income area will never qualify financially for legal aid; on the other hand, they will never be able to afford the services of a lawyer.

What are the solutions? We could, of course, divert increasing quantities of Government funds to supporting legal aid; we could ask members of the legal profession to take it on themselves as a free job - pro bono publico is how it is described in the United States; or we could adopt some innovative schemes such as this one which has been proposed by the Law Society of Western Australia. The Law Society conducted legal aid entirely on its own prior to the involvement of Government. When I started in practice the major firms in particular were involved in legal aid matters because legal aid in those days involved the Law Society interviewing an applicant and then assigning the job to somebody. One would suddenly get a letter from the Law Society saying, "You have drawn Mr or Mrs So-and-So and this is the problem", and one would then do that work and the client would not be charged anything for the work that was done. The advantage of that, of course, is that no great wastage is involved. One does not earn anything on it so one does not lose anything to the Taxation Department on the way through. It does not mean any money has to be circulated to Government coffers, it does not cost a great deal in administration, and it also enables the legal profession to contribute to the good of the public of Western Australia.

However, it did have some disadvantages. As members might guess, a free job did not always receive quite the same degree of attention as did a job for which one was paid. This led to further frustration because the client was assigned a particular lawyer and had no choice of lawyer. Sometimes personal disputes arose between the lawyer and the client, and sometimes people felt it was a little demeaning not being able to choose a lawyer but just having one assigned to them. Therefore the concept of some sort of Government involvement in legal aid came about. First the State Government and then the Federal Government commenced legal aid and, subsequently, the two forms of legal aid were amalgamated and that has been the situation since then.

However, for the reasons Hon Derrick Tomlinson outlined, it really is no longer an adequate situation. It was therefore the initiative of the Law Society to try to tackle this problem. I think the society has come up with quite an ingenious solution. It is in some ways similar to the solution found in the United States of America; that is, the use of what are called contingency fees. Generally speaking, contingency fees are forbidden by the English law. It is what is called champerty. Champerty is illegal and in fact one is able to prosecute in respect of a champertous agreement because it is a conspiracy to commit a tort.

Champerty has been illegal because it is seen as encouraging lawyers to persuade clients to litigate. The public policy in Australia has been that people should not be encouraged to litigate and that litigation is something that people should resort to as a last measure rather than something that should be encouraged by lawyers. I practised law for a period in the United States where champerty is not illegal and is, in fact, a common way of doing things. Members would have heard that the United States, because of the use of contingency fees, is one of the most litigious countries in the world. Also, a further problem exists there because orders for costs do not exist. Members may understand that in Australia, if a person is successful in a court case, the unsuccessful party is ordered to pay the costs; that may not necessarily cover all of the costs but some measure of the costs will be returned. In America such a rule does not apply and a plaintiff knows that he does not have to pay the other lawyer's fees regardless of whether he is successful, he gives up the case or he loses it; no order is given by the court for payment so the plaintiff has nothing to lose. Therefore, some lawyers make a good living out of encouraging people to take actions.

The firm I worked for was a large Wall Street firm which worked for large international and American companies, and one of the problems it had was that of people bringing actions against others and maintaining the action. If this were a champertous action it could cost the company money, and sometimes it was worthwhile for the company to pay money to get rid of the action. This was further compounded in the case of a class action in which one does not bring the action on behalf of one person, but the action is taken on behalf of a whole class of people who have suffered a similar loss. For example, if a factory is polluting the atmosphere and causing problems in an area, the lawyer could bring an action on behalf of everybody affected by the factory. If someone has a car which is faulty, a lawyer could bring an action on behalf of all people who bought that car. The problem with a class action is that it is not run by an individual plaintiff but by a lawyer on behalf of all the plaintiffs. So, some lawyers in the United States go around finding plaintiffs and the lawyers conduct enormous actions against companies to make themselves money. Therefore, implicit problems exist with champerty, especially if it is connected with class actions with no orders for costs.

Traditionally, the public policy in Australia and England has been against champerty, and the scheme proposed by the Law Society carefully guards against its possible evils. What is proposed here is that the payment of lawyers not be dependent on whether the action is successful as the lawyer will be paid out of Law Society funds. So, the issue of whether more money goes into the Law Society fund is dependent on whether the action is successful. As well part of the proceeds from the action go into the Law Society fund, because we still have an order for costs of successful plaintiffs; therefore, further funds will return to the Law Society litigation assistance fund. Will this work? That is the big question.

The litigation fund was set up in the first instance through a grant from the public purpose trust fund, to which Hon Derrick Tomlinson referred. I know that the Attorney General has some concerns that this scheme may not be quite so successful as the Law Society hopes it will be. However, it is worth trying as it could overcome the very large problem of not being able to fund litigation appropriately in Western Australia. If it does not work, the State will not lose anything by trying it; if it does work, we will make a significant difference to the ability to fund legal aid in Western Australia. As Liberals we are particularly keen to support this type of measure because it is very consistent with our political philosophy. It is not appropriate to have a nanny State which taxes people and runs the money through Government with its ensuing costs; once that is done the money is dolled back to the community. We would prefer a system whereby the community worked out the means of providing assistance to other members of the community. It is appropriate in a community such as ours that the legal profession should take responsibility for those people who are not able to afford legal fees, because it is clear that the legal profession is well rewarded for the work it does. Lawyers work extremely hard and are well paid for the work they do. Therefore, as a profession it has a responsibility to look after the people in the community who are not able to afford its services.

I commend the Law Society for its initiative. The public purposes trust fund was another excellent initiative whereby the Law Society - perhaps it could be said against its own better interests - ensured that the client would be better looked after. I am pleased that the Attorney General has been willing to encourage the legal profession to take this public spirited measure. I commend the Attorney General for the attitude he has adopted to the

initiative. We will wait and see whether it is a successful endeavour, but I am sure that the whole Parliament will hope that it is because it will make a significant improvement for the people of Western Australia.

While the House is dealing with this part of the Legal Practitioners Act involving costs, a minor point is that it can be seen that the section to be amended makes it clear that champerty is not permitted under the Act. I have my doubts about the drafting of other parts of this legislation and I believe that section 65 of the principal Act should have been amended by this Bill. Another small point is that this section is an anachronism which should have been abolished years ago. Strangely, when this House dealt with this matter in 1987 in the Acts Amendment (Legal Practitioners, Costs and Taxation) Bill, section 65 was repealed and re-enacted. Section 65 states -

No practitioner shall sue for the recovery of any services, fee, charges or disbursements until a bill of the same, being either a bill containing detailed items or for a lump sum, signed by such practitioner, shall have been served upon the party charged therewith.

For some extraordinary reason when this was re-enacted the legal requirement that a lawyer's bill should be signed was continued. What possible use can there be in having a lawyer sign his bill? I have no idea. The law states that not only must a lawyer sign a bill, but also a partner of the firm must be the one to sign the bill. So, it is not enough for a practitioner to sign the bill, it must be signed by the practitioner who wishes to recover the bill - and this in a day and age of computerised accounting in which one can have a machine which throws out thousands of bills in a matter of minutes, yet a partner in a law firm must spend hours signing all the bills before they are official bills. Why do lawyers have to sign their bills when doctors, engineers, dentists and others do not have to sign their bills? If we are seriously concerned about the cost of legal services in Western Australia why are we not amending the Act to try to -

Hon J.M. Berinson: You would not charge for your signature, Mr Foss?

Hon PETER FOSS: The Attorney General must know that every minute a lawyer spends signing his bills is time he is not spending doing something else. Regardless of whether one specifically adds that cost to the bill somewhere along the line it is part of the cost of legal services in Western Australia. It is another silly little thing which is added to the cost of legal services and it is of no benefit whatsoever. We worry about legal services being so expensive in Western Australia and one of the reasons for that is the cost of sending out a bill - a lawyer has to sign it. I could point out a few other unnecessary requirements.

Hon George Cash: Don't talk about costs. The Government has not paid all Mr Dowding's legal costs.

Hon PETER FOSS: There will be an additional \$200 for signing the bill!

As I am one of those people who loathes seeing the introduction of tiny Bills I mention this to the Attorney in case he feels, before we reach the Committee stage of this Bill, he may like to make a further amendment to section 65 of the parent Act; that is, to delete the words "signed by that practitioner". Should the Attorney do that he will be taking another excellent step forward -

Hon J.M. Berinson: Another giant leap forward for mankind.

Hon PETER FOSS: - another giant leap forward for lawyer-kind - and by that small measure the Attorney will be assisting in the reduction of legal costs in Western Australia. The Attorney General must be congratulated because his positive attitude to matters raised with him by the legal profession has been an important and encouraging aspect of his tenure as Attorney General and he is to be commended for this Bill.

HON J.M. BERINSON (North Metropolitan - Attorney General) [8.03 pm]: I thank members of the Opposition for their support of this Bill. It does open up a new avenue of legal aid assistance and while I have expressed some reservations as to the possibility of its working as successfully as its proponents are hoping, nonetheless I share in their hope and certainly I have been pleased to assist in moving the project forward.

Hon Peter Foss pointed to the anachronism of the Legal Practitioners Act still requiring bills to be signed by the legal practitioner. He asked why that provision is still in the Act in spite

of the amendment of that part of the legislation on a previous occasion. The only reason I can think of is that he was not in this place on the occasion we last amended it, otherwise we very likely would have done so. Of course I agree with him now that the point has been raised that this is an unnecessary addition, but I would not hold my breath in the expectation that the repeal of this requirement would lead to any reduction in the charge involved. Nonetheless, if there is a provision which is not really needed, there is no point to having it. I ask Mr Foss and other members who have been attracted by his argument to be a little more patient than he suggested they should be. This Bill is important to progress promptly and I would not want to look to an amendment which goes beyond its present scope. That does not mean we will need to attend to the question Mr Foss raised by some tiny Bill. The fact is we will have a very major amendment to the Legal Practitioners Act arising from attention to the remaining recommendations of the Clarkson committee. This question of a signature, needless to say, was not a matter raised in the course of the Clarkson committee's considerations. However, I will ensure it is listed for inclusion in the next Bill amending the parent Act with which we will deal. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

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

Clauses 1 and 2 put and passed.

Clause 3: Commencement -

Hon PETER FOSS: I am on an old hobby horse and I ask the Attorney General to explain firstly why the Bill needs to be proclaimed at all and, in any event, why, if it is to be proclaimed, it is to be separated as provided in this clause?

Hon J.M. BERINSON: The honourable member has asked his regular question and I can only give him my regular reply. The position is that the form of commencement clause which is in this Bill is in accordance with our general practice over a long period. I have already invited the Standing Committee on Legislation to consider this issue in a broad way and to make recommendations as to guidelines which might be considered for purposes of future drafting. I do not believe we should go through these on a case by case basis given the absence of any real difficulty in the existing system, but if it is a matter the committee wants us to address it would be preferable for it to be addressed comprehensively.

I am not suggesting that the ability of the Law Society of WA to engage or to not engage in its new scheme would be detrimentally affected by a particular date being set. For the moment I am not arguing against the general principle that there could well be a case for reserving what has been our standard clause for particular consideration in the course of drafting. For the moment I suggest to members that we are on quite safe ground and it will do nobody any harm by maintaining this position pending some comprehensive report and recommendation from the legislation committee.

Hon PETER FOSS: We probably will have a comprehensive policy or recommendation before this place in due course. Whatever that general recommendation in the future, the fact remains that some Bills come before this House containing proclamation dates and some do not. Some have multiple proclamation dates. I assume there is a reason for choosing one or the other and I would like to know the reason in this case.

Hon J.M. BERINSON: I have made no bones about the fact that no consideration has been given to this question. As an example, however, I note that clause 5 of the Bill deals with section 9 and relates to payment to the board of \$25.20. That is amended to a fee prescribed by the rules. There are no rules. This will only be attended to when the Bill has completed its passage and I do not know how long that will take. They should not be difficult to draw up. Nonetheless, no real purpose would be served by attempting to guess an appropriate period for consideration and promulgation of these rules.

I was planning to deal with matters of that kind rather more comprehensively in relation to the Criminal Law Amendment Bill, which has slipped down the agenda temporarily. The Legislative Council has passed some thousands of Bills containing this sort of

commencement clause and it will not be the cause of any harm at all if we continue with this traditional form pending agreement on some new and comprehensive approach to the question of commencement dates.

That is the best I can say. It involves my conceding the fact that I have not given special consideration to the use of this clause. This was simply done because it has been a mechanical drafting issue which during the course of past events has not attracted the attention that Hon Peter Foss would like. I have already indicated on more than one occasion that I am prepared to change that, but I believe we are taking no risks at all and nobody will be caused any harm by waiting on the resolution of this matter comprehensively rather than tackling each Bill on an ad hoc basis.

Hon MARGARET McALEER: Does the Attorney General envisage that as soon as the rules are drawn up the Law Society program will be brought into operation speedily and that it will have a Statewide benefit? I have in mind the fact that in the City of Geraldton, for instance, there is felt to be a lack of a legal aid office. The number of solicitors appears to be diminishing and increasing representations have been made to the Attorney General to do something about the situation there. I look forward to the people of Geraldton gaining some advantage from this Bill.

Hon J.M. BERINSON: I can indicate in respect of the major issue in the Bill, the Law Society program, that the Law Society is looking at the earliest possible implementation of its scheme. Its interest in doing that is shared by the Government. Accordingly, I do not see this Bill as one facing any great delay before proclamation. I cannot say that a specific approach by the society to the question of the availability of the scheme in country areas has been brought to my attention. However, because of their whole approach to the problem I am confident that the society would recognise the special difficulties of non-metropolitan areas and will be doing whatever it can to ensure that a fair proportion of its funds will be available in non-metropolitan areas. As I understand it, the scheme will be amenable to applications and responses by mail, for example, rather than by personal attendance. Therefore, distance should not be a barrier to the society's extending support of this project to areas such as that mentioned by Hon Margaret McAleer.

Hon PETER FOSS: From what has been said, it seems as though clause 7(b) could be proclaimed immediately and that there is no need to defer that clause.

Clause put and passed.

Clauses 4 to 6 put and passed.

Clause 7: Section 63 amended -

Hon PETER FOSS: Is the reason for new subsection (2) of section 63 not overruling subsection (1) the fact that this agreement is for a payment to the society rather than to the practitioner? Normally when two subsections vaguely dispute one another reference is made to which one takes priority. I note that in this case they are not completely in dispute because proposed subsection (2) relates to a payment to the society whereas the amendment to subsection (1) refers to payment to a practitioner. I query whether there is an acknowledgment in either subsection (1) or proposed subsection (2) of that fact.

Hon J.M. BERINSON: I think the purpose of proposed subsection (2) is clear enough. Given the tentative nature of the suggestion made by Hon Peter Foss, I respond tentatively to the effect that I do not believe that the express exclusion of subsection (1) is necessary.

It may assist members if I put on record that the understanding of the effect which is intended for subsection (2) is to authorise contingency agreements between the Law Society of Western Australia and litigants in the administration of the litigation assistance fund which is to be established by the society. The effect of the provision is to overcome the common law rule in respect of maintenance and champerty for agreements between litigants and the fund. That is the purpose and I believe it is adequately met. To provide greater caution, and at the same time to avoid any unnecessary delay, I will undertake to have this drafting matter considered during the course of the Bill's progress in the Legislative Assembly.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Attorney General), and transmitted to the Assembly.

House adjourned at 8.22 pm

QUESTIONS ON NOTICE

HOSPITALS - WYNDHAM HOSPITAL

Staff Reduction

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

- (1) Is it correct that Health Department of Western Australia plans for the Wyndham Hospital will lead to a reduction in trained staff?
- (2) If so, which categories of staff are involved and how many?
- (3) What medical services provided at the Wyndham Hospital have been downgraded or transferred to Kununurra Hospital since 1985?
- (4) What medical services being provided at the Wyndham Hospital will be downgraded or transferred to Kununurra Hospital in the foreseeable future?
- (5) Which categories of specialists visit the Wyndham Hospital, and how often?
- (6) Is it proposed to reduce these visits and if so, why?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) Yes. This reflects the anticipated changes in workload at the Wyndham Hospital following the transfer of the RFDS and the use of Kununurra Hospital for all cases involving general anaesthetics.

(2) Function Position	Before Changes FTE	After Changes FTE
Director of Nursing	1.29	1.29
Area Manager/Clinical Nurse Specialist	1.29	1.29
DC RGN	5.87	2.80
SC RGN	5.41	3.76
Enrolled Nurse	9.16	3.50
Nursing Assistant	2.58	4.08
Salaried Medical Officer	3.45	2.30

- (3) (i) Currently, the only service which has been transferred to Kununurra Hospital since 1985 is the Radiographer. This made best use of new facilities established at Kununurra Hospital and reflected the demand for services at each hospital.

Wyndham retains a 24 hour x-ray operator service which meets the bulk of its needs. Several radiography services (120 in 1988-89) are still provided on a visiting basis from Kununurra.

- (ii) Some visiting surgical specialists are now refusing to operate in Wyndham District Hospital because -

the number of general anaesthetics performed at Wyndham District Hospital has fallen below a safe level as defined by the Royal College of Anaesthetists and the Royal College of General Practitioners;

the theatre at Kununurra District Hospital is of superior quality to that of Wyndham District Hospital.

- (4) (i) All general anaesthetics will be performed at Kununurra District Hospital if the proposals are accepted. This is for safety reasons and complies with the guidelines established by the Royal College of Surgeons, Anaesthetists and General Practitioners.

- (ii) The laboratory technologist currently residing in Wyndham

will transfer to Kununurra District Hospital. By placing two technologists in the same town the East Kimberley will be provided with a 24 hour, seven day a week laboratory service. It is hoped to establish an intensive care facility in the East Kimberley at Kununurra District Hospital. Currently a facility with appropriate backup facilities such as laboratory does not exist.

- | | | |
|-----|---|-----------|
| (5) | Psychiatry | 3 weekly |
| | Surgical Speciality | monthly |
| | Paediatric Speciality | monthly |
| | Obstetric and Gynaecology | monthly |
| | Physician | 6-8 weeks |
| | Orthopaedic Specialist | 3 monthly |
| | ENT | 6 monthly |
| | Ophthalmology Specialist | 6 monthly |
| (6) | No, it is not proposed to reduce the visits but it is proposed that all general anaesthetics be performed at Kununurra District Hospital. | |

ROADS - ROE FREEWAY EXTENSION, WEST OF STOCK ROAD

Deletion

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

- (1) Is it intended to delete the proposed freeway west of Stock Road?
- (2) If so, has an assessment been made on the likely impact to the regional transport system?
- (3) On what basis is it intended to delete the proposed Roe Freeway extension west of Stock Road?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

- (1) A metropolitan regional scheme amendment to delete the freeway reservation is proposed.
- (2)-(3) A preliminary assessment has been made. Further study on the implications of the proposed amendment and the general issues of local and regional traffic management in the broader Fremantle area is also proposed.

FORKLIFT TRUCKS - ACCIDENTS

Deaths - Workers' Compensation Claims

420. Hon MARK NEVILL to the Leader of the House representing the Minister for Productivity and Labour Relations:

- (1) For each year since 1980, would the Minister advise -
 - (a) how many deaths have resulted from forklift accidents;
 - (b) how many workers' compensation claims were reported for forklift related injuries where five or more days were lost;
 - (c) what was the total payment of these claims; and
 - (d) how many days were lost from work?
- (2) What is the average number of claims in each of the last three years and what was the cost of each claim?

Hon J.M. BERINSON replied:

The Minister for Productivity and Labour Relations has provided the following reply -

- (1) (a) The Department of Occupational Health, Safety and Welfare is aware of three deaths associated with forklift trucks since 1980:

1981 - 1
1982 - 1
1989 - 1

(b)-(d)

See table below.

- (2) It is not practicable to provide details of the cost of each claim. The total number of accidents and average cost are provided in the table below.

Occupational Injuries in WA - Forklift Trucks Accidents
Involving 5 days or more Lost from Work

Year	No. of Accidents	**Total Days Lost	*Total Cost \$000	*Average Cost \$
1981-82	166	4 433	388.4	2 339
1982-83	119	3 781	639.8	5 377
1983-84	113	3 986	569.8	5 043
1984-85	137	4 240	666.9	4 868
1985-86	152	6 449	1 287.8	8 472
1986-87	169	6 937	1 416.6	8 382
1987-88	<u>148</u>	<u>5 083</u>	1 029.9	6 959
	1 004	34 909		

* Note these costs are actual payments and have not been adjusted for inflation.

** Working days lost from work.

MINING - KALGOORLIE
Underground Miners Stand-down

449. Hon P.H. LOCKYER to the Leader of the House representing the Minister for Productivity and Labour Relations:

What steps are being taken to overcome the decision to stand down underground miners in Kalgoorlie and find alternative occupations?

Hon J.M. BERINSON replied:

The Minister for Productivity and Labour Relations has provided the following reply -

Kalgoorlie Consolidated Gold Mines Pty Ltd announced recently that changes to mining methods throughout its Fimiston Mines were necessary to ensure economic viability of the Fimiston operations and to ensure the longer term survival of its overall operations. The mining methods to be introduced at the Fimiston operations are employed at Kalgoorlie Consolidated Gold Mines Pty Ltd's Mt Charlotte mine where the cost of mining is half that of the Fimiston operation.

The mining method introduced at Fimiston, known as "bulk mining", is less labour intensive than the more traditional techniques and has resulted in Kalgoorlie Consolidated Gold Mines Pty Ltd having a labour surplus of 199 positions. Of the surplus positions, 20 are staff, 20 metal trades and 159 underground production positions. Of the people occupying the 20 staff positions, only 2 remain unemployed, the balance having found alternative employment, transferred to other sections of Kalgoorlie Consolidated Gold Mines operation or retired early.

Of the 179 surplus award positions, 120 people have accepted redundancy and

received appropriate award entitlements. The remaining surplus positions may be nominated as redundant if volunteers do not emerge.

In addition, I understand the company and the Commonwealth Employment Service are cooperating in an attempt to identify employment options for redundant employees.

HEALTH - KIMBERLEY FIVE YEAR PLAN

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

- (1) Was an inquiry instituted to prepare a five year plan into health requirements in the Kimberley?
- (2) When was this carried out?
- (3) Has the report been completed?
- (4) Has the report been made public?
- (5) If not, why not?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

(1)-(2)

A study into health services in the Kimberley region was commissioned in December 1986 and presented to the Health Department in December 1987. Its purpose was to undertake an assessment of services within the Kimberley as input to the development of a health plan for the region, the latter task to be undertaken following the appointment of the Regional Director.

(3) Yes.

(4)-(5)

No. The report was prepared as an internal resource document although a copy was made available to the Broome Shire Council.

APPRENTICES - COUNTRY APPRENTICES

Block Release Courses, Perth

455. Hon N.F. MOORE to the Leader of the House representing the Minister for Productivity and Labour Relations:

- (1) Is it correct that a survey has been conducted into the feasibility of block release for country apprentices to attend courses in Perth?
- (2) If so, who was surveyed and will the Minister table the results of the survey?
- (3) Is it intended to introduce block release for country apprentices to attend courses in Perth and, if so, when will this commence?
- (4) If the answer to (3) is yes, what assistance will be provided to these apprentices for travel and accommodation?

Hon J.M. BERINSON replied:

(1)-(3)

Yes, a survey was conducted regarding refrigeration fitting apprentices. Arrangements will commence in 1991 and lessons will be timed to take place during the cooler off-peak period to reduce any potential inconvenience to employers. This will allow country refrigerator apprentices to receive a similar level of technical training as currently applies to metropolitan refrigeration fitting apprentices. The country apprentices will access the sophisticated new TAFE facility at Carlisle, and this will significantly improve the quality of off-the-job training for country apprentices.

Results of the Survey of Employers of Country Apprentices

No of Apprentices	No of Employers Responding	%	% in Favour	% Opposed
1	23	67.6	65.2	34.8
2	8	23.6	87.5	12.5
3 +	3	8.8	33.3	66.7
Total	34	100	-	-

There are currently 36 country-based employers employing a total of 53 refrigeration fitting apprentices; 34 of the country-based employers (94 per cent) employing 51 apprentices (96 per cent) responded to the survey; 23 employers (68 per cent) with 33 apprentices (65 per cent) agree to the proposed off-the-job training arrangements; 11 employers (32 per cent) with 18 apprentices (35 per cent) do not agree to the proposed off-the-job training arrangements. The vast majority of the employers employing only one or two apprentices, representing 91 per cent of all employers, agreed to the proposed off-the-job training arrangements.

- (4) The State Government provides the following assistance to apprentices required to attend block release courses in Perth -

Accommodation Allowance

1st year apprentice	\$40.00 per week
2nd year apprentice	\$37.50 per week
3rd or later year apprentice	\$35.00 per week

Travel Allowance

One of three forms:

- (a) Air Fare - for those towns which necessitate this form of travel;
- (b) Travel Warrant - for train or bus fare; or
- (c) Travel Subsidy - if in special circumstances the apprentice wishes to bring his own vehicle or his parents wish to drive him to Perth, petrol money may be subsidised.

SCHOOLS - HAMILTON HILL HIGH SCHOOL

Maintenance Program

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

- (1) When was the last time a full maintenance and/or renovation program was carried out at the Hamilton Hill High School?
- (2) Will the Minister list all the requests for such maintenance or renovation received by the ministry in the last two years that have not been met?
- (3) Is the Minister aware, for example, that dry rot has infected some of the woodwork in the windows?
- (4) Is the Minister aware that an old change room is being used as a classroom?
- (5) Does the Minister accept assertions by parents that the school is being allowed to run down because -
 - (a) the school population is declining, and
 - (b) the school is in a blue-ribbon Labor electorate?
- (6) Will the Minister undertake to visit the school to inspect -
 - (a) the high level of professional attaching to the academic and non-academic staff, including gardeners; and

- (b) the low level of maintenance and inadequate care and attention being shown by the ministry to the school which is having an adverse affect on the school, its staff and students?
- (7) Is the neglect of maintenance and repairs at this major high school common to all schools and, if so, why?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

- (1) Maintenance work to the value of \$29 000 was undertaken in 1987.
- (2) This information is not readily available. However, following an inspection earlier this year, maintenance work at an estimated cost of \$140 950 has been listed for consideration in the 1990-91 program. Of this, work at an estimated cost of \$16 200 is deemed to have priority. The proposed work includes -

	\$
Gutter cleaning	500
Mechanical plant operational maintenance	1 200
Repaint concrete floors/stairs	500
Replacement of electrical switchboard in Manual Arts	6 000
Replacement of lighting in gymnasium	8 000

In addition to the above, Hamilton Senior High School is listed on the draft 1990-91 Capital Works Program for a major upgrade.

- (3) It is recognised that there is a need to undertake some painting of window frames.
- (4) The school has an enrolment of approximately 1 040 students. The recommended number of form classes for this enrolment is 38, which would be adequately accommodated in 43 effective teaching areas. The actual accommodation at the school is 47.5 effective teaching areas.
- (5) (a)-(b)
No.
- (6) He will visit the school later this year when his schedule of commitments and appointments permits.
- (7) No. Maintenance is not being neglected at Hamilton Senior High School.

LAND - FOREIGN OWNERSHIP REGISTER

Inaccurate Record

480. Hon BARRY HOUSE to the Minister for Lands:

- (1) Given the Minister's statement in *The West Australian* of 27 June, in reference to the article title "Foreign Land Ownership List a Farce", that she has ordered the Land Titles Office to "come up with something better", will the Minister indicate when she first became aware that the present dossier was totally inaccurate?
- (2) When did the Minister first request the Land Titles Office to "seek something better".
- (3) When will a realistic and accurate register of foreign land ownership be available?
- (4) Is it Government policy to establish a full public foreign land ownership list?

Hon KAY HALLAHAN replied:

(1)-(2)

An informal record of transfers of land on which the transferee is shown as

having an overseas address has been maintained by the Office of Titles since January 1981. That record is very elementary and in no sense is it a register of foreign owners. It only provides a guide to foreign ownership investment.

These reports have been supplied to me since April 1989, which was shortly after I became Minister for Lands. At that time I requested advice on the ongoing implementation and success of the Queensland foreign ownership register with a view to implementing similar legislation in Western Australia.

(3)-(4)

Given the complexities of the issue, it is difficult to determine a definite date for implementation as legislation is required.

FLICK-KNIVES - NEW LEGISLATION

486. Hon GEORGE CASH to the Minister for Police:

Will the Minister advise if legislation concerning flick-knives will be introduced into the Parliament in the autumn session as foreshadowed by Minister Taylor in September 1989?

Hon GRAHAM EDWARDS replied:

No. The proposal is subject to further consideration.

ROAD TRAFFIC ACT - SECTION 106, AMENDMENT ACTION

Supreme Court Appeals Nos 1022, 1051, 1052

493. Hon GEORGE CASH to the Minister for Police:

In view of the finding of the Full Court in the Supreme Court of Western Australia in appeal No 1022 of 1989, and appeal Nos 1051 and 1052 of 1989, what action has the Minister taken in respect to amendment of section 106 of the Road Traffic Act?

Hon GRAHAM EDWARDS replied:

No action has been taken as section 24 of the Children's Court Act of Western Australia (No 2) 1988 appears to have resolved any difficulty in interpretation.

TOW TRUCKS - INSPECTIONS

498. Hon GEORGE CASH to the Leader of the House representing the Minister for Productivity and Labour Relations:

- (1) Which classes of tow trucks are required to be inspected on a regular basis?
- (2) Under what authority and at what intervals are tow trucks inspected?

Hon J.M. BERINSON replied:

The Minister for Productivity and Labour Relations has provided the following reply -

(1)-(2)

I refer the member to the response to Legislative Council question 503 of 1990.

TOW TRUCKS - CERTIFICATES OF COMPETENCY

Occupational Health, Safety and Welfare Department

503. Hon GEORGE CASH to the Leader of the House representing the Minister for Productivity and Labour Relations:

- (1) Does the Department of Occupational Health Safety and Welfare, issue certificates of competency to tow truck operators and if so, under which section of the Act or regulations are these certificates issued?
- (2) What is the criteria for issuing a certificate of competency to a tow truck operator?
- (3) Does the Department of Occupational Health, Safety and Welfare inspect tow trucks on a regular basis?

- (4) If so, will the Minister advise under which section of the Act or regulations such inspections are carried out?

Hon J.M. BERINSON replied:

The Minister for Productivity and Labour Relations has provided the following reply -

- (1) Certificates of competency are required only for the operators of tow trucks which come under the definition of crane in the Occupational Health, Safety and Welfare Regulations; that is, tow trucks having a load capacity not less than 6 125 kg a crane with a safe working load of not less than 5 080 kg. Most tow trucks are not defined as cranes.

Relevant provisions are -

Regulation 103 - "crane" definition which includes other than class 1 or class 2 tow trucks as defined in the Tow Truck Regulations 1975.

Regulation 1002(g) and 1003.

- (2) Knowledge on the safe operation of the winch.
 (3) Yes. Those defined as a crane are inspected at two yearly intervals. Others on a random basis.
 (4) Regulation 607 and schedule 4, item 25. Random inspections of class 1 and class 2 tow trucks under section 43 of the Act.

CONSUMER AFFAIRS MINISTRY - WATKISS, MR J.M.

Bull Terrier Club of WA Inc President's Letter

510. Hon GEORGE CASH to the Minister for Police representing the Minister for Consumer Affairs:

- (1) Did the Department of Consumer Affairs receive a letter dated 5 September 1989 from Mr J.M. Watkiss of Baldvis in his capacity as President of the Bull Terrier Club of WA Inc?
 (2) What was the result of the inquiries into the matters raised by Mr Watkiss?

Hon GRAHAM EDWARDS replied:

The Minister for Consumer Affairs has provided the following reply -

- (1) Yes.
 (2) Mr Watkiss was advised that the matters raised were outside the jurisdiction of the ministry.

METROPOLITAN REGION PLANNING SCHEME - AMENDMENTS

Roe Highway Extension - South Fremantle Deletion

512. Hon GEORGE CASH to the Minister for Planning:

I refer to the Premier's recent announcement that the Government intends to amend the Metropolitan Region Scheme to delete the Roe Highway extension into South Fremantle. Will this be a major or minor amendment under section 33A of the Metropolitan Region Scheme Act?

Hon KAY HALLAHAN replied:

The Act provides that the State Planning Commission should determine whether the "major" or "minor" amendment procedures should be followed when resolving to amend the metropolitan region scheme. The commission has yet to make a decision on the matter.

HOSPITALS - KALGOORLIE REGIONAL HOSPITAL

Meat, Fruit and Vegetables Purchase Policy

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

- (1) Is it correct that the Kalgoorlie Regional Hospital has changed its past practice of purchasing meat and fruit and vegetables locally and now buys from Perth?

- (2) If so, what is the reason for this decision and will the Minister seek to require the hospital to revert to its original policy?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) Yes.
- (2) I am advised local suppliers submitted tenders that were not competitive even after allowance was made for local preference. The cost efficient purchasing of hospital supplies, as with other aspects of budget management, are the responsibility of the local administration and it is not my intention to intervene.

LAND - HAMPTON ROAD-SOLOMON STREET, FREMANTLE

Government Intentions

527. Hon BARRY HOUSE to the Leader of the House representing the Minister for Finance and Economic Development:

What is the State Government's intentions on a large parcel of land which runs from Hampton Road through to Solomon Street in Fremantle and contains the old Fremantle Hospital nurses' quarters?

Hon J.M. BERINSON replied:

The Minister for Finance and Economic Development has provided the following reply -

The Fremantle Hospital Board's property containing the former nurses' quarters in Hampton Road and Solomon Street, Fremantle were declared surplus by the board in August 1989. Disposal of this surplus property is being managed by the Asset Management Taskforce.

Subdivision and rezoning of this complex site will be undertaken by the Asset Management Taskforce which will provide for manageable, appropriately zoned and marketable allotments. These lots will be marketed by the Asset Management Taskforce.

CENSORSHIP - FEDERAL REVIEW

State Submission

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

- (1) Is the State Government intending to make a submission to the Commonwealth's current review of Commonwealth/State censorships?
- (2) If so, will the Minister arrange for the submission to be tabled in this House?

Hon KAY HALLAHAN replied:

- (1) I understand that the Australian Law Reform Commission will be consulting with Federal, State and Territory Government authorities on the simplification and efficiency of the censorship laws and procedures. Western Australia will respond to the commission's approaches.
- (2) I will provide the member with details of the Government's submission in due course.

MOTOR VEHICLES - REGISTRATION AND TRANSFER

Stamp Duty - Statutory Declaration Requirement

531. Hon D.J. WORDSWORTH to the Leader of the House representing the Minister for Finance and Economic Development:

- (1) Is the Minister aware that a Mr Paul Fellows made a Press statement within the last few trading days of June concerning stamp duty on vehicles and in it said that from 1 July it would be necessary for both vendor and purchaser to make a statutory declaration as to the value of a vehicle before transfer of that vehicle would be accepted?
- (2) Have new transfer forms been printed and distributed to all offices where transfers can take place?

- (3) If so, when?
- (4) Is the Minister aware that persons requiring transfer forms were not made aware of these new requirements and that transfers are being held up while purchasers endeavour to trace and obtain such declarations?
- (5) Was the requirement to have statutory declarations signed by both parties decided by Cabinet, by the Minister or by the department and on what date?
- (6) If enforcement is by regulation, on what date was this regulation tabled in the Legislative Council?

Hon J.M. BERINSON replied:

The Minister for Finance and Economic Development has provided the following reply -

- (1) I am aware that the Commissioner of State Taxation made a statement in those general terms.
- (2) Yes.
- (3) Between 18 and 22 June 1990.
- (4) The requirements were advertised extensively by the State Taxation Department prior to their introduction on 1 July 1990. In addition, a circular was issued to all motor vehicle dealers before that date.
- (5)-(6) The requirement for these declarations was contained in Stamp Amendment Act No 3 which was passed by the Parliament towards the end of 1989.

PASTORAL LEASE - CHARNLEY RIVER STATION
Sale

534. Hon MAX EVANS to the Minister for Lands:

Would the Minister advise -

- (1) The sale price of Charnley River Station in 1987?
- (2) To whom was it sold initially?
- (3) To whom was it then sold?
- (4) Was this second deal arranged prior to the first sale?
- (5) Who was the second purchaser and at what price?
- (6) Is the Government negotiating acquisition of this station for incorporation in the Walcott Inlet National Park?
- (7) Prior to 1987, had the Government considered incorporation of this station in the national park?
- (8) If so, why was it sold and now why is it to be repurchased three years later?
- (9) What is the estimated value of improvements to the station since 1987?
- (10) If the sale has been finalised, then at what price and the terms of the transfer and details of the sale price?
- (11) What expenditure by Government agencies has there been in the last three years on the proposed national park including Charnley Station?

Hon KAY HALLAHAN replied:

- (1) The consideration expressed on the transfer document for the sale of the Charnley River pastoral lease was \$20 000.
- (2) The land concerned was granted by the Land Board under pastoral lease tenure to Dalmeny Pty Ltd on 14 July 1980.

- (3) The pastoral lease was transferred to Robert Alistair McAlpine and John Rennell Adams as tenants in common in equal shares.
- (4) The Government has no knowledge of any such arrangement.
- (5) Refer to answers (1) and (3).
- (6) Preliminary negotiations have commenced for the State's acquisition of the lease for inclusion in the proposed national park.

(7)-(8)

In September 1981, Cabinet endorsed the EPA recommendations for System 7 including 7.4 Walcott Inlet which reads -

- "1. The vacant Crown land surrounding the Inlet, as shown in fig 7.4, be declared a Class C Reserve for the purpose of National Park and Water and vested in the National Parks Authority of WA.
- 2. Once the reserve is gazetted, the National Parks Authority explore with the occupants of Pantijan Station the possibility of joint participation in management of the Park."

The area mistakenly identified as vacant Crown land in the EPA report included the Charnley River pastoral lease which had been allocated by a Land Board in July 1980.

A separate tenure therefore existed which the owner sought to transfer to the current owners, who proposed a cattle breeding and small tourist development on the lease. Transfer of the privately owned interest was allowed to proceed.

Following an Aboriginal site survey commissioned by the lessees, the lessees advised that they were unable to proceed with their development proposals and sought the Government's views on the future of the lease.

The Government has confirmed its willingness to acquire the leasehold estate to allow inclusion of the land into the proposed national park.

- (9) As the value of improvements impacts on current acquisition negotiations, I am not able to comment as it could prejudice these negotiations.
- (10) The sale has not been finalised.
- (11) There have been a number of Government agencies with varying degrees of involvement, both direct and indirect, in respect to the proposed national park, including Charnley River, and I am therefore unable to provide the information sought.

LAND - DEEPWATER POINT

Lease Negotiation - Marine Support Base Establishment

535. Hon MAX EVANS to the Minister for Lands:

Would the Minister advise -

- (1) Is the Government considering approving a lease at Deepwater Point to establish a Marine Support Base?
- (2) Who owns the land now?
- (3) Who is negotiating for a lease with the Government and at what stage are the negotiations?
- (4) What planning and environmental processes are involved?
- (5) Have discussions been held to eventually freehold part of the land?
- (6) Why is this land which is proposed to be part of an "A" class public recreation reserve being made available for lease?
- (7) If the deal has been finalised, at what price has the lease been sold?
- (8) What are the views of the Departments of Conservation and Land Management and Aboriginal Affairs on Aboriginal sites on this proposed transfer?

- (9) Have the other parties had discussions with the nearby Aboriginal community at One Arm Point?
- (10) If so, what is the outcome of those discussions?

Hon KAY HALLAHAN replied:

- (1) A proposal has been received to establish a marine support base at Deepwater Point.
- (2) The land identified for this proposal is vacant Crown land.
- (3) Lord McAlpine and Mr John R. Adams have made the proposal which is subject to evaluation before any negotiations occur.
- (4) The proposal is subject to a public environmental review set by the Minister for the Environment, which will encompass planning and environmental issues.
- (5) No.
- (6) The proposed status for this area will be considered by the public environmental review.
- (7) See (3) above.
- (8) The view of the Department of Conservation and Land Management is not known at this early stage. The Department of Aboriginal Sites has recommended that any sites in the development should be identified and that regional consultation should occur with Aboriginal communities.
- (9) This is a requirement of the public environmental review and will occur in that process.
- (10) See (9) above.

GOVERNMENT EMPLOYEES HOUSING AUTHORITY - AIR-CONDITIONERS *Maintenance Contracts*

537. Hon N.F. MOORE to the Leader of the House representing the Minister for Housing:

- (1) What is the policy of the Government Employees Housing Authority with respect to urgent repairs required for air-conditioners located within GEHA houses?
- (2) Is it necessary for tenderers who apply for GEHA contracts to abide by appropriate awards?
- (3) Did the contractor who was awarded the contract for the maintenance of air-conditioners within GEHA houses in Karratha and Port Hedland abide by aware requirements at the time the tender was awarded?
- (4) If not, why not?

Hon J.M. BERINSON replied:

The Minister for Housing has provided the following reply -

- (1) The criteria Homeswest uses (as GEHA's agent) for determining urgent after-hours repairs to air conditioners is as follows -
 Ducted Air Conditioners - work will be attended to immediately if the next day is not a working day. However, if the next day is a working day, work will be carried out then. In addition, some requests may be referred to the regional manager for immediate assistance.
 Wall Units - work can wait and be carried out in normal working hours.
- (2) Homeswest expects contractors to abide by appropriate awards and would respond to allegations from unions etc. if this was not the case.

- (3) Herman's Refrigeration does not employ labour on a subcontract basis and its servicemen are paid at award rates.
- (4) Not applicable.

HEALTH - PAT SCHEME

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

- (1) Is the Government reviewing the PAT scheme?
- (2) If so, when is the review expected to be completed and will it be made public?
- (3) Does Ansett WA charge the Department of Health full fares for patients who travel from the north to the metropolitan area under the PAT scheme?
- (4) If not, what is the rate?
- (5) Does the Department of Health take advantage of lower fares, such as Apex, to achieve cost reductions in the PAT scheme?
- (6) In which country hospitals are resident specialist medical practitioners currently employed and what is their speciality?
- (7) What measures are taken to encourage or direct patients to use the services of the specialists referred to in (6) above?
- (8) Who makes the decision as to whether a patient, who is required to travel under the PAT scheme, should travel by bus or aircraft?
- (9) Which country hospitals use the services of visiting specialist medical practitioners and what is their speciality?
- (10) Is it correct that patients seeking to make appointments with visiting specialists are often unable to do so due to insufficient visiting time?
- (11) If so, what action is being taken to overcome this problem?
- (12) What was the total cost of the PAT scheme in the financial years 1985-86, 1986-87, 1987-88 and 1989-90?
- (13) Is it proposed to reduce the amount of funds available for the PAT scheme and if so, why?
- (14) Under the PAT scheme, is travel assistance available to persons, other than patients, who are required to travel with the patient?
- (15) If so, what is this assistance?
- (16) If not, why not?
- (17) Does the PAT scheme provide financial assistance for accommodation for patients required to visit the metropolitan area or regional hospitals?
- (18) If so, what is this assistance?
- (19) If not, why not?
- (20) How often is it necessary for a visiting specialist to visit a town before patients become ineligible for PAT assistance?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) Yes.
- (2) The review is nearing completion and is expected to be finalised within the next few weeks. The outcome will be widely publicised to increase public awareness of the scheme and clarify any changes to the guidelines.
- (3) Yes.
- (4) Not applicable.
- (5) Yes, where possible.

- (6) The PAT scheme does not make any distinction between salaried, private or contract specialists. Attached for your information is a list of visiting/resident specialists.

[See Legislative Council Supplementary Notice Paper, Questions and Replies, No 26 of 21 August 1990.]

- (7) The department routinely publishes lists of local services available in each health region. As you are aware, PATS benefits only apply where the patient travels to the closest available specialist, which, of itself, is a direct inducement to utilise country facilities.
- (8) The referring medical practitioner determines the mode of travel appropriate for the patient's clinical condition. The hospital administrator may also take into account the personal care needs of the patient where surface travel is considered either impracticable or unreasonable.
- (9) Refer to (6).

(10)-(11)

On occasions patients requiring non-urgent assessments may need to return at a later date due to demand for the service. However, in those instances where the visiting specialist is unable to accommodate the urgency of treatment required, assistance may be provided to facilitate travel to an alternative treatment centre. The Health Department of Western Australia has an ongoing commitment to increasing the frequency and duration of visiting specialist services. Areas of critical need are identified through statistical information provided to the department from the health service units and, wherever possible, attempts are made to recruit or augment the specialist services.

- (12) The patients assisted travel scheme was designed within the limits of the available funds provided by the Federal Government to the State following the abolition of the isolated patients travel and accommodation assistance scheme (IPTAAS) on 31 December 1986.

			\$
01.01.87	-	30.06.87	2.5m
01.07.87	-	30.06.88	5.4m (allocation)
01.07.88	-	30.6.89	5.6m (allocation)
		Spent	6.8m
01.07.89	-	30.06.90	7.3m (allocation)
		Spent	5.9m

- (13) No.
- (14) Under PATS, an escort (relative or friend) or attendant (nurse or person with appropriate skills) is provided for the medical well-being of the patient to accompany the patient to the treatment centre where the referring medical practitioner indicates this assistance is warranted. Where a patient is a child, under the age of 17, an escort is automatically approved.
- (15) An approved escort or attendant is granted travel assistance equivalent to that which applies to the patient.
- (16) Not applicable.
- (17) Yes.
- (18) A PATS patient is eligible for accommodation assistance for that period the specialist certifies that it is necessary for medical reasons for the patient to remain at the treatment centre.

Patients covered by a pensioner health benefits, health care or health benefits card - all nights.

Non-pensioner health benefits, health care or health benefits card holders - all nights in excess of the first three nights of each journey, provided that where the patient (individual or family unit) and any approved escorts have paid a total of \$280 in a financial year, July to June, assistance is payable for all future accommodation costs for the balance of that year.

Private accommodation allowance - \$10 per night.

Commercial accommodation allowance - up to \$30 per night.

- (19) Not applicable.
- (20) The PAT scheme was not designed to provide a choice of specialist, and to widen it for this purpose would threaten the financing of the scheme. If, however, the visiting or resident specialist cannot accommodate the urgency or level of treatment required, exceptions may be made.

RURAL AND INDUSTRIES BANK OF WESTERN AUSTRALIA - ANNUAL REPORT 1989

539. Hon MAX EVANS to the Leader of the House representing the Minister for Finance and Economic Development:

- (1) Has the Rural and Industries Bank tabled its annual report for the period to 31 March 1989?
- (2) If not, why has this been allowed to exist?
- (3) What procedures have been put into operation to assure members that it could not happen again?

Hon J.M. BERINSON replied:

The Minister for Finance and Economic Development has provided the following reply -

- (1) Yes.
- (2)-(3) Not applicable.

POLICE - MEDICAL RECORDS *Computer Database System*

550. Hon GEORGE CASH to the Minister for Police:

- (1) Do the police maintain a computer database system or other data retrieval system on which are records of medical conditions, histories or illnesses of any individual?
- (2) If the answer is yes -
 - (a) what is the reason for these records being kept;
 - (b) what is the source or sources of these medical details;
 - (c) who authorised the establishment of these records; and
 - (d) what details of which medical conditions are kept?

Hon GRAHAM EDWARDS replied:

- (1) Yes.
- (2) (a) (i) To assist personnel management and comply with legislative requirements.
- (ii) To alert police officers coming into contact with individuals of a possible health risk.
- (iii) As a requirement of the Road Traffic Act.
- (b) (i) The individual employee or a medical practitioner.

- (ii) The individual him/herself.
- (iii) The individual or as a requirement of the Road Traffic Act.
- (c) (i) Commissioner of Police.
- (ii) Commissioner of Police.
- (iii) By statutory authority.
- (d) (i) Those supplied by the employee or by a medical practitioner on authorisation of such employee.
- (ii) Those provided by the individual at the time of contact by the police.
- (iii) Those provided by the individual or a medical practitioner.

BICYCLES - SAFETY HELMETS LEGISLATION

551. Hon GEORGE CASH to the Minister for Police:

- (1) Is the Government considering the introduction of laws compelling children or adults to wear safety helmets when riding bicycles, as Victoria has recently done?
- (2) If the answer is yes, when will these changes be introduced to the Parliament?

Hon GRAHAM EDWARDS replied:

- (1) Yes. Cabinet supports the wearing of cycle safety helmets by children and adults.
- (2) The achievement of this aim through compulsion or education is a current consideration.

HARVEY FRESH - TAKEOVER

554. Hon Murray MONTGOMERY to the Minister for Police representing the Minister for Agriculture:

- (1) Will the Minister confirm that Harvey Fresh -
 - (a) has changed hands; or
 - (b) that a takeover bid or proposal has been made?
- (2) Who is the new owner or prospective owner?
- (3) What steps is the Minister taking to ensure that the big three retailers - that is, Coles, Woolworths and Foodland, or companies which are their subsidiaries or are in their control - do not gain control of Harvey Fresh?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following response -

- (1) Harvey Fresh has not changed hands but an equity partner has joined the company.
- (2) The equity partner is the First Western Group Limited, which has acquired a 50 per cent interest.
- (3) Not applicable.

LAND - KOONDoola OPEN SPACE

Owners

556. Hon GEORGE CASH to the Minister for Lands:

- (1) Will the Minister advise who are the present owners of the land bounded by Alexander Drive, Marangaroo Drive, Rendell Way and Beach Road - known as Koondoola open space?
- (2) What is the size of this land?
- (3) Is the land presently used by any Government instrumentality?

(4) If the answer is yes, how much of this land is presently being utilised?

Hon KAY HALLAHAN replied:

(1)-(2)

The following table outlines the relevant land tenure details.

(3)-(4)

The purposes of the reserved land are outlined in the following table.

TABLE 1(a)

FREEHOLD LAND

Identifier	Registered Owner	C/T No	Area
Lot 1	The Metropolitan Region Planning Authority	1591/805	28.9606ha
Lot 2	Metropolitan Water Authority	1695/377	1.4275ha
Lot 3	Metropolitan Water Authority	1466/699	14.9930ha
Lot 4	State Housing Commission	1162/367	(b)
Lot 301	Metropolitan Water Authority	1691/590	5.9660ha
Ptn Lot 86	The Metropolitan Region Planning Authority	1632/534	9.2194ha
Lot 1163	Metropolitan Water Authority	1441/760	600m ²

CROWN LAND

Identifier	Reserve Details	Area
Loc. 3146	Reserve No 18642, "Trigonometrical Station", unvested	4047m ²
Loc. 10344	Reserve No 37937, "Public Recreation" vested in City of Wanneroo	1.4860ha

(a) The portions of land described in the table are shown on Public Plans Perth 1:2000 :13.36, 13.37, 13.38, 14.36, 14.37, 14.38.

(b) This area is a remnant portion of the title for which there is no calculated area.

LOCUSTS - PLAGUE

Control Measures

559. Hon MARGARET McALEER to the Minister for Police representing the Minister for Agriculture:

With reference to the problem of locust control raised in my letter to the Minister dated 13 June 1990, would the Minister advise what measures the Government have put in place to combat the plague now that the areas of locust infestation have been identified?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following response -

A control campaign is being developed to provide strategic control of emerging locusts before they affect large areas or migrate. This will involve alerting the public, marshalling staff into the more severely affected areas and providing the training required. Coordination of the control efforts is seen by the Government as its primary role.

FIREARMS ACT - SECTION 16 AMENDMENT

Firearm Curio Permit

561. Hon GEORGE CASH to the Minister for Police:

(1) Will the Minister consider an amendment to section 16 of the Firearms Act to allow firearms licensed as curios to be carried for the purpose of display at approved venues and to meetings of recognised firearm curio associations without the need for a permit to be issued?

(2) If not, why not?

Hon GRAHAM EDWARDS replied:

(1)-(2)

I am prepared to consider this request providing that concerns expressed by the police can be accommodated.

TRAFFIC ACCIDENTS - FATALITIES

Blood Alcohol Levels

563. Hon GEORGE CASH to the Minister for Police:

- (1) How many road fatalities occurred in each of the last five years ended 31 December 1989?
- (2) On an annual basis for the last five years ended 31 December 1989, will the Minister advise the number of road fatalities which occurred annually -
 - (a) where no alcohol was involved;
 - (b) where the deceased had a blood alcohol level under 0.05;
 - (c) where the person had a blood alcohol level of 0.05 to 0.079;
 - (d) where the person had a blood alcohol level of 0.08 to 0.149; and
 - (e) where the person had a blood alcohol level of 0.150 and over?

Hon GRAHAM EDWARDS replied:

- (1)

Year	Number Killed
1985	243
1986	228
1987	213
1988	230
1989	242

- (2)

Blood Alcohol Levels (BAL) for Fatalities Western Australia Fatality BAL							
Year	Nil	Under 0.05	0.05- 0.079	0.08- 0.149	0.15 & Over	Un- known	Total
1985	134	8	9	39	49	4	243
1986	130	6	9	21	58	4	228
1987	124	8	7	25	48	1	213
1988	141	8	11	25	45	0	230
1989	131	13	8	29	54	7	242

MOTOR VEHICLES - "VEHICLE DEFECT"

Yellow Sticker Work Order

567. Hon GEORGE CASH to the Minister for Police:

- (1) How must a yellow sticker work order be served upon the driver/owner of a vehicle which has been found to be defective?
- (2) How many work orders of this nature have been served on drivers in this State in -
 - (a) 1987;
 - (b) 1988;
 - (c) 1989; and
 - (d) 1990 to the present date?
- (3) What are the major defects detected and what has been the proportion (percentage of total) of each of the last four years (1987-1990 inclusive) to the present date?

Hon GRAHAM EDWARDS replied:

- (1) Where the driver is the owner of the vehicle the work order is served on him at the time.

- (a) Where the driver of the vehicle is not the owner -
 - (i) the member of the Police Force making the order shall cause a copy of the order to be served on the owner, and
 - (ii) the driver of the vehicle shall bring the order to the notice of the owner; and
 - (b) the member of the Police Force making the order shall attach to the vehicle a notice of the order prohibiting the use of that vehicle.
- (2)
- (a) 20 740
 - (b) 17 903
 - (c) 14 454
 - (d) 9 672
- (3) Statistics of major defects are not maintained by the Police Department.

MOTOR VEHICLES - "VEHICLE DEFECT"

Accident Statistics

568. Hon GEORGE CASH to the Minister for Police:

- (1) What is the incidence of "vehicle defect" as a direct or contributory cause of motor vehicle accidents in Western Australia in each of the last five years to the present date?
- (2) How many motor vehicle fatalities have been directly attributed to vehicle defects in each of the last five years to the present time?

Hon GRAHAM EDWARDS replied:

- (1)-(2) Vehicle defects, as a direct or contributory cause of motor vehicle accidents, are not recorded.

ASSET MANAGEMENT TASKFORCE - PROPERTY SALE

Total Payments and Value

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

- (1) What is the total amount of moneys received by the Asset Management Taskforce for consideration of sale of Government property from 1 July 1989 to 30 June 1990?
- (2) What is the total value of all contracts of sale of Government property as sold by the Asset Management Taskforce from 1 July 1989 to 30 June 1990?
- (3) What is the schedule of the particulars of properties which have been sold and what were the sale prices, as per (2) above?

Hon J.M. BERINSON replied:

The Minister for Finance and Economic Development has provided the following reply -

(1)-(3)

In the period 1 July 1989 to 30 June 1990 the Asset Management Taskforce received from the sale of surplus Government properties a total of \$35 916 465. Following the discharge of outstanding debts and obligations on these properties of \$3 081 674, the net amount received in CRF Lands Territorial AMT Account was \$32 834 791.

A complete list of property assets disposed of through the Asset Management Taskforce program in 1989-90 will be provided when the full 1989-90 State Budget results are tabled.

WATER RESOURCES - CRANBROOK

Charges Increase

571. Hon MURRAY MONTGOMERY to the Minister for Police representing the Minister for Water Resources:

- (1) Is the Minister aware that in Cranbrook there are individual instances where a 1990 water rates assessment has increased from \$120 in the previous year to \$175?
- (2) Can the Minister explain the reason for the 45 per cent increase in the above assessment in the light of the Government's commitment to increasing water charges at the rate of inflation?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following reply -

- (1) Yes.
- (2) The increase is the result of changes in the minimum charges for country commercial and industrial rates. These increases are an important step in a long-term program to move away from rating based exclusively on property valuations to a greater component of pay-for-service/pay-for-use charging. This step was a primary recommendation of the Minister's Working Party on Non-residential Rates and Charges (which included representatives from the commercial-industrial sector), recognising it as an essential prerequisite to the above desirable tariff reform.

As these increases apply only to non-residential properties, they are not inconsistent with the Government's Family Pledge to keep residential charges below inflation.

ROADS - URBAN ARTERIAL ROAD FUND

Grants Criteria

572. Hon P.G. PENDAL to the Minister for Police representing the Minister for Transport:

- (1) Under what criteria are grants from the Urban Arterial Road Fund in 1990-91 being made?
- (2) Is it correct that a higher priority is being given to funding applications which involve new road projects rather than road rehabilitation projects?
- (3) If so, what is the rationale for the granting of higher priority to applications related to new road projects?
- (4) In view of the concern expressed by some local government authorities regarding the higher priority given to new road projects, when so much road rehabilitation is needed, will the Minister reconsider the philosophy behind the criteria and place greater emphasis on maintenance of existing roads?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- | | | |
|-----|------------|---|
| (1) | Priority A | Projects already agreed to by the Advisory Committee for the Urban Arterial Road Fund Program and not completed in the previous year. |
| | Priority B | Projects that support major road projects such as Kwinana Freeway and Reid Highway. |
| | Priority C | Projects that have high priority on needs due to congestion, safety or urgent rehabilitation. |
| | Priority D | Projects that are considered premature for funding or are of lower priority. |

- (2) Yes. However consideration is always given to important arterial roads that require upgrading or rehabilitation.
- (3) To maximise the effectiveness of the existing road network and provide extensions to the network due to growth.
- (4) A working party is to be set up to review the process of allocating Urban Arterial Road Funds.

BURSWOOD BRIDGE - CONSTRUCTION PROPOSAL

Sand Dumping

573. Hon P.G. PENDAL to the Minister for Police representing the Minister for Transport:

I refer to the proposed Burswood Bridge construction and ask -

- (1) Is it correct that some years ago, in readiness for bridge construction, sand was dumped at the end of Orrong Road?
- (2) Is it correct that since the dumping of that sand, proposed plans for the bridge have changed to some extent?
- (3) If so, will the dumped sand be moved to another point to fit in with the change of plans for the bridge and, if so, what is the location of that point?
- (4) If the answer to (3) is yes, what are the estimated costs of -
 - (a) placing the sand in its present position; and
 - (b) shifting the sand to its new location?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1)-(2)

Yes.

- (3) The planned location for the future road bridge is adjacent to the existing railway bridge. Fill material will be required at the new site and this material will probably come from the sand at the end of Orrong Road.
- (4) (a) About \$2 million.
- (b) No estimate available.

HOSPITALS - DONNYBROOK HOSPITAL

Infant Deliveries Stoppage

574. Hon W.N. STRETCH to the Minister for Planning representing the Minister for Health:

- (1) Has the Health Department decreed that there will be no more infant deliveries at Donnybrook Hospital after 19 July 1990?
- (2) If not, what other restrictions have been put on the Donnybrook Hospital's procedures?
- (3) On what grounds have these decisions been made?
- (4) Have all levels of the Donnybrook Hospital and medical staff been advised and have they agreed to the decision, and if not, why did they not agree?

Hon KAY HALLAHAN replied:

The Minister for Health has provided the following reply -

- (1) No.
- (2) None.
- (3)-(4) Not applicable.

ROADS - GREAT EASTERN HIGHWAY

Gibson-Dalyup Road - Deterioration

575. Hon D.J. WORDSWORTH to the Minister for Police representing the Minister for Transport:

In view of the fact that there has been a rerouting of a considerable quantity of heavy haulage from the Eastern States to travel via the southern road system rather than via Coolgardie and the Great Eastern Highway -

- (1) Has the Government determined if it is the deterioration of the Great Eastern Highway which has caused this change in traffic?
- (2) What action is being taken to correct the problems on the Great Eastern Highway?
- (3) What action is being taken to overcome the sudden deterioration of some of the smaller roads, in particular the road from Gibson to Dalyup, which forms the by-pass between the Esperance-Kalgoorlie Highway and the Esperance-Jerramungup Highway, and allows heavy traffic to enter the town of Esperance?
- (4) Is the Main Roads Department willing to take over the responsibility of the Gibson-Dalyup road from the Esperance Shire and upgrade this short length of road?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

(1)-(4)

Great Eastern Highway is suitable for use by heavy vehicles.

I am not aware that there has been a rerouting of heavy vehicles from the Eastern States via the southern road system. However, I have arranged for the situation to be examined.

SERVICE STATIONS - TRADING HOURS

Consumer Complaints

576. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Consumer Affairs:

- (1) In the past 12 months, how many complaints from consumers has the Minister received in relation to service station trading hours?
- (2) Can the Minister confirm that no approaches have been made to the Minister by the two consumer representatives on the retail shops advisory committee?
- (3) How many times has the Minister met with representatives of the Australian Institute of Petroleum in the last 12 months, and what was the basis of those discussions?
- (4) Can the Minister confirm that in February 1989 Hon Peter Dowding, then Premier of the State of Western Australia, provided the industry with an assurance that no review of service station trading hours would take place prior to the overall review of the Retail Trading House Act, contemplated to take place in 1993?

Hon GRAHAM EDWARDS replied:

- (1) A petition signed by approximately 3 500 persons has been received calling for restrictions on trading hours for service stations to be removed, and in addition numerous representations have been received at my office from consumers calling for liberalised trading hours.
- (2) No specific approach has been received from the two consumer representatives on the Retail Shops Advisory Committee. However approaches have come from numerous sources as indicated in the answer to question (1).

- (3) Twice. The Institute of Petroleum requested the meetings to discuss the results of their survey of consumers and service station proprietors' attitudes to deregulation of trading hours. I have met with the Motor Trade Association on four occasions in the last 12 months to discuss service station trading hours.
- (4) No. An assurance was provided by the then Hon Premier, Peter Dowding, that service station trading hours would not be considered in the review of the first 12 months of operations of the Retail Trading Hours Act 1987. That commitment was fulfilled.

**RURAL AND INDUSTRIES BANK OF WESTERN AUSTRALIA - US DOLLAR
UNDATED FLOATING RATE NOTES
*Government Guarantee***

578. Hon MAX EVANS to the Leader of the House representing the Minister for Finance and Economic Development:

- (1) Would the Minister advise what undertakings, guarantees or indemnities the WA Government has given in respect of Rural and Industries Bank US dollar undated floating rate notes of \$244 million at 31 March 1989?
- (2) If so, to whom have they been given?
- (3) If the answer is no, what protection has the lender to have the funds eventually repaid when it falls due or is cancelled?

Hon J.M. BERINSON replied:

The Minister for Finance and Economic Development has provided the following reply -

- (1) The US\$200 million undated floating rate notes issued in March 1989 are guaranteed by the Government of the State of Western Australia under Section 30 of the Rural and Industries Bank of Western Australia Act 1987.
- (2) No specific guarantees have been issued.
- (3) Not applicable.

**RURAL AND INDUSTRIES BANK OF WESTERN AUSTRALIA - STATE
GOVERNMENT
*Dividend Payment***

579. Hon MAX EVANS to the Leader of the House representing the Minister for Finance and Economic Development:

- (1) Did the Rural and Industries Bank make any payment of a dividend or dividends in lieu of taxation to the WA Government between 1 July 1989 and 30 June 1990?
- (2) If so -
 - (a) how much and on what dates were they paid;
 - (b) was the whole or part repaid to the bank; and
 - (c) when and how much was repaid?

Hon J.M. BERINSON replied:

The Minister for Finance and Economic Development has provided the following reply -

- (1) No.
- (2) Not applicable.

GREAT SOUTHERN DEVELOPMENT AUTHORITY - MINISTERIAL RESPONSIBILITY

580. Hon BARRY HOUSE to the Minister for Police representing the Minister for Regional Development:

Why is the Great Southern Development Authority responsible to the Minister for Regional Development and not its own Minister for the Great Southern?

Hon GRAHAM EDWARDS replied:

The Minister for Regional Development has provided the following reply -

The Government has a variety of regional development models for the State. The existing arrangement with the Great Southern Development Authority is considered the most appropriate to the region's needs.

REGIONAL DEVELOPMENT - MEENAAR SITE

Avon Community Development Foundation Funding Refusal

581. Hon BARRY HOUSE to the Minister for Police representing the Minister for Regional Development:

Why has financial assistance been refused for the Avon Community Development Foundation in its quest to initiate regional development at the Meenaar site?

Hon GRAHAM EDWARDS replied:

The Minister for Regional Development has provided the following reply -

The Premier wrote to Mr Lee, president of the Avon Community Development Foundation Inc, on 15 May 1990 advising that it is not possible to consider support at this stage beyond that offered through the Industrial Lands Development Authority to extend the terms of reference of its heavy industry study of the Northam region to include a preliminary assessment of the Meenaar site location. This would enable the foundation to address a number of issues concerning its proposal, including funding.

REGIONAL DEVELOPMENT - CABINET SUBCOMMITTEE

Meetings

582. Hon BARRY HOUSE to the Minister for Police representing the Minister for Regional Development:

- (1) How frequently does the Cabinet subcommittee on regional development meet?
- (2) What major announcements have been made by this subcommittee in the past 12 months?
- (3) How frequently do the chief executive officers of the regional development authorities meet?

Hon GRAHAM EDWARDS replied:

The Minister for Regional Development has supplied the following response -

- (1) Quarterly, or more frequently if required.
- (2) The subcommittee was established by Cabinet on 22 January 1990. As a subcommittee of Cabinet it does not have the role of making "major announcements".
- (3) Quarterly through the Regional Development Council and there is also regular informal contact.

REGIONAL DEVELOPMENT - WESTERN AUSTRALIAN MODEL

Queensland Copy

583. Hon BARRY HOUSE to the Minister for Police representing the Minister for Regional Development:

- (1) Is the regional development model in WA being copied in Queensland?

- (2) If so, what assistance is being provided by the Western Australian Government to the Queensland Government?

Hon GRAHAM EDWARDS replied:

The Minister for Regional Development has provided the following reply -

- (1) Yes.
- (2) At the request of the Queensland Government an officer of the Department of Regional Development and the North West has been seconded for a period of six months to assist with the establishment of the bureau.

LIFE EDUCATION CENTRES - GOVERNMENT ASSISTANCE

584. Hon BARRY HOUSE to the Minister for Police representing the Minister for Youth:

- (1) Is any financial assistance provided by the State Government for Life Education Centres in Perth or country regions?
- (2) If so, how much and to whom is assistance provided?
- (3) If not, why have approaches for assistance been refused?

Hon GRAHAM EDWARDS replied:

The Minister for Youth has provided the following response -

- (1) Yes.
- (2) In 1987 a grant of \$20 000 was provided by the Health Department to the joint sponsors of the project Wesley Central Mission and Rotary. The funds were for towing the mobile centre to school locations. It is anticipated that these funds will be expended by the end of the year.

In 1988 a television appeal was successful in obtaining \$20 000 from the Health Department to the joint sponsors. This money has assisted in the employment of health educators to work in the mobile centres.
- (3) Not applicable.

ROADS - MURDOCH DRIVE SECOND CARRIAGEWAY

South Street-Somerville Boulevard - City of Melville's Funding Request

585. Hon P.G. PENDAL to the Minister for Police representing the Minister for Transport:

I refer to a submission made to the Main Roads Department by the City of Melville requesting arterial road funding to assist with the construction of the second carriageway of Murdoch Drive, between South Street and Somerville Boulevard and the subsequent installation of traffic lights and ask -

- (1) Is the Minister aware of the importance of this construction work to the safety of school children in the Murdoch and Winthrop areas?
- (2) If so, does the Government consider that the work should have a high priority in terms of funding?
- (3) Will the City of Melville's funding request be granted in the 1990-91 financial year?
- (4) If not, what are the reasons, in detail, for refusal of the city's request?
- (5) If the answer to (3) is no, will the Minister undertake to review this decision, especially in light of the importance of the construction work to child safety?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response -

- (1)-(2) Pedestrian safety is one of several factors taken into consideration in

the distribution of urban pool funds. In fact, the original submission by the City of Melville for duplication of Murdoch Drive was not based on safety for schoolchildren in the Murdoch and Winthrop areas.

Notwithstanding this, the Government is committed to ensuring the safety of pedestrians and in this respect a guard controlled children's crossing is provided in Murdoch Drive adjacent to the Yidarra Primary School.

- (3) No.
- (4) Projects in other local government areas were considered by the advisory committee for the urban arterial road fund program as having a higher priority.
- (5) No. However if the honourable member can indicate where safety is a problem assistance to pedestrians will be looked at as a separate priority issue.

QUESTIONS WITHOUT NOTICE

DEL PIANO, JOHN - MANDURAH POLICE STATION TRUSTY

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

I refer to the recent transfer of the prisoner Del Piano who is currently serving a custodial sentence.

- (1) Did the transfer of Del Piano to the position of a trusty at the Mandurah Police Station involve any breach of the instructions given by the Executive Director of the Department of Corrective Services?
- (2) Is the Minister aware whether Del Piano remains a trusty at Mandurah Police Station or whether he has been transferred?
- (3) If so, can the Minister advise where Del Piano is now serving his sentence?

Hon J.M. BERINSON replied:

- (1) I am assured that the placement of this prisoner was in accordance with the relevant provisions of the Act and regulations.
- (2)-(3) I can only indicate that I am not aware of the prisoner's current placement. If the member wishes to pursue that question he may like to put it on notice. I have asked, in general, for a report on relevant matters but from the preliminary advice which I have already received I am satisfied on the matters to which I have responded.

EARLSFERRY HOSTEL - SALE PRICE

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

- (1) Will the Minister reveal the sale price for the Earlsferry hostel at Bassendean?
- (2) Will the Minister investigate claims that the property was sold for substantially less than the price quoted to the Bassendean Town Council three months earlier?
- (3) Will the Minister also investigate claims that one tenderer had advised that \$500 000 was to be made and that finance had been arranged for that tender?

Hon KAY HALLAHAN replied:

- (1)-(3) I suggest the member put the question on notice and direct it to the Deputy Premier, who will supply the information and correct some of the assumptions implied in the question. That would be the only way to receive the information in the quickest time possible.

ART GALLERY OF WESTERN AUSTRALIA - AUDITOR GENERAL'S REPORT
Bookshop Administration

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

- (1) Is the Minister aware of the comments made by the Auditor General on the accounts of the board of the Art Gallery of Western Australia at page 56 of the gallery's latest report?
- (2) If so, when did the Minister become aware of matters in relation to the gallery bookshop and the risks to which the board had been exposed?
- (3) What steps has the Minister taken in the meantime to address the problems uncovered by the Auditor General?

Hon KAY HALLAHAN replied:

- (1) Yes.
- (2) I became aware of the concern expressed about the accounts some time ago when the Auditor General's report was made. I was aware of a problem in the administrative arrangements of the bookshop at some point between becoming the Minister for The Arts and now; I cannot give the member the precise time. I could refer the question to my office and indicate the precise date if it is important.
- (3) A suggestion has been made by the new Chairman of the Art Gallery board about the need to change the procedures and to overcome unsatisfactory administrative arrangements in that area. I am assured that the board is taking this matter very seriously and will have procedures in place to ensure that those practices do not occur again.

SWAN BREWERY SITE - GOVERNMENT DECISION

455. Hon E.J. CHARLTON to the Minister for Planning:

- (1) Could the Minister advise whether the Government has made new decisions regarding the deterioration of the old Swan Brewery and, therefore, any decisions not to proceed with its development?
- (2) Could the Minister also give details of what the Government's specific plans are for the brewery site in the immediate future?

Hon KAY HALLAHAN replied:

- (1) There is no change in the Government's position on the future of the old Swan Brewery.
- (2) Members who have been following this issue would realise that the Government at present is waiting on a report from the Aboriginal Cultural Material Committee, which is going through another phase of the consultative process. Until that committee reports to the Minister for Aboriginal Affairs there will be no change in the position of the Government.

MITCHELL, MR PETER - MEETING DATE

456. Hon PETER FOSS to the Attorney General:

- (1) Where did the meeting between the Attorney General and Peter Mitchell on 25 April 1988 take place?
- (2) At what time did that meeting take place?

Hon J.M. BERINSON replied:

- (1) It took place in my office.

Hon George Cash: Was that in Mt Lawley or in Perth?

Hon J.M. BERINSON: Perth.

- (2) I cannot be held to a precise time of a meeting held almost two and a half years ago but, as best I can recollect, it was late morning.

MITCHELL, MR PETER - MEETING DATE
Attorney General's Participation

457. Hon PETER FOSS to the Attorney General:

I refer to the meeting that took place in the office of the Premier on the afternoon of 21 October 1988 at which the Western Collieries cheque deal was discussed and at which the then Premier, and Messrs Wiese, Grill, Bowe, Heron and Edwards were present. The Attorney has stated in answer to previous questions in this House that, although present, he was not a participant in that meeting but was waiting for a further meeting to take place.

- (1) What was the Attorney General doing while that meeting took place?
- (2) Did he overhear any part of what transpired during the earlier meeting?
- (3) Did that give him any concern that -
 - (a) there might be any breach of the law involved in what was being discussed; or
 - (b) the State Budget was in any way being put at risk?
- (4) Why did he not participate in that meeting?
- (5) What was the Attorney General's subsequent meeting concerning?

Hon J.M. BERINSON replied:

(1)-(5)

I cannot remember those 18 questions in turn, but I shall simply confirm, as I have done on a number of occasions already, that the subject matter which I had gone to the Premier's office to discuss was unrelated to the Western Collieries' discussion; and, as I have also confirmed on a number of occasions, I took no part in either the discussion or the decision on that matter. Beyond that I do not think that any of the questions really help the honourable member very much. If he asks me what I was doing, I was sitting there. If he asks me why I was not participating in that discussion, the reason is that it was not my place to participate in that discussion and I therefore did not do so.

CEMETERIES - KARRAKATTA CREMATORIUM CHAPEL
Demolition Prevention

458. Hon GEORGE CASH to the Minister for Heritage:

Why did she not intervene to prevent the demolition of the crematorium chapel once the National Trust listing on that building was completed?

Hon KAY HALLAHAN replied:

The honourable member would have been aware - or perhaps he was not; with his interest in matters of a heritage nature I would have thought he would have been aware - that I intervened and asked the Metropolitan Cemeteries Board not to proceed with the demolition until an assessment of the building could be done. At that point a procedure was set in place which I understand was a satisfactory one to assess the value of the building. Mr Ron Bodycoat, who is well respected in heritage matters nationwide, did the assessment. Taking into account the building, its original state and the surrounding development which had detracted from its original prominence, and the development proposed, he recommended the demolition of the building. That report was sent to the Metropolitan Cemeteries Board, and the board made the decision to proceed with the demolition. In the circumstances I think that was a reasonable and understandable decision.

Hon George Cash: I am asking why you agreed to proceed once that National Trust decision had been made.

Hon KAY HALLAHAN: The National Trust was asked whether it had an interest in the chapel before the development plans were drawn up, and it indicated that

it did not have an interest in the chapel. Members will know that the National Trust has gone through a very difficult period internally, which it is now attempting to overcome - I hope successfully. It will set in place procedures to assess buildings in a way which is reasonable for the community to respond to. However, the independent assessment was made by Mr Ron Bodycoat and actions were set in place on the basis of that report. It seemed to me that due care was taken. Like many other Western Australians, members of my family have had services in that chapel, so it is of sentimental and personal value to me, as it is to other Western Australians. On the basis of the professional report, it seemed to me that the assessment was adequate and it was sensible to continue with the actions which were set in place.

HERITAGE BILL - "KALGOORLIE MINER"
Press Secretary's False Information

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

- (1) Did the Minister instruct her Press secretary to tell the *Kalgoorlie Miner* last week that the Government's heritage Bill was being held up in the Legislative Council?
- (2) If not, will she inquire why her Press secretary gave out false information?

Hon KAY HALLAHAN replied:

- (1)-(2) It would be most extraordinary for my Press secretary to give out false information.

Hon P.G. Pendal: Not really, given your own propensity.

Hon George Cash: The report was made not on your instructions?

Hon KAY HALLAHAN: No, it was not on my instructions. Members opposite might get into those games -

Hon P.G. Pendal: You are caught out!

Hon KAY HALLAHAN: That is rubbish. If the member is serious in raising this and he is not playing a silly political game, I shall have the matter looked into. This is a matter which should be taken reasonably and responsibly. I do not believe the facts are as he puts them, but I shall have the matter looked into.

HERITAGE BILL - TIMING

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

Could the Minister give the House an indication of the timing of the passage of the heritage Bill through the Parliament as she currently sees it?

Hon KAY HALLAHAN replied:

I had hoped that the Bill would have gone through the Legislative Assembly this week, but I understand that the Opposition has asked for it not to be continued with this week; it would be prepared to deal with the Bill in the Legislative Assembly next week.

Hon P.G. Pendal: That is news to me.

Hon KAY HALLAHAN: The Opposition has asked the Minister handling the Bill in the other place not to deal with it until next Tuesday.

Hon P.G. Pendal: Are you sure that is not because the Government cannot proceed with the Committee stage?

Hon KAY HALLAHAN: I have a message on my desk from the Minister handling the Bill in the other place saying, "I have been asked by the Opposition not to deal with the Committee stage until next Tuesday." I presume, in the usual spirit of cooperation which the Government extends to members opposite, we are accommodating that request and the Bill will be delayed as a result of the request of the Opposition until next Tuesday. I hope it will move through the

Assembly and into this Chamber so that we can address this very important legislation without undue delay. That is my hope.

MOTOR VEHICLES - DRIVERS' LICENCES
Graduated Engine Capacity Issue System

461. Hon GEORGE CASH to the Minister for Police:

- (1) Has the Government given any consideration to the introduction of motor drivers' licences being issued on a graduated engine capacity basis as a means of achieving a reduction in motor vehicle crashes due to drivers' inexperience with large and powerful vehicles?
- (2) If so, what findings has the Government arrived at to date?

Hon GRAHAM EDWARDS replied:

(1)-(2)

We have not given any consideration to that matter as a Government. However, as the Minister for Police, I am currently looking at the situation, particularly in response to developments in Victoria where I understand serious consideration has been given to this matter and a decision is imminent. I hope we will be able to learn something from what happens there. I am interested in the position, and if subsequent consideration indicates that there is merit in the suggestion, I shall ask the Traffic Board for its view.

One difficulty, as I understand it, is that of control and enforcement. Another is that a number of the smaller and what would seemingly be less powerful vehicles are in many respects much faster than some of the bigger vehicles. We will continue to monitor that matter. If it appears to have some value I will ask the Traffic Board for its view; I would be largely influenced by its recommendations. Should the member have any views on the matter, I would be happy to listen to them. However, I will call for an update on the situation in Victoria and supply that information to the member for his purposes.

BELL GROUP SHARES - NATIONAL COMPANIES AND SECURITIES COMMISSION

State Government Insurance Commission-Bond Association Inquiry

462. Hon PETER FOSS to the Attorney General:

How did the Attorney first become aware that the National Companies and Securities Commission was investigating an alleged association between the SGIC and the Bond Group with regard to the acquisition of Bell shares?

Hon J.M. BERINSON replied:

To the best of my recollection, I was advised of that by the Premier.

DARLING RANGE REGIONAL PARK STUDY - COMPLETION DATE

463. Hon DERRICK TOMLINSON to the Minister for Planning:

I refer to the Darling Range Regional Park study. Is it still anticipated that the report of the study will be completed early in 1991?

Hon KAY HALLAHAN replied:

One of my colleagues has advised me - yes.

BELL GROUP SHARES - NATIONAL COMPANIES AND SECURITIES COMMISSION

State Government Insurance Commission-Bond Association Inquiry

464. Hon PETER FOSS to the Attorney General:

How did the Attorney first become aware of the preliminary opinion of the National Companies and Securities Commission that there was an association between Bond and the SGIC and, consequently, it considered there had been an offence under the Companies (Acquisition of Shares) Code?

Hon J.M. BERINSON replied:

I am not sure that it is putting the matter correctly to describe the position of

the NCSC as having reached a preliminary opinion. The views that were conveyed to me were by the Chairman of the NCSC and were in much more tentative terms, as I recall, than Hon Peter Foss has put them. In any event, it would be preferable to go back to the answers I provided on this matter over two years ago when the matter was still fresh rather than attempt to go into this sort of detail now.

JUVENILE OFFENDERS - JUVENILE WILDERNESS WORK CAMPS

465. Hon GEORGE CASH to the Minister for Police:

I refer to statements by the Minister in this House when he advised the House of his support for the concept of juvenile wilderness work camps. When may we expect the construction of the first of these camps, and where are the likely locations to be?

Hon GRAHAM EDWARDS replied:

Some time ago, Cabinet gave in principle support to the concept. The matter has been referred to a panel which was recently established to advise the Government on juvenile justice matters. That was a very good move and will take the matter out of the political arena; however, ultimate responsibility remains with the Government.

I am not sure about the current situation. On a personal level, I have discussed the matter with Justice Walsh, giving him my very strong view that this concept is the direction to take. I understand that the panel may travel to the Warramia River area to look at that camp; that has been my recommendation to the panel. I have also written to the Premier urging that facilities be made available so that members of the panel can acquaint themselves with what is happening in the broader community. Through the Commissioner of Police, a facility has been made available for individual members to carry out other work including accompanying patrols to obtain a more up to date picture of the nature of the work of the police in the area and the initiatives that have been taken. For instance, a joint venture between the police and the Department for Community Services saw mounted police involved in a youth support scheme. The project was carried on for a couple of weeks and culminated in the police educating both male and female young offenders in a bush survival exercise. A representative of the New South Wales Police Force visiting the State at the time was impressed by those activities.

We are considering not only bush isolation camps but also a number of other initiatives which will become a more regular diversion for young people who have become offenders.

ARALUEN PARK - GOVERNMENT PURCHASE *Price*

466. Hon FRED MCKENZIE to the Minister for Planning:

- (1) Has the Government formally acquired Araluen Park?
- (2) If so, for what price?
- (3) Has a management structure been put in place, or any decision been made in that regard?

Hon KAY HALLAHAN replied:

(1)-(3)

I thank the honourable member for his question because keeping Araluen Park as part of the public estate for the enjoyment of Western Australians for many future years has proved a very welcome move by the Government. Many people have written to me expressing their appreciation of that action. Many people seem to have their young romantic days tied to Araluen judging by the correspondence. It seems the history of families and significant events to grandparents and affecting many people's lives have taken place at Araluen.

The park is woven very intimately into the lives of many Western Australian families.

Hon P.G. Pandal: Is the Minister sure she wishes to tell us all of this?

Hon KAY HALLAHAN: Araluen is a delightful place. Apart from the romantic interest, many young Western Australians have had the opportunity to attend camps run by the Young Australia League in the park.

Hon J.M. Berinson: That sounds more familiar.

Hon KAY HALLAHAN: I know that members would be delighted by the unexpected spate of letters which I have received and anecdotes which I have heard in relation to Araluen. I only know about the youth camps, but there is a much more interesting side to Araluen.

The deal will be settled on 1 September, the first day of spring. The purchase price was \$1.2 million. The proposal is to set up an interim board of management comprising representatives of Government departments possessing the necessary expertise and representatives of the Araluen Botanical Foundation who have so carefully taken an interest in Araluen and have been so concerned about its preservation.

The debate now goes on about whether the tulip beds should be expanded or what should happen. However, the opportunity now exists to restore Araluen Park to its former glory.

ARALUEN PARK - INTERIM BOARD OF MANAGEMENT

Armadale City Council Representation

467. Hon DERRICK TOMLINSON to the Minister for Planning:

I congratulate the Government, on the instigation of the Minister, for purchasing Araluen Park. I commend also the Minister for her decision to include representatives of the Araluen Botanical Foundation on the interim board of management. Will the Armadale City Council be similarly represented on that board?

Hon KAY HALLAHAN replied:

Armadale City Council will be represented on the interim board of management. At this stage, I pay tribute to councillor Ian Blackburn, the Mayor of the City of Armadale, and to Councillors Roger Stubbs and Sue Towler, all of whom have taken a very close interest in the preservation of Araluen Park and who have worked with the Araluen Botanical Foundation. The mayor has liaised very closely with the foundation on developments in the park. The city will certainly be represented and will be important to the functioning of the board.
