

Legislative Council

Wednesday, 20 June 1990

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

MOTION - STATE FINANCIAL LOSSES

Taxes and Charges 1990-91 Budget

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [2.35 pm]: I move -

That this House notes the alarming deterioration in the finances of the Government in the first 11 months of this financial year, being a rise in the deficit from \$285 million in 1989 to \$328 million in 1990, and calls on the Government to concede to Parliament that this blow-out would not have occurred except for the continued subsidy through the Consolidated Revenue Fund of accumulated business losses such as the pay-outs to the Rural and Industries Bank for the Teachers Credit Society losses and for those involving Swan Building Society, WA Government Holdings Ltd and others, and asks for immediate and absolute assurances from the Government that no increases in taxes or charges will result in the forthcoming 1990-91 Budget.

Recent reports in the newspapers and an examination of the Treasurer's Annual Statements indicate that, for the 11 months ended recently, the Government is \$43 million worse off than it was at the same time and for the same comparable period last year. With those alarming figures in mind and recognising that the Government has already committed itself to extensive further payments, I thought it appropriate to bring to this House this motion to enable the Government to place on record where it believes it stands with the State's finances and also to come clean and advise the community whether it believes that it will be able to balance the books for this year. The figures are grim. It appears that families will have to bear the burden of increased taxes and charges from 1 July this year. That is a matter of grave concern to everybody in this House.

I suppose it is easy for the Government to predict in this House that it will balance the Budget. The question is how. In the period 31 May 1989 to 31 May 1990, receipts rose by \$518 million, a rise of in excess of 14.44 per cent, whereas payments rose by \$560 million. Hence, a substantial deficit is predicted. Without any additional revenue, the Government will have to bring down a deficit Budget if those figures are carried through to the end of this financial year. I assume that the Government anticipates substantial revenue coming into the public bank account during June because that will be absolutely necessary if the Budget is to be balanced at the end of the financial year.

The Consolidated Revenue Fund figures for the current financial year indicate massive increases in royalties and, in particular, royalties from mining and timber. There will also be a significant increase in Commonwealth payments much of which is related to the specific purpose grants area. Unless the State Government can be absolutely certain that the Commonwealth will continue making substantial payments to it, it will be in trouble. The Prime Minister, Mr Hawke, when he was softening up the States for the forthcoming Premiers' Conference, warned the States to exercise restraint over the next year. He ruled out the possibility of special assistance for Western Australia because of WA Inc losses. He also commented on the situation in Victoria where the Labor Government has suffered severe losses. These comments are important because the Government has relied on substantial increases in Commonwealth payments to Western Australia for this year's Budget. However, in the light of Mr Hawke's comments, there is some doubt that these increased payments will continue.

Recently, the Commonwealth Government offered the States some assistance for road funding. By way of blackmail tactics, it said that it was prepared to advance certain funds to Western Australia as long as it reduced the legal blood alcohol level from 0.08 to 0.05. I was told today that Cabinet had decided to agree to reduce the legal blood alcohol level to 0.05. Clearly, the Government is under so much financial pressure that it is now kowtowing to the Federal Government.

Hon J.M. Berinson: Don't be ridiculous. Those funds are for additional specified purposes for road safety.

Hon GEORGE CASH: The reason the Government will accept them is that it is desperate for finance.

Hon J.M. Berinson: Don't be ridiculous; we will accept them for the same reason as every other State in the Commonwealth. It is not a question of meeting existing liabilities but of providing increased activities which the Commonwealth wants to ensure.

Hon GEORGE CASH: The Leader of the House misleads the House.

Withdrawal of Remark

Hon J.M. BERINSON: Mr President, I ask that that statement be withdrawn.

Hon GEORGE CASH: I will withdraw the statement.

Debate Resumed

Hon GEORGE CASH: However, the Leader of the House does not understand the situation in which the Federal Government is placing the State. He is prepared to talk about States' rights when it comes to the Corporate Affairs Department, but when talking about specific grants for roads or transport he is prepared to be part of a Government that will sell out Western Australia and kowtow to the Federal Government.

Hon J.M. Berinson: The logic of that argument -

The PRESIDENT: Order! The Leader of the House should not interject, then he will not have to ask people to withdraw statements.

Hon GEORGE CASH: The Leader of the House is concerned that people will wake up to what the Government has done by agreeing to that reduction in the legal blood alcohol level. This matter relates to the motion because it is the result of an economic situation that this Government now faces; that is, a State Government desperate for funds. The point I wanted to make before the Leader of the House interjected was that, if the State is prepared to kowtow to the Federal Government and reduce the blood alcohol level from 0.08 to 0.05 in order to obtain some additional funds, one wonders what will be the next offer made by the Federal Government. What position will the State Government find itself in when forced, because of bad economic management and the considerable financial losses over the last few years, to sell out the State to the Federal Government in order to have it top up some of the State's finances? The State now finds itself in that situation. Mr Berinson should argue that the only reason Cabinet has agreed to a reduction in the legal blood alcohol level for drivers is that the Federal Government has made an offer the State cannot refuse. That must mean it is in a desperate situation.

One of the reasons I moved this motion today is to invite the Government to declare in this House that it will present a balanced Budget this year. Unless that is put on record within a matter of days, a worse situation will develop. Another reason is the statement made by the Premier last year about certain rises in fees and charges, in which I recall him saying that there would be no rises beyond Consumer Price Index increases during this financial year.

Hon J.M. Berinson: That is untrue, you have expanded that.

Hon GEORGE CASH: The Leader of the House is right.

Hon J.M. Berinson: You have expanded that totally beyond what the Premier said. Why can't you quote people correctly?

Several members interjected.

The PRESIDENT: Order! Honourable members should come to order. The Leader of the House will be given an opportunity to rebuke the argument later.

Hon GEORGE CASH: The Leader of the House is correct in saying that the statement I made about the Premier's earlier announcement was accurate. I have extracted some figures to support the proposition I have put to this House. In the past 12 months -

Hon J.M. Berinson: You misquoted the Premier.

Hon GEORGE CASH: The Leader of the House has claimed that the Premier was

misquoted. However, last year it suited the Government to allow the public to believe no increases in fees and charges would be made beyond CPI increases.

Hon J.M. Berinson: That's not what the Premier said at all.

Hon GEORGE CASH: The Leader of the House knows that a general perception was held in the community that increases would not be made.

Hon J.M. Berinson: We are not quoting now; we are talking about your perceptions, are we?

Hon GEORGE CASH: When the Leader of the House interjects incessantly, I know that he is on the run.

Hon J.M. BERINSON: Because you are incessantly wrong.

Hon GEORGE CASH: He does not want me to point out to the House that it suited the Government to allow the community to believe that no increases would occur in fees and charges beyond CPI increases. While the community was lulled into that false sense of security, every Friday in the *Government Gazette* various fees and charges were rammed up by amounts considerably in excess of CPI increases. I will quote a few of the increases in charges that have occurred during the last 12 months. In fact I can be selective in reading out a few of the many listed in front of me. In July 1989 recreational fishing licence charges for marron and cray increased by 25 per cent for that year; annual fees for prawn fishing vessels in Exmouth Gulf increased by 22.5 per cent; annual fees for abalone fishing in zone two increased by 15 per cent; and annual fees for abalone fishing in zone one increased by more than 17 per cent.

Those matters relate to fisheries because I have had responsibility for that area over a number of years. They are the very charges that fishermen in Western Australia have approached me about saying, "We heard the Premier say that increases in fees and charges would not be greater than CPI increases, so how does the Government explain how we now have accounts showing increases of up to 25 per cent?" I ask the Leader of the House to justify that situation in due course.

The costs of supplying water have increased. The increase in the minimum tariff for non-residential land that is not vacant in the metropolitan area was 44 per cent. Over the past 12 months the Water Authority has applied many other increases which are clearly well above CPI increases. Some charges have increased by up to 50 per cent and others by between 20 per cent and 30 per cent. The *Government Gazette* of 7 July 1988 lists an increase in the cost of water where consumption is between 750 kilolitres and 800 kilolitres in excess of 47 per cent. Surely that indicates that the Government has not stood by its earlier commitment given by the Premier? If the Leader of the House wants to argue that that commitment was restricted in its real intent he, as a member of the Government, allowed a perception to exist in the community that was clearly and absolutely wrong.

Hon J.M. Berinson: In your mind.

The PRESIDENT: Order!

Hon GEORGE CASH: I am unsure whether the Leader of the House is saying that the charges I have read out are incorrect or that the Premier intended that the public believe that increases in charges would be in excess of CPI increases. I do not know what he is getting at.

Hon J.M. Berinson: I will accept the invitation from the Leader of the Opposition to make it clear in due course.

Hon GEORGE CASH: I thank the Leader of the House for that as we have run through this once before.

Hon J.M. Berinson: More than once.

Several members interjected.

The PRESIDENT: Order! I will not tolerate this constant interjecting. I suggest to Hon George Cash that he direct his comments to the Chair, from where he will get no interjections.

Hon GEORGE CASH: My point is that clearly members of the community were led to believe a certain thing. Had the Government never intended that to be the case, why did it

not make some statement to clarify its position or did it, in its usual role of legislating by Press release, merely engender a "feel good" situation in the community irrespective of the real situation?

The motion contains a number of references to matters that are a part of the WA Inc saga. The Government claimed last year that it had a balanced Budget, yet at least \$188 million in payments were made during that financial year for WA Inc related matters. Therefore, even though the Government may have shown a balanced Budget, if it had not got into the problem of the huge losses which arose as a result of its dealings last year it would have had a surplus in respect of these items alone in excess of \$188 million. If the Government did not want to come in with a surplus it could have reduced taxation to the community by \$188 million. My point is that the community would have been considerably better off.

I have figures for the 1989-90 period which are estimates only, which have been arrived at by considering the Treasurer's accounts to date, and which show that in excess of \$76 million has been paid out during this financial year for WA Inc payments. In the period 1987-88, amounts in excess of \$78 million were paid out for WA Inc. If the amounts from those years are totalled, in excess of \$343 million has been paid out by this Government for items associated with WA Inc. The community would not be in the bind it has been put in by this Government if it had been that \$343 million better off. In addition, people in the community are trying to earn a dollar, to employ people or to make a small profit in their businesses and they would not have been facing the massive charges this Government has imposed over recent times had that money not been used in that way. My point is that we need a clear assurance from this Government that the taxes and charges that will take effect from 1 July 1990, which is only a matter of weeks away - and the Government has by now clearly made up its mind on any proposed increases - will not be in excess of CPI increases. I am prepared to go that far, to acknowledge the CPI factor, but we want that clear statement made so that the community understands where it will be during the next 12 months.

There is no doubt that business in Western Australia is almost on its knees because of the huge imposts imposed by this Government in recent times. Newspaper reports in recent days indicate that Western Australia is leading in the number of small business bankruptcies occurring in the States of Australia. I will be interested to hear the Leader of the House's response to this motion. I am sick and tired of this Government issuing Press releases to the media and having the media spread a particular message to the community that all is well only to find out that each Friday the *Government Gazette* carries reports of massive increases in Government taxes and charges which impact not only on small and large businesses across the State but also on families.

In the *Daily News* last night was a huge front page banner headline "CITY IN CRISIS" with a subheading "Families queue for hand-outs". Surely the Government recognises the fact that many Western Australian families are battling and are unable to sustain the huge costs being imposed on them by this Government? Those same costs are causing businesses to close down and unemployment to rise. This is as a result of those imposts and the Government's inaction in stimulating our business sector and our economy generally. Clearly we are in for a bad time unless a member of this Government is prepared to stand in this place and guarantee that any increases which might be brought forward in the next financial year will not exceed CPI-indexed increases.

HON J.M. BERINSON (North Metropolitan - Leader of the House) [3.00 pm]: The motion by the Leader of the Opposition is too clever by half in that it attempts to give a cause and effect interpretation to a number of issues which do not have that relationship. The result is an almost incomprehensible proposition. It is true that, in common with all States, the Western Australian Budget position is less favourable now than it was at the same time last year. It is not the case, however, that this can simply be attributed to the matters specified in the motion. In fact some of those are quite irrelevant, as I shall indicate in a few moments.

Hon George Cash: It has had no impact on your deficit?

Hon J.M. BERINSON: Precisely.

Hon George Cash: We can see you are not an accountant.

Hon J.M. BERINSON: Mr President, it would be terrible if the Leader of the Opposition

were to follow my bad example in terms of excessive interjections, because I know how upset he was previously, and I deliberately refrained, in spite of the enormous temptation which he offered.

Hon George Cash: I shall not give you the advantage -

Hon J.M. BERINSON: The motion is also chronically defective in that it limits itself to increased expenditure, and it excludes what is shaping up as a very great problem, both this year and on present indications next year as well, of sharply and seriously reduced income. I shall deal with each of those issues in turn.

I will firstly present the raw figures. The position is that the shortfall of income against revenue in the first 11 months to May 1990 was \$328 million. It should help to provide some perspective in respect of that figure if I remind the House that that shortfall is \$42 million more than in the same period last year, but compares with an increase in the shortfall of \$149 million for the first 10 months of this year as against the first 10 months of last year. That indicates not only a marked improvement in the last month alone, but is a useful reminder of the way in which both income and expenditure in particular months can vary widely from year to year. June is traditionally a strong revenue month and we look to the position improving further.

In answer to Mr Cash's direct question whether the Government expects to balance the Budget this year, the answer, on the advice available to me, is yes.

Hon George Cash: That is pleasing.

Hon J.M. BERINSON: Nonetheless the budgetary difficulties are acknowledged. They apply this year and they will certainly continue into 1990-91. In the latter respect, the outcome of the forthcoming Premiers' Conference will be crucial, as I believe the Leader of the Opposition himself acknowledges. The early indication from Canberra must obviously be regarded as a cause for real concern.

I interpolate at this point a comment which is not directly relevant, either to the motion as a whole or to the response I propose to give to the Leader of the Opposition. However, I believe some response is required to his introduction into the debate of the proposed Commonwealth payments towards road safety measures on conditions by which the Commonwealth is requiring certain action by the State. The amount involved for Western Australia is \$12 million, payable I believe over two years, although I stand to be corrected on the period. The Leader of the Opposition claims that our intention in seeking to take advantage of that grant is because we want it to help our budgetary position.

Hon George Cash: Hear, hear! You are dead right; you know that is true.

Hon J.M. BERINSON: The Leader of the Opposition confirms that he has been wrong more than once.

Hon George Cash: You are desperate for funding.

Hon Graham Edwards: You are desperate too.

Hon J.M. BERINSON: The truth of the matter is that the \$12 million will not help our budgetary position because it is offered by the Commonwealth only on condition that the State undertakes to implement works which the Commonwealth specifies and which the State itself had not intended to implement.

Hon George Cash: Because you have not had the money.

Hon J.M. BERINSON: Not because we have not had the money.

Hon George Cash: You are desperate and you will sell anything.

Hon J.M. BERINSON: It has not been part of our program -

Several members interjected.

Hon J.M. BERINSON: There must be a limit to the extent to which the irrationality of Mr Cash's argument is taken. He knows very well that in any particular year the State spends no less than \$200 million on road works. I think the figure is substantially more than \$200 million, but the Leader of the Opposition is attempting to say that for \$4 million or \$6 million - depending on whether that sum is spread over two or three years - the State will completely change its approach to road works. That is utterly absurd.

Hon George Cash: You are selling out Western Australia.

Hon J.M. BERINSON: The fact is that the Federal Government has developed some interest in particular works which it is prepared to specify and to pay for. If and when that money is received, it will do nothing at all to help our general budgetary position. That is not the case, I hasten to add, in Western Australia only; it is the case throughout Australia. It is not as though this is an offer of \$12 million just to the Western Australian Government; it is part of an offer of \$110 million to all the States of Australia to engage in the same type of work as the Commonwealth is asking this State to engage in, in addition to what our normal works program would be. That is the long and the short of it.

Hon George Cash: You will come here in a few weeks' time and tell us you have sold out the Corporate Affairs Department because you got a good price. That is the logic of your argument. You would sell out anything as long as the Commonwealth put a price tag on it.

Hon J.M. BERINSON: Nothing could be less analogous than the position in relation to these funds for additional road works and restitution or compensation to the States for any loss of revenue which might result from a changed system of company regulation in Australia. They are two entirely different matters.

Hon George Cash: You sold out.

Hon J.M. BERINSON: I do not want to be detoured too far from what we are supposed to be talking about here, but the fact of the matter is that we are engaged in an exercise on an Australia wide basis which looks to the implementation of a new system of company regulation. I have reported twice to the House, and I shall no doubt report again, on the nature of those negotiations and how they are going. It has been recognised by all States that one of the by-products of a Commonwealth system of regulation would be a substantial loss of revenue to the States. There is no question of being bought out of our State control of companies in order to get payment. The truth of the matter is that we will be doing very well indeed - if indeed the change to companies regulation occurs - to get as much out of the Commonwealth as we get now from conducting that regulation ourselves.

Hon George Cash: You have sold out.

Hon J.M. BERINSON: It is not a question of selling out for a cash sum; it is a matter of trying to retain our present revenue base from our present system of regulation. If the Leader of the Opposition cannot understand that much we at least get some way towards understanding why he misinterprets so many other matters.

Hon George Cash: You have sold out, and you know it.

Hon J.M. BERINSON: I am sure we will have many other opportunities to discuss companies regulation; I would be very happy to debate the relevant matters with Mr Cash at that time. The truth is that Western Australia has led the way in many respects in seeking to preserve State interests which cannot be simply categorised as State's rights but which involve as well the importance to our commercial and professional communities of a high level of regional services in respect of companies regulation. We have led the way in that respect and we are in step, I might add, with the views of the representatives of those business and professional associations who are most concerned.

In spite of my best intentions, I find I have -

Hon P.G. Pandal: Strayed, a little.

Hon J.M. BERINSON: - strayed along the path which Mr Cash opened in his efforts to detract attention from the real issues involved. I now return to those.

Accepting that there is a shortfall between income and revenue in the first 11 months of this financial year, which is greater by about \$42 million than the position at the same time last year, it is of course necessary to look for the cause. We get remarkably little help in this respect from the Opposition and particularly from the motion which Mr Cash has moved. The motion, for example, focuses on three particular costs; first, the payout for the Teachers Credit Society. It is important to note that those payments were made last year and, therefore, have no conceivable relevance to the income and expenditure figures for the current year.

Hon George Cash: That is absolutely ridiculous. The Minister knows the Government

would have had a surplus of \$188 million had it not had to make payments, including the payment to the Teachers Credit Society.

Hon J.M. BERINSON: That has nothing to do with the difference between income and expenditure this year.

Hon P.G. Pendal: We will deal with that in a minute. Mr Cash is correct; as usual the Minister twists the figures.

Hon J.M. BERINSON: The Punch and Judy show again.

Hon P.G. Pendal: Carmen would not like you insulting people.

Hon J.M. BERINSON: Punch and Judy are both prepared to engage in the same mistaken performance. The facts speak for themselves. This is a motion directed to the shortfall between income and expenditure this year; whether or not there would have been a greater surplus last year does not reflect and cannot reflect in any way on the income and expenditure this year. That is the first point to be made.

Hon P.G. Pendal: Tell us about WA Government Holdings Ltd.

Hon J.M. BERINSON: Payments made in respect of Teachers Credit Society last year are irrelevant for the purpose of this motion; similarly, the reference to Swan Building Society is irrelevant for the same purpose.

The third specific matter referred to in the motion relates to WAGH payments.

Hon P.G. Pendal: And that won't be effective, of course.

Hon J.M. BERINSON: Now, Mr Pendal is learning something.

Hon P.G. Pendal: I will give the figures when I speak.

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

Hon J.M. BERINSON: I do not need the member's figures. Payments have indeed been made in this financial year in respect of WA Government Holdings Ltd but the payments which have been made were provided for in the 1989-90 Budget and, therefore, do not explain the deterioration in the difference between income and expenditure either. In fact, an analysis indicates that the cash deficiency for the 11 months this financial year is largely due to lower payroll tax collection than forecast, and to the substantial downturn from estimates in stamp duty revenue from property and business transactions which can only be attributed to subdued economic activity. Stamp duty collections to 31 May 1990 amounted to \$412.6 million, or about 82.6 per cent of the total estimate of \$499.4 million, compared with stamp duty collections for the corresponding period during 1988-90 of \$500.7 million, or \$88.1 million more than in the current period. In addition, actual payroll tax collections when compared with Budget estimates for the corresponding period last year are running at 87.2 per cent of the estimate compared with 93.5 per cent achieved for the 11 months last year. The decline of 6.3 per cent in the collection rate translates to a shortfall of about \$33 million. Accordingly, on these figures alone there has been a decrease in receipts of over \$121 million, and this is reflected in the corresponding figures in previous years. In summary, the increased shortfall in the first 11 months of this year, as against the same period last year, is primarily due to the downturn in estimated revenue collections and as a result of a slowing down of the economy.

Hon P.G. Pendal: It has nothing to do with the Government's mismanagement!

Hon J.M. BERINSON: As I have indicated, it cannot be attributed to business losses for the Teachers Credit Society or the Swan Building Society which were funded in previous years' Budgets, nor can it be attributed to payments this year on account of WA Government Holdings Ltd which were in fact budgeted for.

I move on to the further proposition in Mr Cash's motion which involves a request for "immediate and absolute assurances from the Government that no increases in taxes or charges will result in the forthcoming 1990-91 Budget". If that assurance were to be given, how do the wizards opposite propose that the increased costs of inflation or the cost of increased services be met, or the cost of established services be increased to meet a population growing far above the national average?

Hon P.G. Pendal: Or the cost of your mates on the Terrace.

Hon J.M. BERINSON: An undertaking for a nil increase cannot be given ahead of a Government's Budget decisions or ahead of a Commonwealth Government's State allocations; and it cannot be done without considering the CPI.

Hon George Cash: No commitment, Mr Berinson.

Hon J.M. BERINSON: The member will receive a commitment if he is prepared to wait for it; I will come to that in a moment.

Hon P.G. Pental: Can we believe your commitment?

Hon J.M. BERINSON: Again I quote from the motion which seeks "immediate and absolute assurances from the Government that no increases in taxes or charges will result in the forthcoming 1990-91 Budget". I shall try to demonstrate that this is a ridiculous proposition to advance.

Hon P.G. Pental: Because you cannot achieve it!

Hon J.M. BERINSON: In fact, it is so ridiculous that Mr Cash cannot bring himself to support it. *Hansard* will show that Mr Cash did not argue for "no increases in taxes and charges" in the forthcoming 1990-91 Budget, yet it was his own motion and he was not prepared to support the terms of it. He is nodding his head to show he understands how ridiculous it is. He gave himself away by, as is his wont, slipping in a couple of extra words. He will say that the words are not significant and that they are only an extra couple of words. He will probably even accuse me of exaggerating the importance of a couple of words that do not make much difference to him. Those words related to the increases referred to in the motion not being above or beyond the CPI. In recent years the CPI has been at eight per cent, and to increase all taxes and charges in this State by eight per cent would put the Government in a very healthy position. It is as clear as daylight that Mr Cash, even when on his feet, realised that he was putting forward an unarguable proposition; it was a proposition that could not be supported in common sense. Mr Cash retreated from the position of his motion while on his feet.

Hon Barry House: I heard your Premier on the radio yesterday saying that your Government would not be increasing charges above the CPI; do you not support that?

Hon J.M. BERINSON: I support my Premier to the hilt and without qualification on this question of increased charges. The difference is that I support the Premier in what she says and not in what the Leader of the Opposition says the Premier says because there happens to be a very significant difference between the two. There is also a significant difference between Mr Cash slipping in "above the CPI", and his motion stating "no increases in taxes and charges" at all. Therefore, there is a significant difference between that to which the Premier has committed her Government and what the Leader of the Opposition - and I am sorry to say that Mr House seems to have misrepresented the Premier too - has said.

Hon P.G. Pental: He did not misrepresent her at all. He repeated what she said on the radio yesterday; she put you in it!

Hon J.M. BERINSON: Nothing could be clearer than the consistent position taken by the Government.

Hon P.G. Pental: To make up for your losses.

Hon J.M. BERINSON: The position is that taxes and charges will be restrained to the limit, and that the whole question of CPI limits was embodied in what has become known as the Government's Family Pledge.

Hon P.G. Pental: What a joke; we will deal with that in a minute.

Hon J.M. BERINSON: We said that we would undertake over the life of this Government to ensure that no increase in excess of the CPI would take place in respect of the major and specified family services; namely, electricity, gas, water, sewerage and bus fares.

Hon George Cash: What about the fuel levy? Does that not impact on the family?

Hon J.M. BERINSON: What about it?

Hon George Cash: Was it part of the Family Pledge?

Hon P.G. Pental: The family does not have motor cars.

Hon J.M. BERINSON: What Punch and Judy opposite are trying to do is to redefine the Family Pledge. The fact of the matter is that the Family Pledge is the Government's Family Pledge. It is not the Opposition's version of the Government's Family Pledge; it is not the Opposition's Family Pledge because the Opposition does not have one! For the first time that anyone in this House, or anyone within this Parliament, could recall, the Government has committed itself during the term of this Parliament to ensure that those basic and specified areas of family services will not be increased on an annual basis above the level of the CPI.

Hon George Cash: Why did you not include the fuel levy?

Hon Garry Kelly: It was not a part of the Family Pledge.

Hon George Cash: It impacts on the family.

Hon P.G. Pental: He believes that the Government has fixed up the community so much that he assumes everybody is walking.

Hon John Halden: They are like the Opposition.

Hon Mark Nevill: Yes, pedestrian.

Hon J.N. Caldwell: We should have taxes on shoes.

Hon Graham Edwards: I have said before that I am in favour of that.

Hon J.M. BERINSON: That is rather macabre.

It follows from what I have said that while I am unable to endorse the Opposition's call for "no increase in taxes or charges" in the forthcoming Budget, and while I am certainly not in a position to give any commitment on behalf of the Government in that respect, I can -

Hon P.G. Pental: You have just contradicted yourself with the Premier; we are grateful to have that on the record.

Hon J.M. BERINSON: That is rubbish.

I can reconfirm that the Government's commitment to the Family Pledge stands unaltered as an integral and continuing part of the Government's program. As the Leader of the Opposition has suggested, recreational fishing licences will increase by more than the CPI level. I believe that can be justified on other grounds. What the Leader of the Opposition cannot do and what Mr Pental, if he wants to go to his leader's aid, will not be able to do is suggest that recreational fishing licences were ever specified and, not only that, could reasonably be understood as coming into the description of those basic and essential services to which the Family Pledge applied.

Suspension of Standing Orders

On motion without notice by Hon. J.M. Berinson (Leader of the House), resolved with an absolute majority -

That so much of Standing Orders be suspended as would allow debate on the motion to be concluded or until 4.30 pm, whichever occurs first.

Debate Resumed

Hon J.M. BERINSON: I have to this stage covered the terms of the motion and also the particular arguments raised by the Leader of the Opposition. I should not complete my comments without making some reference to the highly undesirable effect of the approach by the Opposition -

Hon P.G. Pental: Of showing you up.

Hon J.M. BERINSON: - of talking the State down.

Hon P.G. Pental: You have shattered its reputation all by yourself.

Hon J.M. BERINSON: Were one to just listen to the sorts of arguments advanced by the Leader of the Opposition one would think that Western Australia was neither a good place in which to live nor a good place in which to invest.

Hon George Cash: It is a great place to live, but the problem is that the Government is sending it broke.

Hon J.M. BERINSON: It is a terrific place in which to live and it is a terrific place in which to invest. No-one in any position of responsibility, including members of the Opposition, should act in a way which can only result in detriment to the State and to its prospects. In spite of the figures for the first 10 or 11 months of this year and, indeed, in spite of the acknowledged budgetary difficulties which this State, together with others will face over the forthcoming period, it is worth bearing in mind the strength of the Western Australian economy and, in particular, the way it has continued to out perform the national economy.

I give as example a few indications only. In the first place, real gross State product is estimated by the National Institute of Economic and Industry Research to grow by 6.8 per cent in Western Australia in 1989-90, nearly double the growth forecast for the national economy. This follows an average annual growth over the previous five years of 4.5 per cent compared with 4.1 per cent for the national economy. Again, between the September quarters of 1988 and 1989 population growth in Western Australia at 2.9 per cent was the second highest growth rate of any State and nearly double the national growth rate of 1.5 per cent.

Hon R.G. Pike: Not because of your Government, in spite of it.

Hon J.M. BERINSON: Rubbish!

Hon R.G. Pike: It is not rubbish - the facts speak for themselves.

Hon J.M. BERINSON: The facts are the strength of the economy and the increase in population.

Thirdly, and reflecting primarily the developments in the State's minerals sector, investment in Western Australia in 1989 was, in per capita terms, more than 50 per cent higher than the national figure. This is fully consistent with our strong performance over recent years. Some of the major projects currently under way in Western Australia include a further \$2.6 billion investment in the North West Shelf project, an \$80 million sodium cyanide plant at Kwinana, the Cooljarloo integrated mineral sands project, which aroused something very close to opposition from the other side of the House last year but will generate exports estimated at \$200 million per year, and a number of smaller scale downstream processing facilities.

The Australian Bureau of Statistics recently forecast that capital expenditure in the Western Australian mining sector would be one of the few sectors Australia-wide to expand during the current downturn. It also expected that new capital expenditure in the State will remain more than 50 per cent above the Australian average in per capita terms. I ask Mr Pike whether that is also in spite of the State Government.

Employment in Western Australia grew by 0.4 per cent in the May quarter of 1990 - the highest increase of any State and above the national increase of 0.1 per cent. Over the five years to 1988-89 employment in Western Australia has grown on average -

Hon R.G. Pike: Who is the author?

Hon P.G. Pendal: I said you had the worst record in that period for dodgy Budgets, including the greatest amount of money lost.

Several members interjected.

Hon J.M. BERINSON: I am not making debating points. I am producing facts from the Australian Bureau of Statistics and from the National Institute of Economic and Industry Research, among others. I am not engaged in debating rhetoric; I am providing the House with facts, and if any member on the other side believes he has a better source of information than the Australian Bureau of Statistics or the National Institute of Economic and Industry Research, he can by all means produce those facts. I am sure Mr Pike will be able to produce them.

Hon Mark Nevill: What about Mr Pendal's rumour mill?

Several members interjected.

Hon J.M. BERINSON: We have Mr Pendal's rumour mill and no doubt we have in reserve Mr Pike's accusation of it all being a socialist plot. We know all about that. I repeat that what I am dealing with at the moment is not debating rhetoric but facts from impeccable sources. I will give one additional fact only.

Hon George Cash: Mr Burke used to talk about impeccable sources.

Hon J.M. BERINSON: Over the five years to 1988-89 employment in Western Australia had grown on average by 4.9 per cent annually compared with 3.5 per cent nationally. A total of almost 127 000 new jobs were created in Western Australia over that period. Finally, the strong economic activity in the State is reflected in the fact that Western Australia accounts for more than 20 per cent of the nation's exports.

Hon George Cash: Where is your commitment to not increasing taxes and charges in the next Budget?

Hon J.M. BERINSON: Why should I give a commitment that the Leader of the Opposition has retreated from himself? He just asked me whether I will make a commitment to nil increases in the whole range of taxes and charges. That was not something Hon George Cash was prepared to argue for in his speech. The most he could do when trying to retreat as gracefully as he could - no doubt hoping it would not be noticed - was slip in the phrase, "no increases above CPI".

Hon George Cash: Give us a commitment up to CPI, then.

Hon J.M. BERINSON: I repeat the commitment to the Family Pledge, which is the only commitment related to the CPI to which the Government has bound itself. Nonetheless, in spite of saying all that -

Hon George Cash: You have sold out! Sit down!

Hon J.M. BERINSON: I will sit down when I finish and not when the Leader of the Opposition tells me to; in fact, he has just encouraged me to keep going.

Hon P.G. Pental: We will move beyond 4.30 pm, if you prefer.

Several members interjected.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! I have been very tolerant to date but members are well aware of Standing Order No 91. I have allowed that matter to be overlooked while I have been in the Chair and I think that some members are perhaps taking advantage of that. Therefore, I propose taking appropriate action if this happens again.

Hon J.M. BERINSON: This motion has been discredited by its own mover, as demonstrated by his unwillingness to support the terms of the motion that he moved.

Hon P.G. Pental: That is absolute rubbish! The Leader of the House works on the Goebbels principle that if something is repeated often enough it becomes the truth.

Hon Graham Edwards: Stop disregarding the Chair.

The DEPUTY PRESIDENT: Order!

Hon J.M. BERINSON: I repeat that nothing I have said is intended to deny that we are in a period - along with all the other States and the Commonwealth - of considerable strain on financial resources that is evident to everybody in Australia. It must be evident in Western Australia as well and should be taken into account as we formulate our Budget. We will do that responsibly and on the basis that our commitment to the Family Pledge and restrained increases in basic charges will be held below CPI levels as we promised. We did not promise, and I cannot undertake, that charges for such things as recreational fishing licences will be dealt with in the same way, but even there, and in all other respects, the greatest possible restraint will be implemented in terms of additional charges because no-one needs to remind the Government of the importance of doing so.

My final point is to again urge the Opposition to refrain from its constant talking down of the State and to acknowledge the strength of the Western Australian economy and its positive aspects. The Opposition should join with us in raising the level of confidence among the people here and potential investors that Western Australia remains the best place to live and a terrific place to invest. In the course of their considering some more positive contributions to public discussion and to the strengthening of Western Australia's standing in those important respects, I ask the Opposition to heed the almost universal call by business organisations and leaders as reported in the *Daily News* today under the heading, "Supply threat harming business". On all sides it is being said that the sort of instability the Opposition has been encouraging in that respect is detrimental to the State. That view comes

from persons not looking to the politics of the situation but to the facts of the Western Australian economy. They know it is a strong economy and that its potential is strong. People are concerned, as we are, to avoid negative reflections and it is an unfortunate aspect of the whole Opposition approach today that it came to this debate with a negative point of view and with nothing positive to add.

The Government is determined to attempt to ensure that the Budget this year should produce a balanced outcome; that the approach to next year's Budget should be restrained; and that everybody should continue to concentrate on improving the position of this State's economy and thereby the welfare of all Western Australians.

Sitting suspended from 3.45 to 4.00 pm

HON R.G. PIKE (North Metropolitan) [4.00 pm]: I support the motion moved by my leader, Hon George Cash, and I will briefly put the lie to the comments made by the Leader of the House, Hon Joe Berinson. What Mr Berinson has said clearly needs to be divided into two pigeonholes. Firstly, the statement that Mr Berinson made today was clearly prepared by Mr Taylor or one of his staff and it was a retread of the figures of the administration of the State and its finances over recent times. The only comment we have had from the Premier in regard to the obscene debacle which is known as WA Inc related to the \$50 million yearly pay-off of the recognised PICL loss which, from memory, is \$424 million. Therefore, the figures which have come to hand in regard to WA Inc losses are not reflected in the figures quoted by Mr Berinson. I refer to the comments made in this House by Hon Barry House when he referred to the problems of the hospitals in the south west region of the State, which is one of his shadow portfolio responsibilities. What members on this side of the House and Government backbenchers are seeing is a massive and continuing series of complaints in regard to schools, hospitals, pensions and public services which are being massively downgraded by this Government simply because it is short of cash to pay off its debts. This will not be reflected in future figures because the Government's method of bookkeeping will not allow it. We will see a massive sell off of capital investments and properties of the Government to overcome a shortage, which in the long term will disadvantage this State. I ask the Leader of the House if there is any truth in the rumour that he, Carmen Lawrence and Mr Taylor were seen at the Hock Shop of Victoria Park last week trying to hock the assets of the State.

Hon Tom Stephens: The standard of your debate is atrocious.

The PRESIDENT: Order!

Hon R.G. PIKE: In response to the comments made by Hon George Cash, Mr Berinson made the allegation that the Opposition was talking down the State. That is the typical reverse attitude that Mr Berinson so often takes. The fact is that this Labor Government has dragged the State down -

Hon P.G. Pendal: All by itself.

Hon R.G. PIKE: It is the reverse order of the pot calling the kettle black. All the culpability rests on the shoulders of this Government which is represented by Mr Berinson in this place. He is using the age-old trick of reversing the onus by saying, "Really, it is your fault even though it may have been our fault in the first place." The real issue is whether the money that has been wasted will be recovered. If the situation is as sweet and rosy as that made out by Mr Berinson in his comments, and the funds are there, he should have no difficulty agreeing with Mr Cash's motion. It is a non sequitur to propose both.

This Government is practising what I call a reverse of the Oliver Twist syndrome. Twist asked for more because he had not had enough, and this compares directly with Supply. Until this Government accounts for what it has obscenely wasted it should not be given the opportunity to have more. The Government should grant a Royal Commission.

HON P.G. PENDAL (South Metropolitan) [4.07 pm]: If nothing else members must admire the gall of the Leader of the House in his response to the motion of Hon George Cash. For anyone to have the audacity to stand before the Parliament and paint a picture that says everything in the garden is rosy - as though nothing has arisen out of the Government's business ventures in the past five years - almost defies imagination. I notice that when Mr Berinson responded to Hon George Cash he spent some time trying to tear strips off Mr Cash for allegedly failing to address the last line or two of the motion when, in fact, the

Leader of the Opposition addressed that at some length. To pick up a point made by Hon Bob Pike, the Leader of the House is the pot calling the kettle black because Mr Berinson spent precious little time talking about the first three lines of the motion. The Opposition is alarmed at the deterioration in the finances of the Government in the first 11 months of this financial year as was reported in the Premier's name only a few days ago.

That represents an increase of 15 per cent in the deficit for the first 11 months. The Leader of the House has today given members an understanding of why he is no longer the Minister for Budget Management. He has been able to treat that 15 per cent blowout in such a cavalier manner that it is no wonder that the Premier has seen fit to kick him out of any portfolio that has anything to do with Budget management or finance. Mr Berinson spent at least half of his speech vilifying and insulting the Leader of the Opposition. That is in direct contrast to the Premier's pious little remarks in another place where she said that Government members were not allowed to make the snide statements that Mr Berinson insisted on making in a 40 minute speech today.

Hon Tom Stephens: It is unbelievable that Mr Pendal can stand in this place and keep a straight face while making such a statement.

Hon P.G. PENDAL: For the first time in the parliamentary history of this State we are facing a system which is used and perfected by this Government called phantom budgeting. When the Government came to office in 1983 it talked about zero budgeting and other forms of avant garde Budgets. As a result of the Government's activities over the last couple of years a system has been introduced which at best can be described as phantom budgeting. It is predictable that the Government would say it will balance the Budget. What does balancing the Budget mean in the light of what has happened with at least the last two Budgets? It will happen again with the next Budget which is due to be brought down in Parliament in a few months. The concept of a balanced Budget has now disappeared; a balanced Budget can only mean that the revenue coming in on one side roughly equals the amount expended on the other side. Yet the Budgets for which the Government has been responsible over the last two or three years have not been balanced Budgets. I will demonstrate why. More particularly, the Budget upon which we are about to embark will not be balanced either, despite the assurances given by the Leader of the House and despite the nonsense spoken by the Premier in a radio interview yesterday morning.

It is no secret that in the 1987-88 Budget the amount of money spent on WA Inc related payments - before anyone found that out - amounted to around \$78 million; yet the Government had a balanced Budget. That year we would have seen a Budget surplus of \$78 million were it not for the losses incurred that year.

Hon Barry House: That is more than the capital works budget for the Ministry of Education.

Hon P.G. PENDAL: Hon Barry House has put forward a perception that every member of this House is capable of understanding. That is, it equates to a departmental budget, or to items within any member's electorate.

In 1988-89, the WA Inc related payments out of the so-called balanced Budget were \$188 million. Had that amount not been lost or squandered - who knows, even stolen - the surplus could have amounted to \$188 million. Of course, the Budget is dressed up in that phantom way as a balanced Budget, albeit taking into account the losses of \$188 million. It does not stop there. This year we estimate that another \$76 million, as a minimum, will be part of the State Budget related to the WA Inc losses. That is, the losses relate to the R & I Bank, Western Australian Development Corporation - in particular LandCorp and EventsCorp - Rothwells, Swan Building Society, Teachers Credit Society, as well as WA Government Holdings Ltd. The last-mentioned is expected to run to \$62 million. The point to be made is that all the Budgets which the Government claimed were balanced would have had surpluses had the Government not chosen to tread a particular path.

Hon Mark Nevill: Is the member saying that we are better managers than we appear to be?

Hon P.G. PENDAL: No-one in the Western world, certainly no-one in Australia, would lay at the feet of the Government any award that would say its financial managers are anything other than the devastating kind. Even with the huge losses I have outlined - and members on the other side continue to poke fun, and continue to describe them as paper losses - the Government continues to claim it balances its Budgets, so the financial credibility of the

Government and the credibility of Parliament has disappeared. Without those losses, presumably we would have witnessed massive surpluses. Not even the Government, not even Mark Nevill, would be silly enough to pretend the Government could have reached the position where it achieved massive surpluses. The way in which the balanced Budgets have been achieved, therefore, is either by borrowing or by increasing charges. That is the only way the Government is able to make the Consolidated Revenue Fund look respectable. Therefore, I make the observation that the Budgets - and the Budget this year will be no different - are phantom Budgets because they do not exist. The figures in the Consolidated Revenue Fund document amount to nothing. Does it mean that the Government can pretend that it will balance the Budget after the payments on page 59 of the document? The amounts are not small: \$62 million in one year for WAGH, and \$38 million last year; that is, \$100 million. But Hon Fred McKenzie tells us not to worry because it is merely paper money.

Hon Fred McKenzie: Tell me who are the people who have suffered?

Hon P.G. PENDAL: The unemployed people in the member's electorate, or the people who cannot get Homeswest housing would not see that as a paper loss when they are on the dole and cannot get assistance for housing. Those people see the losses as very real losses.

We heard a lot from the discredited Leader of the House, who no longer enjoys the Premier's confidence to the extent that he is not allowed to be in charge of anything to do with money. In the seven years he was allowed to muck about with the Treasury to the point that at last - whatever else I say about Premier Lawrence - she has woken up to the Leader of the House. She said that the man had done enough damage; she took away all possible connections with financial portfolios. That is not surprising given the level of ignorance that he displayed today when he told members on this side that somehow or other the fuel levy does not impact on ordinary families. What an extraordinary thing to say. He told Parliament that the 35 or 36 per cent increase in the State fuel franchise does not impact on families.

Apparently, it does not impact on such areas as drivers' licences because they were increased 25 per cent in the course of that Budget. We are told it does not affect the family strategy - obviously families do not need drivers' licences; they do not buy fuel, oils, or any products which have been put into the prohibitive range as a result of the last Budget. Members should not take my word for it. They should take the words of at least two newspapers around Perth which reckon that the Government was telling fibs months ago. The newspapers were able to unravel the sorts of tortuous nonsense put out around town. I refer specifically to the family budget. On 14 June 1988 the editorial of *The West Australian* stated -

Passengers on Perth's public transport are now coming to realise what the State Government meant when it said it would keep charge increases within the inflation rate.

It goes on -

The Government's pre-election action last year in deciding not to increase fares - and other "family" charges - has now been shown to be a blatant political ploy.

Of course it has been. The criticism did not stop there. The *Sunday Times* woke up to the Government. The Government was found out in an editorial in that newspaper on 10 September last year, which editorial indicates that no-one believes the Government any more.

Hon Fred McKenzie: We have the cheapest public transport fares in Australia.

Hon P.G. PENDAL: We have the highest level of Government financial collapse anywhere in the western world.

Hon Fred McKenzie: And the cheapest public transport. Contradict that statement.

The PRESIDENT: Order!

Hon P.G. PENDAL: With the amount of money with which this Government subsidises the public transport system, we could have abolished all charges on all public transport for approximately 22 years had it not lost the \$800 or \$900 million. That is the impact of what the Government did.

The editorial in the *Sunday Times* makes an absolute mockery of what Mr Berinson said about the so-called Family Pledge when it states -

The centrepiece of the WA Government's August Budget was the Family Pledge - but are families better off?

That is a good question. It goes on with a name to be reckoned with.

Treasurer David Parker -

We all know what happened to him. He is the only Western Australian, apart from Mr Dowding, who does not have to pay these charges. He has taken his superannuation and shot through. The editorial continues -

Treasurer David Parker said the increased cost to families of electricity, gas, water, and bus fares, had been held to an average 7 per cent this year, which was below the inflation rate.

Later we are told that the cost of registering the family car would also be reduced by \$20 from 1 January next year and that families would receive an education allowance of \$50, etc. However, then the editorial comes to the bottom line and states -

But a closer look at the Budget papers seems to indicate some hidden charges.

That is the point of the motion moved by Hon George Cash. We are trying to tell the Parliament in simple terms that even members opposite can understand that there has been, by the Government's own admission last year, an alarming rise in the deficit from \$285 million in 1989 to \$328 million in 1990. Notwithstanding that huge increase at the 11-month mark - this should take the smile off the faces of people like Hon Tom Butler - the Government will have less money to contend with the rising deficit because we have all heard of the fall-off in stamp duties from falling real estate sales and the like. We will end up with another of these famous phantom Budgets. There is no way in the world that the Government can balance a Budget after it has cooked the books in the same way it has been cooking them for the last three or four years.

The motion moved by Hon George Cash is a timely one. We have sought assurances from the Government and not got them. We have been told today that we cannot be assured that there will not be any increase. Although Mr Berinson was quick to get off the point, we have been told that the figures are alarming, and the figures released by the Treasury Department indicate that; therefore, I hope the House passes this motion. It is a reminder to the people of Western Australia of the consequences of re-electing these people last year, albeit with 47 per cent of the vote and albeit their telling the people of Western Australia untruths which are now impacting on the Budget. Last year when we went to the electorate we were told that no money would be taken from the Budget for the petrochemical plant. We have since discovered that, for the first time in this Budget, \$50 million has been provided for on top of the other amounts that we have enumerated over the past 20 months. I support the motion.

HON J.N. CALDWELL (Agricultural) [4.25 pm]: Mr President -

The PRESIDENT: Order! I remind the member that he has five minutes left in which to debate the motion.

Hon J.N. CALDWELL: I am not sure that that will be enough time for me to raise the few issues I want to raise. I was not going to speak on this motion. However, I believe I will have to say something on behalf of country constituents. Many country members in this Chamber are supportive of their constituents because they provide the goods that raise the revenue for this State.

I support the motion. Had the Government not squandered \$800 million, we would not have had to include the last two lines of the motion, which state -

... and asks for immediate and absolute assurances from the Government that no increases in taxes or charges will result in the forthcoming 1990/91 Budget.

However, I believe this motion would have been presented to the House even if the Government had not squandered the \$800 million.

Taxation impinges more heavily on country people than most people understand. Many people from metropolitan areas are going to country areas to live because they believe it is

less costly to live there. When I fill my petrol tank in the city it costs \$30. The same amount of petrol in the country costs \$34 or \$35 depending on where I get it. That means that every time I fill my tank I pay \$4 or \$5 extra. Many people have sold their houses in the metropolitan area believing that they will have a lot of money to spend on a house in the country. They hope their savings from buying a cheaper house will last them a long time. However, many taxes in country areas are greater than the taxes paid by people in metropolitan areas.

I urge the Government to take these points of view into consideration when considering any increases in charges. Had it not lost this enormous amount of money it would not have to increase charges except to benefit the people of Western Australia. One commodity has come down in price and that is petrol. However, that has nothing to do with the good management of the Government but more to do with Arabs wanting to bathe in it. I urge the Government to look at the motion.

I support the Leader of the Opposition's motion and urge the Government to hold any increases in taxes and charges to the barest minimum.

Question put and passed.

ACTS AMENDMENT (RESOLUTION OF PARLIAMENTARY DISAGREEMENTS) BILL

Receipt and First Reading

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

Second Reading

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [4.30 pm]: I move -

That the Bill be now read a second time.

The year 1990 is a significant one in the history of the Western Australian Parliament because it is the centenary of self-government, responsible Government and the proclamation of the State's Constitution establishing two Houses of Parliament. For members of this Parliament who have the privilege of being members in the year of our centenary it is an appropriate time to reflect on our Constitution and to consider proposals that will prepare our Parliament for the challenges of the twenty-first century.

Although our Constitution Acts do not explicitly state that it is the Legislative Assembly which forms the Government it has always been the case, and for good reason. Control over laws about money is the constitutional foundation for the majority in the Legislative Assembly to form the Government. Section 46 of the Constitution Acts Amendment Act indicates that the Government is formed by the Assembly by expressly limiting the powers of the Council over money and by requiring that the Governor's Message recommending Appropriation must go to the Assembly. This, of course, is the basic principle of the Westminster system of democratic government.

Ever since 1890 there have been occasions when the two Houses have disagreed with one another. These conflicts, especially those involving money Bills, raise the question of the meaning of responsible government in a bicameral system. It is fair to say that the issue of conflict between the two Houses has become a matter of significance in this Parliament. We have had to contend with repeated threats that Opposition members may combine to prevent the Legislative Council from passing a Supply Bill. In addition the historic pattern is being repeated in which an increased number of Bills are blocked when these are proposed by a Labor Government. In such a context of disagreement and uncertainty there is a need to clarify and institutionalise, once and for all, the system that ought to govern relations between the two Houses. The parliamentary disagreements Bill will achieve that objective. It is appropriate that this proposal be put before the electors at a special centenary referendum. Members will be provided with a set of Committee notes. The second and third readings of this Bill must be passed by an absolute majority in each House.

In 1985 a Bill containing similar principles to the current Bill was proposed to Parliament.

Like the 1985 Bill this Bill follows the recommendations made by Professor Eric Edwards in his Royal Commission report into parliamentary deadlocks. Since then, however, there have been some changes to our political system. The adoption in 1987 of proportional representation within multi-member regions for Legislative Council elections is likely to lead to results similar to 1989 where the balance of power is held by members elected to represent a smaller party. Indeed, experience in the Senate and other upper Houses indicates that smaller parties will play a greater role, thus increasing the volatility of the political process. The Bill makes no proposals for change to the existing arrangements in the Standing Orders under which disagreements over amendments to a Bill may be referred to a Conference of Managers. The Government believes that formal arrangements for meetings to see whether common ground exists are essential when the Houses disagree. However, when a disagreement persists because it cannot be referred to a conference or it cannot be resolved by a conference, the Government also believes that the Constitution should provide further avenues.

The Acts Amendment (Resolution of Parliamentary Disagreements) Bill amends four Acts, but the substance of the two proposals is in amendments to the Constitution Acts Amendment Act 1899. Bills are separated into two categories and the proposed handling of a disagreement over a Bill is different for each category. By far the smaller of the two is the category of Bills for the ordinary annual services of the Government. Typically this category involves only three Bills in a year: A Supply Bill in the autumn session proposing a temporary grant of money for the period from July onwards until such time as the two main annual Appropriation Bills - the Appropriation (Consolidated Revenue Fund) Bill and the Appropriation (General Loan and Capital Works Fund) Bill - are passed in the spring session.

Under the proposals in the resolution of parliamentary disagreements Bill it could become important to be sure that a Bill is a Bill for ordinary annual services and that it is a matter only Parliament may decide. A practice similar to that which operates at Westminster is therefore proposed under which a Bill for the ordinary annual services of the Government will leave the Legislative Assembly endorsed with a certificate from the Speaker. This certificate, which cannot be questioned in any court of law, will verify that a Bill deals only with the ordinary annual services of the Government. State Parliament has an established practice and in the past has been able to agree on what is proposed in a Bill for the ordinary annual services of the Government. Attempts to exploit the essential nature of a Bill for the ordinary annual services of Government by "tacking" on proposals for unrelated things are ruled out by this Bill and by the Constitution Acts Amendment Act. Blackmail-style threats not to pass Supply unless this or that is done amount to the same thing as the constitutionally prohibited practice of tacking.

A disagreement between the Houses over a Bill for the ordinary annual services of the Government would arise if the following proposed conditions were met -

- the Legislative Council has rejected the Bill;

- the Legislative Assembly first records that it will not make or amends an amendment requested by the Legislative Council; or

- after a period of one month from the day the Bill was transmitted from the Legislative Assembly the Legislative Council has otherwise failed to pass or return the Bill to the Legislative Assembly.

If a disagreement does arise over a Bill for the ordinary annual services, the Governor may assent to the Bill if the Legislative Assembly resolves to request this action. The meaning of this proposal is clear: The two or three Bills a year that are absolutely essential for the survival of a Government, because they allow a Government to pay its accounts, may be passed into law without the consent of the Legislative Council, provided the conditions have arisen as outlined above.

For almost 100 years the Legislative Council has passed the annual Supply Bills. The resolution of parliamentary disagreements Bill proposes to enshrine this well established constitutional convention in its appropriate place in our Constitution Acts. The Government proposes that it should not be possible for an Opposition with a majority in the Legislative Council to be able to attempt to force the Legislative Assembly to an early election by

withholding parliamentary approval for money to meet the financial obligations of Government. Section 5A of the Constitution of New South Wales has contained a similar, and as yet unused, provision since 1933. It is significant that the Legislative Council of the New South Wales Parliament has not been hindered in the performance of its review function by section 5A. It is also significant that the Greiner Liberal Government of New South Wales has made no proposal to abolish section 5A, which was enacted by a previous conservative Government and endorsed by voters at a referendum.

The Government believes it is the responsibility of Parliament to confirm its special role by adopting measures to further civilise the struggle for power. Uncertainty is created when the very existence of a properly elected Government can be threatened. It is confusing when, having elected different parties to a majority in either House, those elected to a majority in the upper House then turn on those elected to form the Government and threaten to force the voters to choose again at a premature election of the lower House.

To contemplate the blocking of Supply is to contemplate action which would cause a constitutional crisis and bitter division in the community. This is the opposite of the special role that Parliament ought to play as a forum for fair play and free debate. Constitutional theory maps out a useful role for an upper House which covers many aspects of maintaining an overview of parliamentary, Executive and administrative behaviour of Government. The Government believes that a power to block Supply held by an upper House confuses the issue about which House has the right to form the Government. Our Constitution should be clear about the functions of each House. We should be able to tell people clearly that the Assembly is the basis for Government and the Council is for legislative and administrative review.

Disagreements between the Houses over Bills other than those for the ordinary annual services for the Government are dealt with by proposals based on section 57 of the Australian Constitution. Since Supply has never been blocked in the State Parliament and we are all aware of the frequency of disagreements over other Bills, it is the proposals to resolve disagreements over Bills other than Supply Bills that are more likely to be called upon. The range of Bills is wide and would include some money Bills and Bills requiring an absolute majority to be passed. Certain constitutional and electoral matters, for example, require an absolute majority.

It is worth noting that 18 Government Bills and four private members' Bills have been blocked in the Legislative Council since 1983. This compares with one Bill blocked by mistake in the nine years of the Court-O'Connor Governments. Vote weighting which has guaranteed a conservative majority in the Legislative Council has encouraged this partisan approach on the part of the Legislative Council. On most occasions this has simply meant blocking ordinary Labor legislation. For some it now means forcing a Labor Government to the polls. A fairer electoral system and a clearer understanding of the roles proposed for the two Houses embodied in the State's Constitution would lead to a more evenhanded review function by the Legislative Council.

A disagreement over a Bill other than a Bill for the ordinary annual services of the Government would arise if any of the following proposed conditions are met twice with an interval of not less than three months between the two events -

- the Legislative Council rejects the Bill;

- two months after the day on which the Bill was transmitted to the Legislative Council it has not been returned to the Legislative Assembly;

- the Legislative Assembly first records that it will not agree to an amendment or amends an amendment that has been either requested or made by the Legislative Council; or

- the Legislative Council has failed to pass by an absolute majority a Bill that requires to be passed in that special way.

When the conditions of the disagreement come into existence for the second time, the Bill proposes that the Governor in Executive Council may dissolve the whole Parliament. Writs for all the resultant elections could be issued within three weeks of dissolution.

Professor Eric Edwards recommended an improvement on the Commonwealth Constitution

which allows a Government to leave the dissolution of Parliament to resolve a deadlock until a time that suits its purposes. Professor Edwards recommended that a dissolution to resolve a deadlock should be held within three months of the second emergence of a disagreement. This proposal links the deadlock with the election called to resolve it. The Bill also proposes that no dissolution that is a consequence of a disagreement may occur in the last six months of the term of the Legislative Assembly.

Like the Australian Constitution the Bill allows for the possibility that even after a dissolution and election the Houses may still find themselves in disagreement. If the conditions of disagreement again occur the Bill proposes that a joint sitting of both Houses may be held to finally resolve the matter. At this special joint sitting the whole Parliament may vote on the Bill or Bills which brought about the disagreement. It is proposed that the joint sitting may also vote on amendments to the Bill which have been agreed upon between the Houses. In addition, if amendments have been made or requested by one House and not agreed to by the other, it is proposed that the joint sitting may also vote on these.

An absolute majority of the total number of the members of both Houses will be required to pass any Bill or amendment at a joint sitting. If passed at a joint sitting it is proposed that a Bill will be regarded as having been passed by an absolute majority of each House of the Parliament. In making a submission to the 1985 Royal Commission into parliamentary deadlocks as the Leader of the National Party, Mr Hendy Cowan persuasively argued for provisions remarkably similar to those that were recommended. Those recommendations are the substance of this Bill. It is my belief that the very existence of these proposals to resolve disagreements would have a beneficial effect on the operation of the Parliament. Failure to pursue a disagreement would expose a Government to the charge of making token gestures if it proposed laws that were certain to be defeated. Willingness of the Legislative Council to obstruct a Government would be tempered by the knowledge that such action could lead to an election of both Houses.

Preservation of the existing pattern of the election timetable is the theme of the proposals relating to the terms of Parliament. Following an election called to resolve a disagreement the Legislative Assembly will be elected for a term based on four years which will continue to expire on 31 January. Parallel arrangements are proposed for the term of members of the Legislative Council which will be lengthened or shortened so that they continue to expire on 21 May. These proposed arrangements will ensure that the ordinary general election following a deadlock resolution election will return to the traditional time early in a year and that elections to both Houses will be kept in phase. This is another area in which the Government believes this Bill is superior to the Australian Constitution under which terms of the House of Representatives can only be reduced to keep elections to both Houses in phase.

Other amendments in the resolution of parliamentary disagreements Bill are a consequence of the two main proposals. Existing provisions which maintain the President of the Legislative Council in office between elections need to be recast to allow for both ordinary general and deadlock resolution elections. Proposals are included which maintain for superannuation and salary purposes the member status of members of the Legislative Council through a deadlock dissolution election period. Parallel arrangements already exist for members of the Legislative Assembly.

This Bill contains a coherent set of proposals for arrangements which would allow disagreements over Bills between the two Houses to be resolved in accordance with modern constitutional practice. If adopted, these proposals would become a model other States would seek to follow. Parliament should seize the opportunity of our centenary, give this Bill bipartisan support and ask the electors for their approval at a referendum on these excellent proposals to resolve disagreements between the Houses.

Debate adjourned, on motion by Hon P.G. Penda.

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Membership

Message from the Assembly received and read notifying that Mr Donovan had been discharged from the Joint Standing Committee on Delegated Legislation and that Dr Edwards had been appointed in his place.

RESERVES AND LAND REVESTMENT BILL*Second Reading*

Debate resumed from Wednesday 6 June.

HON BARRY HOUSE (South West) [4.47 pm]: This is the second time in six months that this House has debated this Bill. This must seem like a dopey situation; and it is. The Reserves and Land Revestment Bill is an annual piece of legislation dealing with amendments to A class reserves and the sale of right-of-ways and pedestrian accessways.

There are no changes to the legislation as it was passed last year by this Chamber, but some minor changes appear in the second reading speech. On the first page of her second reading speech the Minister implied that the time wasted through dealing with this legislation in this manner is a result of the Opposition's intransigence. I will read a couple of paragraphs where she implied that, then I will put the record straight. The Minister said -

I am very disturbed that members opposite have seen fit to waste the time of the House by not agreeing to allow Standing Orders to be suspended in order that the Bill could be put through all stages on a motion, "That the Bill do now pass."

This Bill is identical to the Reserves and Land Revestment Bill 1989 passed by this House, following debate of some five and a half hours. It seems to me that the Parliament's time is being unnecessarily wasted on a matter already passed by this House.

I will concede that the time of the House is being wasted to a certain extent in debating matters already debated last year. However, the real reason for that must be made clear. That reason belongs in the Government's court, not in the Opposition's court. The Minister fleetingly referred to it in the first paragraph of her second reading speech where she said that members would recall that this House debated and passed the Reserves and Land Revestment Bill 1989. She said that a message was sent to the Legislative Assembly and that, as the Assembly did not sit to receive messages prior to prorogation, the Bill lapsed. That is the real reason for the delay in the legislation. The Government mismanaged its handling of the legislation in this Parliament; it has nothing to do with the Opposition. The only reason the Bill is back before this House is as a result of the Government's bungling of the organisation of Parliament.

Hon George Cash: It could have been introduced in February had the Government decided to start Parliament a little earlier.

Hon Graham Edwards: You are giving weak excuses for not dealing with it in the way we suggested.

Hon BARRY HOUSE: The Minister is not here.

Hon Graham Edwards: That is a disgraceful comment.

The PRESIDENT: Order! If members on the two front benches cease their interjections, Hon Barry House may well be able to get the Bill through without wasting any more time.

Hon BARRY HOUSE: I am sorry that the Minister is not here today, but I am aware of the reason; she is not feeling well and that is why she is not here.

Hon Fred McKenzie: She has gone to the doctor. She was here earlier.

Hon BARRY HOUSE: I realise that. I have discussed the situation with her and made it clear to her that we want to put the record straight. The reason this legislation is before us again has nothing to do with the Opposition and everything to do with the Government's mismanagement. If this session had started when these sessions normally start, in February or March, even given the Government's bungling, this legislation would have been out of the way by now. This session did not start until 1 May. The date now is 20 June, which is six weeks later, and I cannot accept there was any reason for the delay in the Government's reintroducing this legislation before now. If comments are made about the Opposition's delaying this legislation, they are totally false. Members might recall that early in this session a great song and dance was made by the Government when the Opposition refused to reinstate some legislation which was introduced into this House last year, some of which had been partially debated. There were very good reasons for that, yet the Government tried to

make as much mileage as it could out of that situation by saying that the Opposition was delaying the legislation. That was totally false.

Having got that firmly on the record, we will now turn to the legislation. I do not intend to debate each clause in the same sort of depth as it was debated last year because most aspects were adequately debated then and supported by the Opposition in December 1989. I indicate our clear support for the legislation in general terms. However, there will be an opportunity in later stages of the debate to consider the clauses in more detail.

One or two situations need clarification, but before we move to that, I want to highlight some of the effects of this legislation on local authorities and individuals. They have been subjected to much inconvenience, sometimes expense, and huge amounts of frustration as a result of delays in the legislation. One example was obvious to the Minister, Hon Doug Wenn, the member for Vasse and myself when we attended a meeting last night in this Parliament. The Shire of Busselton had some matters to discuss with the Minister, and mentioned its frustration at the fact that its attempts to amalgamate reserves on the beach front were being delayed. Clause 7 of this Bill refers to that amalgamation. That process started as far back as 1983, and seven years later the Shire of Busselton is still being frustrated in its efforts to amalgamate those reserves. The amalgamation is necessary to upgrade the beach front at Busselton and build ablution blocks and recreation facilities for the public in order to realise the potential of that area. That beach front is a prime asset of Busselton, but I think members will agree it is still an eyesore. The shire is doing its best to rectify that situation, but it has been kept waiting by the Government's bungling of this legislation.

I shall relate another example which concerns an individual, a Mr Grimson. It involves the cancellation of a right-of-way in the City of Armadale. This is a very minor piece of the legislation in overall terms; it is really an administrative matter which should have been cleared up and dealt with a long time ago. However, the passing of this legislation is holding up the whole show. The land concerned is contained in clause 33, table 3(1) on page 12 of the Bill, and it concerns the right-of-way adjoining Lot 62 near Brookton Highway. The owner wants to amalgamate this right-of-way into another two parcels of land adjoining and surrounding the right-of-way in order to create one consolidated block. At present his land is in three adjoining pieces, but he cannot do anything about amalgamating them. He wants to build a home on the consolidated block, which I understand will be roughly four acres, but the delay has caused him frustration, a lot of expense and a lot of anger.

The background to this began several years ago when he was given a verbal estimate from the Department of Land Administration of \$300 to purchase the right-of-way. The department came back to him soon after that wanting \$29 000 for the land. He obviously rejected that and requested a valuation by the Valuer General. The Valuer General put a value of \$5 000 on that right-of-way. The result of that initial charade was that he agreed to follow legal advice and pay the \$5 000 for the land. That matter was cleared up about three years ago. He was then told by the Department of Land Administration that the amalgamation would be included in the 1988 Reserves and Land Revestment Bill. We are now going back two years. He was later told by the Department, "Sorry, a mistake has occurred, it has been left off the 1988 Bill," and he would have to wait until the 1989 Bill. He duly had to wait. This has meant that this process has been in train for over three years and it is affecting his situation very badly. He just wants to put a home on that block of land.

Simple transactions are being held up by Government mismanagement and by the inclusion of controversial clauses such as that relating to the Subiaco Oval. That clause was dumped on us at the last moment last year and it has complicated the legislation. Maybe we should consider seriously a system which can isolate controversial clauses from the Bill and enable us to deal with them separately. Matters of a more administrative and mundane nature can then be dealt with sensibly.

I will refer to the Subiaco Oval clause later. I wonder if the Minister can clarify in her comments on the second reading - perhaps at the Committee stage if she prefers - some matters which have been brought to my attention by the Conservation Council of Western Australia. Three clauses of the Bill are of concern. Of most concern to the Conservation Council - and I raised this matter last year - is clause 22, relating to Prevelly Park near Margaret River and involving the excision of an area of an A class reserve for development in connection with Surfers' Point at Margaret River.

[Questions without notice taken.]

Hon BARRY HOUSE: As the Minister is unable to be here this afternoon I will place my concerns on record so that she can clarify them later in the debate.

Hon Fred McKenzie: The Minister has asked me to ensure that she gets a copy of Hon Barry House's speech as soon as it is cleared.

Hon BARRY HOUSE: I should like to thank the Minister for that. The first clause of concern to many people is clause 22, which relates to Prevelly Park near Margaret River and the development of one of the world's top surfing spots at Surfers Point using reserve land. Concern is held that the total excision of about 71 hectares is a large one and that far too much land has been taken for this development, as an area of probably 10 hectares as a rough estimate is all that is needed for this development. It is suggested that a much smaller amount of Crown land could have been excised for this project.

Hon Mark Nevill: Who is suggesting that a smaller parcel of land should be taken, the council or the surfers?

Hon BARRY HOUSE: The Conservation Council holds particular concern about this. I understand that the shire is keen for the Surfers Point development to proceed, which is quite in order. I do not know that it needs the full 71 hectares, and I think that is acknowledged. The other concern held is that this land was apparently excised without Environmental Protection Authority approval and without consultation with the National Parks and Conservation Authority. I would like the Minister to address those matters as well. In short, local people are suspicious of the motives behind excising such a large area of reserve for this project. I understand that some concessions have been made to make the balance of the reserve an A class reserve and not a C class reserve, which allays some fears and provides added protection in future. I believe the concern held by the Conservation Council is that it would prefer to see this reserve part of the Leeuwin-Naturaliste National Park and the management come under the Department of Conservation and Land Management.

The second clause of concern is clause 8, which relates to Cockburn Sound. Members may recall from the debate last year that an area was to be excised from the Cockburn Sound reserve to provide car parking facilities for the anticipated bid for the Goodwyn gas platform jacket project. Things have changed a little since December 1989 and we now all know that Western Australia will not gain the full project. The first question I would like the Minister to resolve is whether the excision is still necessary or whether there could be some change to it. Other concerns are held that this reserve forms part of the System 6 series of reserves for conservation and that it is the last and perhaps most important area of the Cockburn Sound reserve in terms of a heritage site because it is the site of the original settlement in Western Australia, the old Clarence Town site, so it is important and significant for Western Australia. Another concern is that, apparently, the Industrial Lands Development Authority originally applied for an overflow car park on the area and is now looking at leasing land and not at excising it. The end result will still be the same; this land will be taken from the public. In a sense, it is the only place where the public can access Cockburn Sound without passing through industrial land of some sort.

The other clause of concern is clause 11. It is not a major concern, but some questions remain to be answered about it. I would like the Minister to confirm the fact that a land swap is to be organised by way of compensation for excisions made in the Hamersley Range National Park to accommodate a tourist development and airport, and I believe some sort of waste disposal area. I understand that part of Juno Downs, which is land belonging to Mr Lang Hancock, will be exchanged for this land and will be returned to the Hamersley Range National Park. My understanding is that this will be included in the 1990 Reserves and Land Revestment Bill which we may see here next week. I would like the Minister to confirm that in her reply. It is a pity that these two transactions are not part of the same piece of legislation because then a pattern could be established.

I turn now to the most controversial clause in this legislation, clause 30, which concerns the vesting of Subiaco Oval. Members may recall that this matter was sprung on us late last year. We did not know it would appear in the Reserves and Land Revestment Bill until it was dropped on the Table in this House in December last year. It was put on us in exchange for a clause relating to some dubious transaction concerning a piece of land in Albany. That

has disappeared from the legislation and I am quite thankful for that. It is a pity that this clause is part of this legislation because it was the most contentious clause at that time and remains so. The appearance of this clause in the legislation has delayed the passage of this Bill for some time and many worthwhile transactions have been frustrated because of that. After several weeks of debate last year we reached an agreement that the Bill should or could proceed subject to the proclamation of this clause being delayed until a satisfactory agreement was reached between Subiaco City Council and the West Australian Football Commission.

Since December 1989 very little progress seems to have been made - in fact one might say none has been made - towards this satisfactory agreement between the Subiaco City Council and the WA Football Commission. At this stage I reaffirm the Opposition's support for some sort of Government support for the commission on a once-only basis. The commission cannot keep coming back to the Government with its hands out. The aim is to put football on a firm financial footing and a firm organisational base. The West Australian Football Commission has made a very promising start this year. As a result of its current efforts the commission has made some progress to improve football's future in this State. I am not sure whether the Deputy President (Hon Garry Kelly) would agree.

The other side of the coin is that we also need to protect the interests of the Subiaco City Council and local government in general regarding the vestment of Crown land. That is really what the whole argument is about, and it needs to be resolved. Areas still not satisfactorily negotiated between the parties appear to be these - and I shall run down the list to give members an idea of some of them.

Hon Graham Edwards: I heard you on the ABC early morning show on Saturday claiming that you had resolved this as a result of your effort. It was either early this year or late last year.

Hon BARRY HOUSE: Last year we helped to bring about a resolution of the whole thing, but in six months no progress has been made.

Hon Graham Edwards: You were claiming six months ago that you, as a result of your efforts, had resolved it.

Hon BARRY HOUSE: I think we did.

Hon Graham Edwards: You are saying that matters have not been resolved.

Hon George Cash: Clearly the Government has not met its part of the bargain.

Hon Graham Edwards: Mr Cash's comment indicates that he has no knowledge of what is going on out there in the real world.

Hon George Cash: Talk to the WA Football Commission and see what it thinks about you.

Hon Graham Edwards: I do talk to the WA Football Commission and it does appreciate what is going on.

Several members interjected.

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! There is one speaker on his feet.

Hon BARRY HOUSE: I obtained these areas of contention from a letter written by the Minister for Lands to the Subiaco City Council on 8 May. The letter was written after this Parliament sat this year, and it was suddenly realised that there was a hitch in the process and the Reserves and Land Revestment Bill had to be brought back to this House. The Government sat on its hands for six months, nothing was done, but suddenly there was panic, letters had to be written and negotiations started. It seems as if the negotiations have not been satisfactorily concluded and we are perfectly justified in waiting for the situation to resolve itself.

Hon Graham Edwards: So what you said on radio was wrong.

Hon BARRY HOUSE: Not at all.

Hon Murray Montgomery: You are misconstruing the position.

Several members interjected.

The DEPUTY PRESIDENT: Order!

Hon BARRY HOUSE: As a result of our efforts last year we managed to obtain a resolution of that situation. In the meantime the Government has mucked it up.

Hon George Cash: It sat on its hands.

Hon BARRY HOUSE: It has not proceeded with its part of the bargain.

Hon George Cash: Exactly.

Hon BARRY HOUSE: That is what it is all about.

Hon George Cash: Mr Edwards has been caught out again.

Hon Graham Edwards: If I was caught out by you, you would need two bags in each hand. The only way you could catch me out would be by other means.

The DEPUTY PRESIDENT: Order!

Hon BARRY HOUSE: These are the areas of contention: New boundaries of the new areas leased to the WA Football Commission and the new reduced reserve to remain under Subiaco City Council control; the terms which apply to the WA Football Commission's use of Subiaco football oval - that refers to the type of activity which would be permitted. Other areas of contention appear to be the future role of the Subiaco City Council in respect of non-sporting events; the planning and development controls of the entire reserve; the maintenance and future use of Kitchener Park; the recoup of expenditure by the Subiaco City Council on football-related activities by the WA Football Commission. This relates to the amount and type of expenditure. Then there is the partial closure of Subiaco Road and the responsibility of the WA Football Commission and the Subiaco City Council for the closed portion; the control and future use of the land west of Haydn Bunton Drive; and other matters in relation to parking on Mueller Park.

Some of these matters seem to be in contention and they need to be resolved. These matters were addressed in a letter from the Minister for Lands to the Subiaco City Council on 8 May, but I understand, as a result of correspondence from Subiaco City Council, that the council at its meeting on 17 May 1990 rejected outright the terms of that lease. That situation is not resolved. It seems that the Minister for Lands had not made much of an effort to seek a resolution of that situation before the panic set in.

Hon George Cash: That is right.

Hon Graham Edwards: That is a pretty unfair comment, and untrue.

Hon George Cash: If I were you I would bail out.

Hon Graham Edwards: No worries.

Several members interjected.

Hon BARRY HOUSE: The Leader of the Opposition mentioned the matter I was going to raise. I feel some sympathy for the Minister for Lands, she was placed in this situation because the previous negotiations had been handled by the former Minister for Sport and Recreation.

Hon Graham Edwards: Who did a good job. You should recognise that.

Hon George Cash: Nonsense.

Hon Graham Edwards: I have just had a presentation made to me by your friend Mrs O'Connor, who publicly endorsed what I had done and thanked me. Mr O'Connor is that member of the Liberal Party.

The DEPUTY PRESIDENT: Order! The information from the Minister is very interesting, but I am dying to hear what Hon Barry House has to say.

Hon BARRY HOUSE: Hon Graham Edwards, as the former Minister for Sport and Recreation, had entered into agreements with the WA Football Commission, but he did not appreciate the complications which arose from those agreements and the difficulties which would be encountered as a result of the agreements necessary between the WA Football Commission and the Subiaco City Council, so he dropped the Minister for Lands into a very difficult situation.

Hon Graham Edwards: Which she is undoubtedly capable of handling.

Hon BARRY HOUSE: She has now had to resolve the situation.

Hon E.J. Charlton: That is why she has gone home sick today.

Several members interjected.

Hon BARRY HOUSE: That situation has not been resolved. I regret that she does not appear to have made much of an effort until this session began, when she realised that the Government had been found out.

All the other clauses in the Bill, with one or two minor exceptions which need some clarification, are very worthwhile clauses and should have passed this Parliament ages ago. They are being delayed unnecessarily as a result of the Government's bungling and not for any other reason.

While Opposition members want to get this Bill moving as soon as possible, we are not prepared to agree to it until we have had further discussions with the Subiaco City Council and are satisfied that the situation has been resolved. I have already indicated to the Minister that we will be meeting with the mayor and other representatives of the Subiaco City Council tomorrow and I hope that we will be able to resolve our understanding of the agreements and come back and sort this matter out as soon as possible. We want a solid assurance that there is a solid agreement between the WA Football Commission, the Subiaco City Council and the Government, so that we can pass this legislation in the next few days or weeks. It is important for the WA Football Commission that it have the assurance that it can proceed with the restructuring of football in Western Australia. The agreement is important for the protection of the Subiaco City Council, in this instance, and the wider interests of local government throughout Western Australia. Both those organisations are watching the situation with much interest and at times with a lot of concern.

Hon Graham Edwards: You would not be trying to play politics?

Hon BARRY HOUSE: I conclude my remarks by indicating our support in general - subject to the provision of some evidence of negotiations within the next few days. Whether evidence is produced within that time, or within two weeks or two months, is on the head of the Government. Our support is subject to the provision of evidence that negotiations between the Subiaco City Council and the West Australian Football Commission have been satisfactorily concluded.

Debate adjourned, on motion by Hon Murray Montgomery.

DIRECTOR OF PUBLIC PROSECUTIONS BILL

Second Reading

Debate resumed from 7 June.

HON E.J. CHARLTON (Agricultural) [5.51 pm]: This Bill was presented to Parliament last year and debated extensively. All factors relating to the appointment of the Director of Public Prosecutions have been widely covered. Apart from all those implications, the central aspect is the difference of opinion between Government members and members on this side as to who should be responsible for the appointment of the director. The National Party favours the appointment of a panel to decide on the appointment. That matter can be dealt with at the Committee stage or by a committee of this House if the House considers that is the best way to go.

Whatever is decided, a great deal of conjecture exists within the community, especially among people who have a vital interest in the appointment of the Director of Public Prosecutions. Over recent years, the general public have become very aware of the appointments to positions of such high standing in the community. If the community is to have confidence in such appointments that confidence will arise from the manner in which the appointments are made.

It is unfortunate that in this day and age the public do not have confidence in Government appointments. That lack of confidence has not come about only on account of the Government's recent activities in the business world, but also as a result of the Labor Government's introduction of legislation in the past, supposedly to ensure that the rights of individuals are protected. The chickens have come home to roost and the community feeling

is that if we are to protect individuals we have to ensure that Big Brother does not appoint people to positions of supposed independence. The independence of the appointee to the position of Director of Public Prosecutions should be an integral part of such an appointment, one which demands that kind of independence.

The role of the Director of Public Prosecutions is one of paramount importance. I will not go through all the provisions of the Bill; they have already been covered by several members on this side of the House and it would be pointless for me to repeat what other members have said as they have a far greater knowledge of the ramifications of the Bill and the implications of the appointment.

After much deliberation since the last session of Parliament the National Party has decided to support the Bill. We particularly support the amendments in relation to the people who would be drawn upon for expertise when consideration is given to the appointment of the Director of Public Prosecutions.

Sitting suspended from 6.00 to 7.30 pm

HON J.M. BERINSON (North Metropolitan - Attorney General) [7.30 pm]: As was the case when this Bill was first before the House last year, there seems to be general agreement on the desirability of establishing an office of Director of Public Prosecutions, but some significant differences about the form that that should take. Hon Peter Foss raised three major objections to the Bill and I disagree with each of them. I also disagree with his proposal to send the Bill to the Standing Committee on Legislation. While I hesitate to rerun the old record in respect of that matter, it can reasonably be said that there are particular considerations with this Bill which make it even less appropriate than others to send to the Standing Committee. In ordinary circumstances, given the significant nature of the new office and the detail which it involves, it could be accepted as a proposal tailor-made for Standing Committee consideration. However, these are not ordinary circumstances and very significant considerations apply.

As I said earlier, this is another of the Bills which was first introduced in the Budget session last year and which lapsed with prorogation. Accordingly, it met the same fate as other Bills in the same category when the House declined to allow us to continue consideration of the Bill at the stage at which we had left it about six months previously. I remind members that, at that stage, there had been considerable debate on the proposed legislation, not only at the second reading stage, but also on a number of clauses in what one might fairly describe as exhaustive detail.

Unlike some of the Bills which lapsed with prorogation, this Bill has returned to the House in precisely the same form as it left it. One minor qualification has to be made to that, but I cannot believe that anyone would regard that as seriously detracting from my general description. The only difference is the date of the Bill which had to be changed from 1989 to 1990. For the rest, every single provision is in precisely the same terms as was considered at great length last year. Also, the major objections to the Bill which Mr Foss has signalled and which Mr Charlton in general appears to support are also in the same form as they were presented last year.

Given those circumstances, and given the very clear indication which I gave on behalf of the Government last time around that the proposed method of appointment of the DPP by a panel was unacceptable to the Government, what is the point of sending the Bill to the Standing Committee on Legislation? What is the point of attempting to modify the nature of the appointment which the Government has proposed in respect of life tenure when it is made clear that that also is an issue on which we remain firm? Frankly, I do not know what the Standing Committee can do that would be useful in these circumstances. It is as though the Opposition can call for some sort of public or professional submissions that would help it. Again, in the ordinary course of events on a Bill of this nature, we might expect the committee, if it sought public submissions, to go to the Law Society which has said twice that it supports the Government's version.

Hon Peter Foss: Not the criminal law subcommittee.

Hon J.M. BERINSON: I am aware that a subcommittee has expressed a contrary view; everyone is aware of that. What is the point of the Standing Committee becoming aware yet again that the view of the criminal law subcommittee is not shared by the Law Society?

They can make other inquiries. For example, they can inquire about the outcome of the consideration of the general question of a Director of Public Prosecution's office at the last summer school which was conducted by the Law Society and which was attended by DPPs from other States. They will then find out what we already know; namely, that not one DPP did not share the view that a Director of Public Prosecutions should properly be appointed by the Executive and that the proposal for life tenure was the right way to go. What do we expect the Standing Committee to learn that is already not widely known in this House, in the community and among those members of the profession who may be expected to make a submission? Just as Mr Foss did not believe it necessary to go into the same detail in his arguments this time around because of the complete identity of the issues and even the terminology we were facing, so do I accept that a brief summary of the Government's position is probably all that is required at this stage.

I come first to the DPP's independence, which is agreed by both sides of the House to be essential. Hon Peter Foss has maintained his position that in order to secure independence it is not enough to have statutory provisions to that effect and it is not enough for the position to have life tenure.

Hon Peter Foss: My point is that life tenure is in itself undesirable.

Hon J.M. BERINSON: I accept that and acknowledge that the member made that distinction before. Nonetheless, whether dealing with life tenured positions or not, it is incongruous to suggest that the Executive may be relied upon to determine who should be appointed to the position of Governor for a limited term, or the position of Ombudsman for a limited term, or as judges at all levels, including the Chief Justice.

Hon Peter Foss interjected.

Hon J.M. BERINSON: Those positions are for life and that is why I specified only the two positions of Governor and Ombudsman as being for finite terms. The Executive appoints the Commissioner of Police, who has very substantial independent powers. Nobody has ever questioned that that is the proper way to proceed. No-one anywhere, to my knowledge, has questioned whether it is proper for a DPP to be appointed in the same way. I put it seriously to the House that a DPP will be appointed in that way or not at all. I believe that would be highly undesirable and I hope that members of the Opposition will not take their attachment to this formal question of organisation to a point that would jeopardise the establishment of an office as important as this.

Hon Peter Foss: What about the Temby problems?

Hon J.M. BERINSON: This Bill overcomes the Temby problems.

Hon Peter Foss: It also makes life appointments.

Hon J.M. BERINSON: Quite right. The member does not like life appointments but life appointments in similar positions are standard in our system. That is a preferable way of ensuring independence, especially as it would generally be recognised - Mr Foss has sometimes referred to the fact - that one would not expect a DPP, especially if appointed at any reasonable early age, to stay in that office for life. In the normal course of events one would expect that, unless such a person were appointed quite late in his career, he would look for further advancement to the bench. Other matters relating to conditions of employment and flexibility of those conditions go together with that fundamental question. I do not need to elaborate on that to any extent.

I refer to Mr Foss' comment about the desirability of the DPP being free to use external counsel - that is, non-employee or non-salaried counsel. In support of that proposition, he advanced the organisational structure in the United Kingdom. As a matter of fact, both in principle and for practical considerations, I have nothing to say against the briefing-out to other counsel of prosecutions by the DPP.

The PRESIDENT: I remind members that the rule associated with reading of newspapers does not refer only to the *Daily News* or *The West Australian*.

Hon T.G. Butler: It's a union journal.

The PRESIDENT: The rule certainly applies to that.

Hon J.M. BERINSON: I am glad Hon Tom Butler interjected, otherwise *Hansard* may have indicated that I am making my comments from the daily newspaper.

With respect to the briefing-out of prosecutions by the DPP, it is already common practice for the Crown Solicitor and Crown Prosecutor to brief out prosecutions. Although statistics on this matter are not maintained, the Crown Prosecutor recently advised me that, as a rule of thumb, between 20 per cent and 25 per cent of prosecutions in the District and Supreme Courts, even now, are conducted by members of the private bar. There is no reason to doubt that a position of that kind could also be expected in respect of a Director of Public Prosecutions and, in fact, there are very important practical reasons why one could hardly ever hope to establish an efficient office that conducted all necessary prosecutions from its in-house resources. It is necessary in this respect, however, to maintain some perspective. I do not have the precise material at hand but the reference by Hon Peter Foss to the experience in the United Kingdom reminds me of a number of references brought to my attention indicating that the United Kingdom system is regarded as practically in a state of collapse under the burden of the costs which that system involves. The use of what, for a shorthand term, I describe as in-house counsel is by no means to be judged only on the basis of the relative economies of having salaried staff versus briefed counsel. There are other very important considerations going to the level of specialised expertise in the various fields which the Crown must pursue. A balance of the two remains the ideal. If some argument is advanced that the balance should be different from the balance which now applies, and we should not be talking about 20 per cent to 25 per cent of private briefings but some lesser or greater proportion, that is a matter to discuss. It is not a consideration on which the whole principle of the DPP establishment should be approached or even one which requires any significant emphasis.

Hon Peter Foss: Why do you find the panel so offensive, other than its being a matter of principle?

Hon J.M. BERINSON: It is offensive because it would inevitably be seen, whether it is intended in that way or not, as expressing a view that the Executive - not only the present Executive but any Government of the future - cannot be relied upon to appoint a suitable person to this position. It is inconsistent with our experience in all the fields I have mentioned. It is inconsistent with our approach to the appointment of the Solicitor General, who I do not think was mentioned before but who can reasonably be considered in this same field of judges, the Chief Justice, the Ombudsman, the Commissioner of Police, the Governor and so on. The onus is on anyone proposing to move from the traditional invariable system to a radically different system. I suggest the onus that must be satisfied by the people arguing for that would require them also to argue for a change in the method of selection and appointment of the other senior State officers to whom I have referred. No attempt has been made to do that, and I do not believe anyone will seriously make such an attempt, not even Mr Foss.

Hon Peter Foss: I do not think you were listening to me, because I tried to get the point across that we are concerned that the person may not be reappointed, which might lead him to behave differently if he considered himself beholden to anyone.

Hon J.M. BERINSON: We are talking in circles, because the Bill contemplates life tenure for an appointee and in such a situation no question arises of the independence of the DPP being compromised, even by some forward thinking about future prospects of reappointment. The need for unquestioned independence is acknowledged. Nobody can doubt that is provided by life tenure. There is room to argue that it could be done in other ways, but the way proposed in the amendment listed by Hon Peter Foss is so unacceptable that the Government would prefer to establish the office on the basis of life tenure. It has taken the Temby example into account in arriving at the pattern of the legislation. With due respect, we have heard two opposing views which are incompatible. This is a Government proposition to appoint the DPP. It is proposing that it should be done on the basis applying in all other jurisdictions that can be referred to, with the exception of those which allow for a finite period of appointment. The Government does not support a finite period because of its concern for an unquestioned acceptance of the independence of the DPP that it wants. That is the clash between us and, as I said before, I cannot see how it will be resolved by referring this Bill to a Standing Committee. The only effect of that will be to add a further three weeks to the eight or nine months that have passed so far.

Hon Eric Charlton indicated in his comments that he also supported in principle the appointment of a DPP, and that is a welcome indication from him and the National Party.

Unfortunately, he went on also to favour the use of a selection panel, which is a less welcome indication of the views of his party. I hope that he will not be as inflexible on this question as Hon Peter Foss has indicated himself to be. Hon Eric Charlton approached this question, if I understood him correctly, on the need to assure the community that they could have confidence in the independence of the person appointed. In this respect, I welcomed one passage in particular in the contribution by Mr Foss to the second reading debate; that was his reference to the independence of the existing Crown prosecuting system. Hon Peter Foss acknowledged the fact that the independence of the Crown Prosecutor was advanced significantly by Hon Ian Medcalf, the previous Attorney General. He was also prepared to acknowledge that that level of independence has not only been maintained but also enhanced during my term of office. I believe that is a fair comment. I am in an even better position than Hon Peter Foss to comment on this matter because I happen to know the degree of independence of our prosecuting authorities in a way which other members would have to learn of by inquiry in various ways.

As I have said on a number of occasions previously, the Crown Prosecutor and the whole prosecuting system is treated in a way which provides that body of professionals with undoubted independence at all levels of the decision making system. That is not only advancing an aspect of their operations which I regard as important from my point of view; importantly, it also recognises that we ensure that our prosecutors have the level of respect which they undoubtedly deserve. They are not under instruction and have never been under instruction in respect of any case or in any situation where I have made an independent judgment. The only case, which is constantly referred to, is the *nolle prosequi* in the J.J. O'Connor case. That was done explicitly in the performance of the duties and powers which I hold as Attorney General and was immediately and publicly announced. That in no way impinges on the independence of the officers to whom I have referred. In recent times, even in respect of decisions on *nolle prosequis*, I have increased even further the independence of judgment applying to senior levels of our Crown legal officers. I can assure Hon Eric Charlton, therefore, that if his concern is to ensure the independence of the prosecution system in this State he cannot only be assured by the nature of the office which is proposed by this legislation but also can be fortified in that confidence by the fact that our present prosecution system, even without the statutory requirements which we propose in the DPP Bill, is itself entirely independent. I assert that no-one can doubt that because it is a fact.

I again welcome the fact that Hon Peter Foss in his earlier comments was prepared to acknowledge those developments during the time that Hon Ian Medcalf and I have been in this office. I am stating the obvious when I repeat that there are important arguments in favour of the establishment of a DPP office at this stage of the State's development, even if these were less compelling in earlier years when the State was smaller and the operations of our law enforcement system were not as extensive or comprehensive as they now are. I do not need to expand on that matter because everybody seems to agree.

We have come down to this narrow difference and I urge the House not to let some view on that limited and isolated question of method of appointment distract us, or delay us for that matter, from proceeding with the main question in hand. I commend the Bill to the House and, although it may go down as another of my regular futile gestures, I again ask the House to agree that this is a Bill which for the special considerations I have outlined is appropriate to proceed to further consideration by a Committee of the Whole of the House rather than by reference to the Standing Committee on Legislation. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Referral to Standing Committee on Legislation

HON DERRICK TOMLINSON (East Metropolitan) [8.08 pm]: I move -

That this Bill be referred to the Standing Committee on Legislation for consideration and report by 23 August.

HON J.M. BERINSON (North Metropolitan - Attorney General) [8.09 pm]: I move an amendment -

That the words "23 August" be changed to "11 July".

Although I accept the inevitability of the numbers in this House and had not intended to do more than indicate my opposition to a committee referral in a nominal way, I am astounded that the proposition, which in respect of previous Bills has looked to give the committee three weeks to consider legislation, proposes a period of nine weeks.

Hon Peter Foss: We are not sitting on 11 July.

Hon J.M. BERINSON: If the committee brings down a report, we can arrange to sit on 11 July. This is all the more the case in respect of this Bill, for the reasons I have given. It is not only that the Bill itself, in absolutely identical terms, has already been before the House for eight or nine months but also that the proposed amendments have been before the House for the best part of eight or nine months. It is now proposed to delay the Bill for another nine weeks for the purpose of consideration by a Standing Committee. It is true that the House is not currently scheduled to meet on 11 July, but I repeat that the importance of this measure is of an order that would justify our returning to receive that report and to complete our consideration of the Bill.

I am also horrified at the prospect that the Opposition might now be looking to use the Standing Committee system, which is supposed to expedite the work of this House, in a way that would absolutely paralyse it. In addition to the Bills already on our agenda, there are about 35 Bills in the Legislative Assembly. Some of those will go through on the nod, as did a couple last night, when we dealt with issues which, by any stretch of the imagination, should not require more than a few minutes' discussion; but inevitably in that list of 35 Bills will be a core number of Bills which, on the standards that have so far been established, will be regarded by members of this House as appropriate to go to the Standing Committee on Legislation. We are now being told that in respect of all such Bills, and no matter how important or urgent they might be, we should not really consider any further processing of them beyond the second reading stage before the Budget session at the end of the year.

What exactly is Mr Tomlinson trying to tell us with an amendment like this? Is he trying to tell us that the whole of the discussion which went into the formation of this Standing Committee system was really meaningless; that all the arguments about the Standing Committee system expediting our work were completely wrong and unworkable? That is the effect of the present motion. Were we to go along with this motion, and presumably with the motion on the next Bill that comes to us from the Assembly, that it should be left to 23 November, this House would not be doing its job. We have a job to do. This Council has managed to do its job for 90 years without a Standing Committee on Legislation. That is not an argument against the Standing Committee on Legislation because, as members know, the Government supported its establishment, but it is an argument against the abuse of that Standing Committee and against the abuse of the whole Standing Committee system.

Hon E.J. Charlton: Do not get carried away with too many of those sorts of things. You have set the sitting dates.

The PRESIDENT: Order!

Hon J.M. BERINSON: Members of this House either have to be serious about their professed reasons for supporting the establishment of a Standing Committee system or they have to acknowledge that they are putting that system on the path to self-destruction. The Parliament cannot be paralysed by committees. That is the very opposite of the function which the committee system is supposed to perform, and it is the very opposite of what the members of the Opposition, who moved for this committee system, and who gained the Government's support for the committee system, were putting forward. I could not believe my ears when I heard this motion moved with a suggested date of 23 August. I ask the member to reconsider his position and to accept the amendment which I have moved. If he will not do that, I ask other members to do it because the alternative to that is entry on to a path which will absolutely abort all the aims and hopes that have been held out for the committees which we have established.

HON PETER FOSS (East Metropolitan) [8.16 pm]: I would like to deal with the hypocrisy of the Attorney General.

Withdrawal of Remark

Hon J.M. BERINSON: I have never done this before, despite the loose and unwarranted use of language by members on the other side. Nonetheless, that statement is unparliamentary and should be withdrawn.

The PRESIDENT: Order! The member should withdraw that statement.

Hon PETER FOSS: I withdraw.

Debate Resumed

Hon PETER FOSS: One of the matters that was not dealt with by the Attorney General in his reply was an important matter with which he should have dealt; that is, the fact that I raised with him that when we first put the amendments on the Notice Paper -

The PRESIDENT: Order! When I call order, the member will come to order and sit down. We are talking not about the motion to send this Bill to the committee but about altering the date from 23 August to 11 July. That is the scope within which the member should speak.

Hon PETER FOSS: Mr President, that is what I was directing my attention to. The point raised by the Attorney General in justifying the change from 23 August to 11 July was that this Bill has been before the House for some time. One of the reasons that the Bill has not proceeded prior to this time to a third reading is the action of the Attorney General. I mentioned during my speech that when we placed on the Notice Paper our proposed amendments to this Bill, the Attorney General proceeded to put the Bill to the bottom of the Notice Paper.

Hon J.M. Berinson: After we had debated it for at least eight hours.

Hon PETER FOSS: I raised this matter with the Attorney General, and asked him to bring on the matter. I tried to see if we could solve the problems, but he left it at the bottom of the Notice Paper and did not bring it on. This Bill could have proceeded through the Committee stage and to the third reading were it not for the fact that as soon as the Attorney General found out that we were going to amend the Bill, he decided, in his usual fashion, to put it off. He has done that with much of the legislation; when we have proposed amendments which have been a little bit difficult, down to the bottom of the Notice Paper they have gone. If the Attorney General is concerned that this legislation has not passed through this House by now, he has only himself to blame. For that reason, he has no possible reason for complaint. The reason we did not move 11 July or some other date is that if the Attorney General -

Several members interjected.

The PRESIDENT: Order!

Hon PETER FOSS: The Attorney General has criticised us for not taking an earlier date, but if the Attorney General checked his diary he would find the dates his Government has set for the meetings of this House do not include 11 July.

Hon J.M. Berinson: I am offering to have it.

Hon PETER FOSS: The date suggested is in the first week after the House resumes. It was the next week after the date suggested.

Hon J.M. Berinson: That does not mean that the report should not be ready.

Hon PETER FOSS: The Attorney General can bring this House back. He may have that luxury, but we in the Opposition do not. If we wish to make a report to this House, we cannot bring it back. All we can do is to work on the date which the Government has set for this House to come back.

Several members interjected.

Hon PETER FOSS: I would be quite happy were the Standing Committee on Legislation to finish its report and notify the Attorney General. If he wanted to bring the House back to present that report, I am sure he would do so.

Hon J.M. Berinson: Precisely.

Hon PETER FOSS: What we should do, however, is set the next day that we know the House will meet.

Hon J.M. Berinson: Having established three weeks -

Several members interjected.

The PRESIDENT: Order! The Attorney General will come to order.

Hon PETER FOSS: We do not have the control which the Attorney General has. He made such a violent attack upon members of the Opposition when we picked a date -

Hon John Halden: Poor things!

Hon PETER FOSS: How did we know that the Attorney General would possibly bring the House back at an earlier date? Were we supposed to read his mind? Obviously, as well as meeting, this committee should hold seances so that we can predict what the Attorney General will suggest, because we obviously cannot rely on what he publicly notifies to this House. He may decide to sit on some other dates we do not know about. If there is to be any firm and reasonable debate in this House, we must pick the dates on which the Government tells us we will be meeting, and it is perfectly reasonable in those circumstances to take the Government at its word. If the Government wants to shuffle the cards and leave us to predict those dates, the business of this House may very well be extremely disturbed. We rely on the Government to set the dates, and we will fix the report to a date when this House can meet.

Hon J.M. Berinson: Why not have it ready during the recess?

Hon PETER FOSS: The appropriate way is to say that the report will be ready on or before 23 August, which is in the week we are due to come back. I would be happy to request the Legislation Committee to advise the Attorney General when the report is complete. If he wishes to take some other action in the meantime, he may do so by all means, but we will not be able to do anything about that.

Several members interjected.

The PRESIDENT: Order! I have been very patient with members who are interjecting, but that patience has now worn very thin. The next member who interjects will be on the receiving end firstly of Standing Order No 64, followed very smartly by Standing Order No 106.

Hon PETER FOSS: I think we have indicated the reasonableness of the Opposition and our reliance on the Government. If the Attorney General has some sensible suggestions to make, I am sure we will listen to him, but our first move is to take him at his word and assume that the dates he has set are the appropriate ones. If he wishes to suggest other dates, perhaps a polite approach to the Opposition to suggest some form of resolution would be acceptable, but to attack the Opposition and the committee system is unreasonable. Every time a suggestion is made that any legislation be referred to the committee, he has taken the opportunity to attack the system. It is irresponsible of him to do so. He supported the concept in the first place and he should be showing a little more support now.

HON GARRY KELLY (South Metropolitan) [8.25 pm]: As Chairman of the Standing Committee on Legislation, irrespective of whether the committee reports on 11 July or 23 August, I am reminded of the Committee on Public Safety which was the organ of State power in revolutionary France.

Hon E.J. Charlton: We might need a revolution here.

Hon GARRY KELLY: That committee met in continuous session to deal with its business. I suggest that the attitude of the Opposition is in danger of causing the Legislation Committee to meet in continuous session to deal with the Committee stages of all the Bills referred to it. So far the committee has had three Bills referred to it. It is operating on interim guidelines. It has not even had time to sit down and contemplate its navel.

Hon George Cash: That has not yet been referred to the committee.

Hon GARRY KELLY: The Standing Committee on Legislation was set up to consider Bills. The guidelines were adopted on an interim basis on Monday, and although Hon Peter Foss said that Monday's meeting was a great success, that is not a view which is universally held. As chairman I came away from the meeting with many concerns which will have to be ironed out if that committee is to function efficiently.

When the Standing Committee on Legislation was established, on a motion by Hon Bob Pike, it was to expedite the business of the House and not to slow it down. The committee consists of five members. It is a bit much to expect a committee of that size to deal with every Bill which comes into this House. Members opposite have to realise that if the House refers every Bill which comes before it to this committee, the committee firstly does not have the resources, and secondly it is not big enough physically to deal with that much work. If the committee system is to work, as the Attorney General says, it must have the Government's support. The Standing Committee on Legislation must be given a chance to

work and establish its procedures. It must be given an opportunity to find out what works and what does not.

The House must be selective in referring Bills to this committee. It is the height of stupidity to submit a Bill which has already been through the mill in this place during the last session. The Attorney General, in his closing comments, said that he did not want the Bill delayed because of the narrow difference, which is what it has come down to, in determining the method of appointment of the Director of Public Prosecutions. When the Bill reaches the Legislation Committee, what is the committee to do? As chairman I suggest the committee will go through everything which has already been gone through in the Committee of the Whole; it will go through the same points again. How do we go about appointing the director? I dare say the majority will suggest what the Opposition is suggesting now. Whether that committee reports on 11 July, or 23 August, or in December 1990, we will still have to decide that question in this place.

I suppose I am speaking against the Attorney's amendment. However, I am sure that he would prefer that the Bill not be referred to the committee at all. I ask the Opposition to consider seriously what will be achieved by referring this Bill to the Legislation Committee? The Criminal Law Amendment Bill is currently before the Legislation Committee. On Monday the committee dealt with only 18 clauses in two and a half hours. That is the pace at which the committee is proceeding at present. The Acts Amendment (Contributions to Legal Aid Funding) Bill and the Criminal Code Amendment (Incitement to Racial Hatred) Bill are before the Legislation Committee for consideration and now the Director of Public Prosecutions Bill is to be referred to the committee; where is it going to end? The House must be reasonable. The committee system is a creature of the Opposition's making; I would have thought that it would want to give it a chance to develop the expertise and skills to handle legislation. By throwing every piece of legislation at that committee the Opposition will crush the committee system and, as the Attorney said, kill the Legislation Committee. I cannot see what will be achieved by referring this Bill to the Legislation Committee except to delay the Bill. I thought the Opposition wanted a Director of Public Prosecutions appointed as quickly as possible. I do not accept the comments of Mr Foss that this Bill was being kept on the bottom of the Notice Paper. However, even if those delays have occurred in the past this House should get on with the job, allow the Bill to be passed and allow the Director of Public Prosecutions to be appointed. This House should get on with its job.

HON R.G. PIKE (North Metropolitan) [8.33 pm]: I correct the member when he says that I was the one who had said that this Bill had been put on the bottom of the Notice Paper.

Hon Garry Kelly: Did I say that?

Hon P.H. Lockyer: Yes, the member did say that.

Hon Garry Kelly: I apologise for that.

Hon R.G. PIKE: This House has before it a storm in a teacup. When speaking in a similar debate last night I said I had acquiesced to a request from the Leader of the Government, and the Standing Orders were changed so that Bills be referred after the first reading. Therefore, before the policy had been established I amended it at his request to enable Bills to be referred to the Legislation Committee at the conclusion of a second reading. I do not want to be looking at that, although I am beginning to think that it may be necessary. The motion says, "on or before 23 August". Hon Garry Kelly, who is a member of the Government, is Chairman of the Legislation Committee.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! There is too much audible conversation.

Hon R.G. PIKE: The practical solution is for the chairman to bend his endeavours in regard to this matter. There is nothing to prevent him from presenting a report to the House before that date with the cooperation of the Legislation Committee. I am sure members of that committee will be more than happy to be cooperative even before 11 July. If the committee has the priority that the Chairman of the Legislation Committee has clearly set, members on this side of the House do not object to it.

Hon Garry Kelly: Where do the other Bills fit in?

Hon R.G. PIKE: If the Bill has the priority that the Attorney General has given it and which

Hon Garry Kelly has given it, the practicality will be that the committee will direct its attention to bringing down its findings well before 11 July. I do not see that is a problem. I would be surprised if we found some insuperable objection to it, which seems not to be the case since the matter has been reasonably well ventilated already. Therefore, I see the practicality of the committee system working so it will bring down its report before 11 July.

HON DERRICK TOMLINSON (East Metropolitan) [8.36 pm]: I calculated the date of 23 August on the basis of three sitting weeks. The Attorney General pointed out that there is soon to be a recess and the Bill will be delayed unnecessarily to 23 August. Reference has been made to the fact that the committee will take three weeks to report on legislation and I calculated 23 August on the basis that it would be at the end of the third sitting week. I do not know about my colleagues or members of the Government; however, I am very happy to accept the offer of the Attorney General to recall the House to consider the committee's report at any time.

Hon J.M. Berinson: That was not the offer that was made.

Hon DERRICK TOMLINSON: I thought that was the offer the Attorney General made.

Hon J.M. Berinson: This House has established in the three earlier Bills a timetable of three weeks' consideration, not three sitting weeks, therefore, would not non-sitting weeks be more suitable for the committee and more convenient for its members to expedite consideration?

Hon DERRICK TOMLINSON: That is a reasonable question, Mr Berinson, and I think it has already been answered by Hon Peter Foss in his statement that this House should work on the assumption that Parliament will rise on 5 July. It is not the Opposition's job to guess what the Government may have in mind about changing the date of sittings. If the Attorney General is to change the date of the conclusion of this session to 11 July the Opposition will take that on notice; I am sure the Chairman of the Legislation Committee will take that on notice in establishing the priorities of debate and the discussion of the three Bills and this, the fourth Bill, which have been presented to the committee. The chairman may even establish this Bill as a priority in order that the committee can deal with it and report to the House by that date.

Hon J.M. Berinson: Even without a commencement for a special sitting is the role of the committee not to always expedite its considerations and have its investigations available as early as possible? It cannot possibly mean two and a half months.

Hon George Cash: Of course it does. That is why that was moved.

Hon J.M. Berinson: The Leader of the Opposition is not going to get his motion passed.

The DEPUTY PRESIDENT: Order! I have been fairly lenient in allowing interjections because I thought the amendment would receive consideration. However, I am not prepared to let the crossfire that I have just witnessed continue. I ask Hon Derrick Tomlinson to address his remarks to the Chair.

Hon DERRICK TOMLINSON: I calculated the date of 23 August as the end of three sitting weeks. It is now in the hands of the Chairman of the Legislation Committee to establish priority for consideration of the matters before the committee so this Bill can be discussed early and the decision expedited so that a report can be presented as early as possible. I have no objections to that.

I want to respond to the statement by Hon Garry Kelly when he disagreed with Hon Peter Foss' assessment that the first meeting of the Legislation Committee was a valuable one. I confess that while I considered it a valuable meeting I did not get as much out of the meeting as did Hon Peter Foss. The explanation is quite simple: Hon Peter Foss went into that meeting with considerable knowledge of the matters at hand.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! I direct the attention of members to the Standing Orders as they relate to committee meetings. The Standing Orders clearly state that until a committee's deliberations have been presented to the House they should not be discussed. I have been rather lenient on that point because of the recent formation of the committees, but I think it is time I drew members' attention to the Standing Orders.

Hon DERRICK TOMLINSON: Thank you, Mr Deputy President. I take your point, but I

think it is important to recognise that one of the functions of the Standing Committee procedure is to inform the debate of this House. The advantage of the committee system is that it is a process whereby matters of a contentious nature - and there are three matters of a contentious nature in this Bill, and amendments relating to those three matters are already before the House - can be laid open to consideration by and advice from other people. It can, in fact, inform the debate and it would be hoped that, as a result of the dialogue between the members of the committee and the consideration of evidence that might be presented to the committee by others, and as a result of dialogue between members of the committee and persons who come before it and present information or points of view, the report presented by the committee will inform the debate and perhaps resolve some of the conflict within it. Hence the advantage of referring this Bill to a committee, and the advantage of allowing some time to elapse while consideration goes on, is that we will have a more informed debate as a result of that delay and I would hope the net result would be that we have better legislation.

Hon Peter Foss: Hear, hear!

Hon DERRICK TOMLINSON: While it may be frustrating or irritating for the Government to have these delays in the legislative process, those delays might well prove to be beneficial in the end. There is a simple principle of geomorphology, which is this -

Hon J.M. Berinson: Can you tell us what that is?

Hon DERRICK TOMLINSON: I can tell the House what the simple principle is.

Hon J.M. Berinson: Before you do, can you tell us what geomorphology is?

Hon DERRICK TOMLINSON: The study of the earth.

Hon J.M. Berinson: Mr Cash knew that, but I did not.

Hon DERRICK TOMLINSON: Having given the Attorney General a lesson in vocabulary, the simple principle of geomorphology is that those things which are created fast deteriorate fast; those things which happen quickly decay quickly. I take this into consideration when it comes to choosing between alternatives, and that is all that legislation is - a choice between alternatives. When I choose between alternatives I prefer not to hasten. If I am to hasten I prefer to hasten slowly, because then I will not repent my decision at leisure. That principle should be considered in the legislative processes in this House. The whole process of consideration, the whole process of Parliament -

Hon B.L. Jones: Which is governing the State, which we are not being allowed to do.

Hon DERRICK TOMLINSON: I see; now we are going to have a situation where we do not need the Parliament. All we need is the Executive Government of the State! At last we have had an exposition from the Government benches of exactly what the Government intends to do: "Let us do away with Parliament and the democratic process altogether." I think members on the Government benches might well reconsider what the value of Parliament is.

I repeat my position that 23 August was at the end of three sitting weeks. If at any time before that date the committee completes its deliberations and is prepared to present a report I would be very happy, because the motion I moved was that it report by that date.

HON E.J. CHARLTON (Agricultural) [8.46 pm]: I must remark on the paranoia and frustration shown by Government members whenever a decision is made to send a piece of legislation to the Standing Committee on Legislation. I want to comment on the date that has been put forward in the amendment.

Hon J.M. Berinson: I was resigned to it going to the committee, and I made it clear in my first comment.

Hon E.J. CHARLTON: I know that, and sooner or later we will have to get one thing clear in our minds. We have just started this committee system.

Hon Garry Kelly: Give it a go.

Hon E.J. CHARLTON: Hon Garry Kelly should hold on for just a minute. The first thing members must understand is that these committees are starting from scratch. If this committee had been set up by this House last session, this matter would probably have been sorted out by now. Government members constantly say, "We are the Government and we

are being frustrated all the time", but the mechanism was put in place to set up a committee system and I do not think dates should be set. Those details should be sorted out by the committees. They should deal with the legislation and return it to this House as soon as they can efficiently do so. It should not be up to the House to set the dates if we really want to demonstrate that the committee system is master of its own destiny.

Hon Tom Helm: Are you going to vote against the motion, then?

Hon E.J. CHARLTON: I am trying to get some members of Parliament, who have completely turned off and become totally negative about everything -

Hon Tom Helm: We are not negative like you.

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

Hon E.J. CHARLTON: - to accept or at least acknowledge the fact that the committee system has just begun. I have previously put forward a proposition that a day should be set down for the committees to meet.

I must comment also on the continual interjection about Opposition members working for three hours a day and then going off to their legal practices or their farms. That is totally irresponsible. It is about time some members opposite became a little more serious about this matter. If they want to contribute something they should do something to contribute.

The first thing we should do is to set down a committee day. I have not done anything about moving a formal motion because I was hoping to have an opportunity to talk with the Leader of the House and the Leader of the Liberal Party in this House in order to sort out the most suitable day for everyone concerned so that on that day all of the committees involved in the House could get to work. If we continue this debate about dates we will reach a point where we say all legislation is automatically required to go before a committee unless we decide it should not do so. We must accept that; that is the whole idea of it. It is not because the legislation is wrong or bad, but simply because we are affording an opportunity for people, other than by dealing directly with either the Government of the day or the Opposition organisations, to put forward their own peculiar ideas if they happen to be different from each other.

Hon Tom Helm: Peculiar is right.

Hon E.J. CHARLTON: The union system which the member represents is peculiar to him; something else is peculiar to me.

The PRESIDENT: Order!

Hon E.J. CHARLTON: I keep hearing interjections about something being blocked, or that the Opposition wants to waste time. Over and over again, other people waste time when we attempt to determine a date. Whether the reporting date is determined to be a date in August, the fact is that the committee should determine how quickly legislation is considered. It is not for us to tell a committee how to operate. We have agreed to the formation of the Legislation Committee; but maybe the date which has been suggested for reporting does not allow enough time for the committee to consider the matter. We should make a judgment after the Bill has gone to the committee for consideration as to whether the committee has procrastinated.

If evidence is presented that the committee system is not working - that is that the committee is stalling for time and does not want to make a decision - the Chairman of the Legislation Committee can report to the House that the system has broken down. At that stage we can do something about it. We should not argue about dates or even about having a reporting date at all. If we cannot get on with the matter and accept in principle that the committee will make a decision, and present recommendations to the House, we should not suggest a date on which to report. If that does not work we should do something about the system. We should not make judgments about the Legislation Committee, how it will work, or how quickly it will produce results, and so on. We have not given the committee a chance. We are asking the members of the committee to work hours in excess of current time frames and in excess of their responsibility as members of Parliament. The members of the committee should take these comments on board and get on with the matter.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [8.52 pm]: I

oppose the amendment moved by Hon Joe Berinson. As I understand the original motion moved by Hon Derrick Tomlinson, he wanted the Legislation Committee to report by 23 August; he confirmed that date in his closing comments. In that case, Hon J.M. Berinson - instead of crying crocodile tears and pleading with the House by moving an amendment - could have encouraged the committee to report by a particular date. I would have thought the committee would take his comments on board. This Bill has been before the Parliament for nearly 12 months. No-one is to blame but the Government for the fact that the Bill has not been processed before this time.

Hon J.M. Berinson: That is not true; we have had eight hours of debate.

Hon GEORGE CASH: It is true; Mr Berinson is well aware of that. I am tired of Mr Berinson coming into this place and pleading his case as if he is the only one who has been hurt by an action of the Opposition -

Hon Graham Edwards: That is the second time the member has told the House that he is tired.

Hon GEORGE CASH: Not too tired to deal with you, my friend.

The PRESIDENT: Order!

Hon GEORGE CASH: The crocodile tears so often shed by Mr Berinson do not move this House to support his amendment. Given the comments of the speakers to date, I invite Hon Derrick Tomlinson to consider - subject to the withdrawal by Mr Berinson of his amendment - that all the words after the word "committee" be deleted to enable the Bill to be sent to the Legislation Committee without a date for reporting. The comments of members will obviously be taken into account; Hon Garry Kelly has mentioned that.

The PRESIDENT: Order! I direct the stranger in the gallery that she is not to take notes.

[Interruption from the gallery.]

Hon GEORGE CASH: It may save the time of the House if the mover of the original motion were to consider deleting all words after "committee" subject to Mr Berinson's withdrawing his amendment. That procedure would allow the House to get on with other matters on the Notice Paper; otherwise Mr Berinson will again plead tomorrow that we are not making adequate progress.

Amendment put and negatived.

Debate Resumed

Hon DERRICK TOMLINSON: I seek leave to delete all words after the word "legislation" in the motion.

[Leave granted.]

Motion - as Amended

HON J.M. BERINSON (North Metropolitan - Attorney General) [8.57 pm]: I take it from the move by Hon Derrick Tomlinson and the support of that amendment by the House that the issues which were concerning me in moving my own amendment have been taken on board seriously, and that there is a general understanding on all sides - including by Mr Tomlinson - that it is in the interests of us all that committee consideration of any of these Bills should be completed as quickly as possible. I have said more than once that the system is so new that we have to expect to go through a learning curve. Perhaps tonight's discussion is part of that process.

I leave it to the good faith of the members of the Legislation Committee to do what they can to ensure the considerations of the House are not frustrated or obstructed. The move that has now been made is an encouragement to expect that.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [8.59 pm]: I wish to speak on one small matter which has already been raised by Hon Eric Charlton; that is, the need for the Leader of the House, Hon Eric Charlton, and myself to sit down informally and discuss the situation where a day can be set aside for committee work. The only way the committee system will progress in the manner intended by Parliament is for particular times to be set aside for committees to meet. I put this proposal to Hon Joe Berinson yesterday and he said to me that he did not want to consider it until the next session

of Parliament. I use this opportunity to place on the record my desire to meet to discuss the possibility of arranging a specific day on which the committee can sit, and to urge the Leader of the House to convene such a meeting.

Hon J.M. Berinson: I will do so tomorrow.

Question put and passed.

ACTS AMENDMENT (PERTH MARKET AUTHORITY) BILL

Second Reading

Debate resumed from 6 June.

HON P.H. LOCKYER (Mining and Pastoral) [9.01 pm]: I draw to the House's attention a Select Committee which was established in 1983 and which comprised Hon Graham Edwards - who incidentally is the Minister handling the Bill tonight - Hon Sam Piantadosi, Hon Graham MacKinnon - who is no longer a member of this House - and me, and I had the privilege of chairing that committee. The committee carried out important work which resulted in the Bill before the House tonight. As members would be aware, the old Metropolitan Markets covered some 16 acres in West Perth, and if one drives past the site at the moment it can be seen that the area is becoming a vacant piece of land. On 19 June 1929 those markets were opened and the site served its purpose well during the following years. The Select Committee established by this House examined markets right across Australia, and particularly the newer markets that had been built in Melbourne, Sydney and Brisbane. As a result of those considerations my colleagues and I were able to bring down a unanimous report, and I am pleased to say that many of its recommendations have been implemented by the Government almost to the letter.

The committee foresaw the enormous expense involved in shifting from West Perth to Canning Vale. Those who listen to the news in the morning would know that a two and a half per cent levy has been imposed on the vendors owing to the blow-out in the costs of establishing the new markets. The Government has a role through the Metropolitan Market Trust, as it is known at the moment, to help with this problem. It is history that this blow-out has occurred and that the vendors who decided to shift their business to Canning Vale have faced enormous expenses; in one case a vendor who in the previous financial year made a profit of \$75 000 has lost \$155 000 this financial year. So, this move was not a cheap exercise. However, the trust has done a fantastic job in organising the shift and the new facilities. Those honourable members who have not had the opportunity to go out to the new site should do so because it is quite a leader in its field - as the committee expected it would be. The committee considered the mistakes and problems found in other States and these were overcome with the edifice in Canning Vale. The facilities have been well received by growers throughout the State, and I hope that this site will remain for much longer than did its predecessor.

As was indicated in the second reading speech, the original markets which opened in 1872 followed the practice of establishing a market under a public building, which has been common in Europe for 300 to 500 years. The Perth markets have always been an important place, not just for the vendors but for the buyers and others. It is interesting to discover that in 1924 a Select Committee of the Parliament was established to inquire into the improved sale of produce. Some 50 years later it was necessary to establish another Select Committee to inquire into the future of this industry.

Hon E.J. Charlton: Were you a member of the first Select Committee?

Hon P.H. LOCKYER: Regrettably, I was not; however, I was proud to be on the second one, Mr Charlton. I thought that all members of the committee carried out an important duty very well. The Minister for Police gained his early ministerial training on committees such as this, and like all members of that committee he contributed to making some tough recommendations to the Government. It is pleasing to see that the Government has adopted them.

This Bill will tidy up a few aspects of the new market, and I agree with most of the provisions. Some points raised in the second reading speech require clarification, and I will raise these with the Minister during the Committee stage. The second reading speech

referred to the activities of the market and stated that they should be part of the Australian, if not the world, scene. This is a reference to the title of the Perth Metropolitan Market Trust, which no longer refers to its actual function; the Bill will change the name to the Perth Market Authority. This is in line with the normal practice of the body taking care of such operations being referred to as an authority. I use the analogy of the Fremantle Port Authority which is doing comparable work. I also note that the Canning Vale markets will be known as Market City. I agree with that.

Hon Graham Edwards: Are you saying that you agree with the word "authority"?

Hon P.H. LOCKYER: I agree with that. I also agree with the decision taken by the trust that the site be called Market City.

Hon Graham Edwards: I wanted to clarify that point.

Hon P.H. LOCKYER: This is preferable to calling the site the Canning Vale Markets. It is important that the ABC, along with other media outlets, is informed of this change because the ABC reports the market price of produce across the State. This kind of thing should be known because it is for the benefit of all concerned.

The decision to hold weekend market activities and trade fairs on the site is also something I endorse. Obviously, the facilities will not be used on some parts of the weekend and the new authority should take advantage of the facilities by employing other methods of utilisation; this will make a dollar for the authority and also promote the produce. This is something that the House should support. It will be necessary to pass on local government rates to those people who are not exempt - that is a fact of life. Those costs are charged, and the Government should be aware of this, and the store holders operating at Market City are having to battle to survive. It has not been easy because many costs have been imposed which the vendors were not aware of. Although the markets will be enormously successful, it will take time before people will substantially overcome the financial constraints forced on them by the shift from the old West Perth site to the new Market City.

It has been more than just a substantial cost to many operators. Like every other small business, the operators have found that they are in tough times and those tough times have hit that industry pretty hard. They operate on credit facilities and sometimes the wholesaler is the last to get paid. The Minister should take into consideration the fact that people are having a pretty tough time. The operators at Market City have to be constantly monitored by the Department of Agriculture or the marketing authority to ensure that their points of view are being heard. I do not want to see the situation get out of hand. Reports this morning said that things have blown out of all proportion.

I am concerned about that part of the Bill that refers to forklifts. In his second reading speech, the Minister said -

These modern beasts of burden can be moved rapidly -

It sounds like Tom Helm -

- and with little noise. If driven without care they can create a major hazard -

Now it sounds like Tom Butler -

- not only to people but also to property.

The Minister continued -

The trust has been under considerable pressure from the Department of Occupational Health, Safety and Welfare to take steps to prevent the irresponsible misuse of forklifts and potential danger to other users of the market. The trust's concern is that the "roads" within the site are considered to be roads under the Road Traffic Act. Vehicles using these roads therefore come under police jurisdiction. However, it is a fact that the police only rarely visit the market site and certainly do not see the market's internal traffic control as their role. There is no available power at all on the leased property.

I concede that point. Those who have been to the new Market City and certainly those who have visited the West Perth site take their lives in their hands from the forklift drivers. A slight miscalculation by any member could easily -

Hon N.F. Moore: Lead to a by-election!

Hon P.H. LOCKYER: Yes. The problem has been brought to the attention of the trust. It is the Government's intention to provide for the registration of forklifts "by way of a large sign clearly visible at a distance". That will enable market inspectors "to be able to identify forklifts that are being driven dangerously on the site and to take action against offending drivers". The Minister continued -

It is intended that the proposed registration schemes will relieve the Police Department of the need to monitor forklift operations on the site, without removing the opportunity for this if it is thought to be necessary.

To give effect to the trust's proposed power will require it to prepare and issue suitable vehicle identification plates and to sponsor driver training courses.

It will be necessary for drivers to attend a course and obtain a set of plates from the trust before an operating licence will be issued.

The following comment by the Minister is one about which we will need an explanation. He said -

The trust will charge for these services at cost but I can now advise this House that it is not intended to impose an annual licence fee on forklift drivers.

That was a sticking point in the other place. Some members objected to an annual licence fee. The Minister for Agriculture, in his wisdom, chose to delete that from the Bill. The problem is that the cost will be passed on to the operators of the forklifts and when members remember that some operators have five or six forklifts, they will appreciate that it will become very expensive for them to train five or six drivers. In the end, the costs will be passed on to mum and dad who buy their fruit and vegetables from the shop and, as I said, these people are having a pretty tough time. I warn the Government about imposing any unnecessary extra charges because I do not think the public can handle them.

Hon Graham Edwards: But you recognise, I am sure, that the amendment that will be introduced in the Committee stage moves a fair way from the original proposal that was the cause of so much concern in the other place.

Hon P.H. LOCKYER: I concede that. However, the Minister has not spelt out what sort of costs will be levied on the owner of those forklifts. The costs will fall back on to the owner of the forklifts because the driver will not pay for his own course; the charges will be levied against the operators. While the trust says it will charge for the services at cost, the Minister will need to explain what sort of costs will be passed on and we will need to look carefully at that in the Committee stage because I am concerned to see that those extra costs are not handed on to the operator or to mum and dad who buy their fruit and vegetables. They have enough to cope with without having more costs handed on to them.

I recognise there is a problem, especially about the forklifts operating in the more open spaces of the new Market City. It was different at the West Perth site because that site was more restricted and they could not drive the forklifts like Jack Brabham as they can at the new market site. It is open slather there. The drivers will not have any trouble getting their licences because they drive with enormous skill. However, there has to be some control. I recognise that no well-meaning policeman could spend every hour of every day at the market site apprehending offenders. The Police Force has better things to do, such as preventing Mr Charlton from giving members of Parliament a bad name on the open road.

This Bill has several consequential clauses.

Hon E.J. Charlton: There will be more consequences in a minute if you keep that up.

Hon P.H. LOCKYER: A number of sections of the Act are being amended by this Bill. One amendment relates to a change of name from the Metropolitan Market Trust to the Perth Market Authority. The Minister said in his speech -

The corporate powers of the trust have also been carried forward to the authority, as has reference to the trust in other written laws, notices and other documents in existence.

All in all, it is a nuts and bolts Bill brought to the House to tidy up some sections of the Act.

As I said at the commencement of my remarks, I commend the Metropolitan Market Trust because it has been tough not only for the vendors who chose to shift their businesses to that site, but also for the trust. It has been inundated with problems, from the infinitesimally small problem to the massively large problem. It has dealt with such problems as trucks coming off the ring road into the site. It is a much bigger operation than the previous one and includes businesses such as shops and taverns. It is a different ball game for the trust. The change in location has not been without teething problems and the people involved are the first to admit that. The Select Committee saw a range of operations in the Eastern States. I am sure the Minister will agree that the most impressive operation was in Brisbane; it was a slick, well controlled operation.

Hon Graham Edwards: I thought the one in Sydney had some good innovations. I say that tongue in cheek because I am sure the member will remember it.

Hon P.H. LOCKYER: Ultimately, the decision to move came down to costing. The costing blow-out is reflected in people experiencing tough times at the new site. However, I strongly believe - and it was the view of the committee at that time - that the markets had to shift from the old West Perth site to Canning Vale with a view to looking at the industry as a whole over the next 200 to 300 years. It is a great set up. I look forward to the Minister's replying to some of the points I have mentioned. However, I will be more interested to reach the Committee stage where we can carefully examine some of the finer items, such as training programs and what the authority considers would be fair costs to be passed onto the vendors.

Adjournment of Debate

HON MURRAY MONTGOMERY (South West) [9.24 pm]: I move -

That the debate be adjourned.

Question put and a division taken with the following result -

Ayes (2)

Hon E.J. Charlton

Hon Murray Montgomery
(Teller)

Noes (24)

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

Hon John Halden
Hon Tom Helm
Hon Barry House
Hon B.L. Jones
Hon Garry Kelly
Hon P.H. Lockyer
Hon Margaret McAleer
Hon N.F. Moore
Hon Mark Nevill

Hon R.G. Pike
Hon Tom Stephens
Hon Bob Thomas
Hon Derrick Tomlinson
Hon D.J. Wordsworth
Hon Fred McKenzie
(Teller)

Pairs

Hon J.N. Caldwell
Hon W.N. Stretch
Hon Muriel Patterson

Hon Kay Hallahan
Hon Doug Wenn
Hon Sam Piantadosi

Question thus negatived.

Debate Resumed

HON MURRAY MONTGOMERY (South West) [9.27 pm]: I do not propose to take much of the time of the House to debate this Bill.

Hon John Halden: A minute ago you didn't want to take any of our time at all.

Hon MURRAY MONTGOMERY: I will take up some time. The National Party heartily endorses Hon Phil Lockyer's comments. He spoke of many things that we have seen become reality. I agree with him that the complex at Canning Vale is something of which the trust should be proud. Teething problems are experienced with the setting up of ventures in new areas. However, the proponents need to be congratulated.

I would like to reflect on some of the problems that face the stall holders in relation to costs. They have only two ways of recouping those costs, which is by either passing them on to the retail sector of the industry or passing them back, through higher charges on produce, to the growers. That is what has happened in that area. It has caused a great deal of pain to producers and obviously the stall holders and vendors are also suffering. The first markets were established in the centre of Perth for about 60 years before they moved to West Perth, and the West Perth markets operated for another 60 years. However, I hope this new complex will last for longer than 60 years. As a result of the rapid expansion of Perth, a great deal of pressure will be placed on the markets. As Hon Phil Lockyer said, it is hoped that the markets will be there for a few hundred years, and that the area allowed for expansion will be adequate for future needs.

One must also consider where the produce will be grown. The urbanisation of Perth has certainly swallowed up much of the land used for horticulture in the past. It is not necessary to look very far for land that has been taken up by housing; I refer to suburbs such as Osborne Park and Spearwood which have been developed as the result of the thrust for residential land for the growing population of Perth.

Although I agree with the comments made by Hon Phil Lockyer, we must look very closely at the forklift situation and, for that matter, at other areas which may need policing in the new markets. It is a large expanse with a great many roadways, and the potential exists for many dangerous situations. I hope that with the help of the Government these matters will be taken into account, and that any problems which arise in the future will be nipped in the bud. With those few words I indicate the National Party's support for the Bill.

HON W.N. STRETCH (South West) [9.34 pm]: I wish to speak briefly in this debate, mainly on a couple of committee-type items which I raise at this stage because this is not a Bill which lends itself to discussion in the Committee stage, since most of the charges to be imposed will be set by regulation. Therefore, it seems more appropriate to mention them at this stage.

In the past couple of days we have heard members talking about the history of this State, and I bring to the attention of the Minister that Western Australia was settled 102 years before the markets opened and not 100 years ago. Members will recall that Albany was settled in 1827 whereas Perth was settled in 1829. My good friend and colleague, Mr Leon Watt, would not like that to go unmentioned in this Parliament. I understand that a Major Lockyer settled Albany and it is particularly appropriate to bring that to the attention of the House since my colleague of the same name has handled this Bill on behalf of the Opposition so ably. Major Lockyer was a fine officer and gentleman who arrived from the Sydney Cove settlement to deal with the French. The Russians had also been around at the time, and it is amazing how history repeats itself because one never knows when that problem could arise again. I am sure there will be a long string of suitable Lockyers around for a long time to answer the call!

I share many of the views expressed by Hon Philip Lockyer. The Canning Vale complex is a superb market set-up. I have visited it on a couple of occasions and have the greatest admiration for the technological developments and design incorporated in the building. It is a functional building which is architecturally attractive, although bright red is not my favourite colour for a building. It is a notable achievement by the trust and the people involved, and I congratulate them.

Concern has been expressed about the escalating cost of that relocation and that concern was voiced when the earlier legislation relating to the West Perth site passed through this House. I hope the Government will give real financial support to the new complex, if necessary, and will ensure that the costs are not passed on to consumers, housewives and families. If the Government must save money in that area, it would be far more appropriate to get rid of some of the regulatory officers who look at the value of goods in store. The Government could cut down its expenditure in that area which gives Mr Gear such pleasure and instead spend money helping people to settle in that complex. It is a wonderful venue and it will be a wonderful facility for the city of Perth for a long time to come. We do not want it to run into financial trouble so early in its life.

I am concerned mostly about the vexed question of forklifts. Enough concern exists within the community to warrant spending some time on these problems. If I foreshadow my concerns now, it may be easier for the Minister to respond to them. I understand the forklift

machines will continue to be licensed and identified, and the drivers will be trained, presumably at their own cost. A registration fee will be payable for drivers, and I presume they will be given some written indication of their qualification. The point has been raised that large plates must be fitted to the machines as a form of identification. Will the driver be linked to the machine he drives to enable him to be identified? It should be borne in mind that a number of drivers may use the same machine during the day, and it will not be much use taking the number of a machine with the expectation that that will assist in identifying the driver who has committed an offence. That could create a problem and it should be addressed.

I understand it is not intended to impose an annual licence fee on the forklift drivers. That should be not just an expressed intention by the Minister; he should affirm that no annual charge will be levied on the driver. These things have a habit of escalating with time and sometimes, although it is not originally intended to impose certain charges, if the financial situation falls apart those charges are subsequently levied. I ask the Minister to make a firm commitment that no annual licence fee will be charged. Those are my major concerns.

The other question needing clarification relates to whether an annual fee will be charged for the identification plates and licensing of the forklift. I anticipate that it will be but I would like a firm indication from the Government. Will the machine be licensed annually? It is assumed that forklift drivers will not be, but we seek clarification with regard to the machines. Those matters were not spelled out in the Bill in the clause under which these regulations will be imposed. That is why I raise these matters at this stage. Perhaps the Minister will answer my questions when he responds shortly, or during the Committee stage of the Bill. I think the whole question of who is responsible for orderly traffic movement is an important one and I indicate my support for these moves and for the changes recommended.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [9.40 pm]: I join with my colleagues in supporting the general thrust of this Bill. I will deal particularly with the question of forklifts, which was raised in part by previous speakers. The question I wish the Minister to address relates to the legal liability for accidents which occur on roads not designated as public roads where registration under the Road Traffic Act may not cover a vehicle. I noted that in his second reading speech the Minister talked about the market authority registering forklifts or providing for their registration. I ask the Minister to clarify just what benefits will flow to owners or drivers of forklifts as a result of paying a registration fee and what responsibility will be imposed on the authority once it has registered forklifts and accepted the money for those registrations.

I draw to the attention of the House the fact that a Bill came before the Parliament last year which related to third party insurance of motor vehicles when used off-road. A number of legal ramifications arose in relation to that legislation. I understand that the same, or similar, legislation will be introduced into this place in the near future. Again, that deals with the legal liabilities of motor vehicles when used off-road. The question of registration is clearly one on which all members who have spoken need to be advised. I trust that the Minister will provide that advice in his response.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [9.43 pm]: I thank members opposite for their contributions to the debate, which takes me back to the time when Hon Philip Lockyer, Hon Graham MacKinnon, Hon Sam Piantadosi and I, under the direction of Hon Philip Lockyer, comprised a Select Committee which looked into the growing, distribution, marketing and so on of fruit and vegetables in this State. It was during that time that I gained a good appreciation of the market system and of the need for new markets.

As Hon Philip Lockyer said, we took that opportunity to visit the Melbourne, Sydney and Brisbane markets. I think we were fortunate to be able to learn much about what was lacking and what was good at those markets. For that reason, the markets in this State will be in use for many years to come. Of course, one can never predict with entire accuracy what technological changes will happen in 60 years, but I am brave enough to say that I do not believe we will see as much technological advancement during the life of the new markets in the next 60 years or so that we saw in the life of the old markets. I know that is a bold statement, but I guess what I am saying is that as much as could be foreseen and planned for

has been anticipated in the new markets and as much as could be taken into account was taken into account in their planning.

The matter of forklifts seems to be an area of major concern. I, too, wish to be associated with the remarks congratulating the trust on the job it did in planning for and overseeing the shift to Canning Vale. While on the Select Committee to which I referred we gained a good appreciation of the ability of the people charged with that planning. I concur with every member who indicated that in his view the committee did a good job.

One of the things which concerned me when I went to the old markets was the speed and manoeuvrability of the forklifts used coupled with the fact that they were silent, which in my view created a danger, particularly when one considered the hustle and bustle connected with markets and the fact that in the early hours of the morning people are often not as wide awake as they are later in the day. I think that was one of the reasons for the concentration on the need for appropriate training and safety measures to be adopted in the operation and use of forklifts. We need to remember that these things are done for no purpose other than to ensure the safety of the people working in and around or visiting the markets. That is an important goal.

I turn now to some of the specific points raised. The plate fee referred to relates to the cost of producing the plates, which is estimated at \$20 to \$25 a set. That will be a one-off charge. The training course will be done largely by outside experts at their charge. I do not have an accurate figure, but I understand that the cost per person for that training will not exceed \$100. I believe that compares favourably with Brisbane's cost, where the markets charge \$180 per year for each forklift, which is not a one-off fee. I understand that the driver's licence will be linked to those forklifts the driver is licensed to drive, but the format for that is yet to be finalised. Perhaps we can go into that in more detail during the Committee stage of the Bill.

Drivers will not have to pay a licence fee. I think that was spelt out in my second reading explanation. I am advised that no responsibility will be taken by the trust for liability. The licence is really an authority to use a vehicle on the site leased by each agent. The benefit which Hon George Cash asked about can really be seen in two ways. The first is the autonomy that will be gained by having the licensing system which this Bill provides; the second is the flow on of safety that will be provided by the on-site policing and control of the use of the forklifts. I will be happy to go into those matters in more detail during the Committee stage.

Hon Bill Stretch mentioned the fact that we are a year out. That is probably due to the fact that the Bill has taken a fair amount of time to get to this House, and it is something that should have been adjusted during the second reading stage. Hon Murray Montgomery drew to the attention of the House the need for us to not lose sight of where market produce will be grown in the future. That was considered during the period leading up to the choice of the site for the market. I am from an electorate in the northern suburbs, and I was very keen to see the market go into the northern suburbs, but the local growers and local grower organisations were unanimous in their support for the site that has been chosen at Canning Vale.

I support the name of "Market City" and the use of the word "authority". One of the most important things that was driven home to the committee, which Hon Phil Lockyer and I mentioned earlier, was the necessity for us to be able to market our produce and to be able to identify where it comes from, particularly when we look at trying to promote our produce interstate and overseas. The use and promotion of the name Market City, coupled with that of Perth, will cover that need.

I thank members for their indication of support for this Bill.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Graham Edwards (Minister for Police) in charge of the Bill.

Clauses 1 to 7 put and passed.

Clause 8: Section 13 amended -

Hon P.H. LOCKYER: I take it from the Minister's response during the second reading debate that the identification plate of the name of the company - for example, Mercers - will be attached to the forklift or forklifts owned by Mercers, so it will be a one-off cost of \$20 or \$25?

Hon Graham Edwards: Yes.

Hon P.H. LOCKYER: The Minister said that the cost of the training course will be around \$100.

Hon Graham Edwards: I said up to \$100. It is not envisaged that it will be over \$100, and it may be much less.

Hon P.H. LOCKYER: That is for each driver who will drive those forklifts?

Hon Graham Edwards: Yes.

Hon P.H. LOCKYER: I am using Mercers as an example because that is a name we all know, but if Mercers had 10 people who drove forklifts, it would have to pay \$1000 to have those people duly licensed and trained.

Hon Graham Edwards: Using your figure of \$100, yes.

Hon P.H. LOCKYER: That is the figure the Minister gave us. A number of companies operate more than one forklift, and it is normal that the majority of their staff members are able to drive those machines, so it could well be that the costs will be substantial. Is there not a way that the licensing and training of those people can be done in a bulk manner? I take it that outside training is to be provided. Cannot the blackboard work and the lecturing be done in a bulk way so that the costs can be reduced? It is important that we consider that these companies are experiencing tough times, and I have a grave concern that additional costs be not passed on to them.

Hon GRAHAM EDWARDS: The short answer is that if it can be done in that bulk way, it will be done because everyone is aware of the cost situation. The Minister for Agriculture has indicated an awareness of the difficulties that are being experienced. I have given the member the figure of \$100 maximum. It is understood it will be less than that. I am presenting what I understand to be the maximum position. It may be possible to achieve savings by putting people through training courses in a bulk way. I understand the need to have as many as employees as possible trained and able to use the forklifts, but I ask members to reflect on the dangers that these forklifts present to people working around and visiting the markets. I must emphasise the need for proper and adequate training. While I take note of what the member has to say, I would hate to see us placed in a situation where, out of our concern to keep costs at a reasonable level, we shaped things to such a degree that adequate training was not put in place. The point which the member raises is a reasonable and valid point, and I assure him that the Minister in another place is aware of it, but I will draw his attention to it again.

Hon P.H. LOCKYER: I assure the Minister I am not asking him to cut any corners. I recognise, as I am sure do my colleagues, the absolute necessity for the forklift drivers to be trained and licensed, and the setting of some standards. I want to make sure that we are all of the same mind in respect of these costs.

Is the licensing and the training of drivers a one-off course, or will there be refresher courses? The Bill provides penalties for people who suffer misdemeanours. Inspectors will be imposing fines and so on. Say Hon Max Evans was a driver for Mercers; he gets his licence and carries out his duties. Will it be necessary for him to undergo a refresher course every two or three years?

Hon GRAHAM EDWARDS: It is envisaged that this will be a one-off course, but that would not preclude a refresher course being introduced if it proved necessary in the interests of safety.

Hon W.N. STRETCH: Can the Minister tell us how many accidents there have been and the severity of them since the markets have moved to this site?

Hon GRAHAM EDWARDS: I do not have that information, but I shall be happy to obtain it and provide it to the member.

Hon W.N. STRETCH: Has there been a major problem with physical damage to property or accidents to persons? Is this a problem at the moment, or is it anticipated the problem will occur?

Hon GRAHAM EDWARDS: From my experience, I would say it was a problem at the old markets. While I am not conversant with this matter at the new markets, I cannot believe that transferring them from the old site to the new site has removed those problems. Admittedly the layout is far better, there is better vision, but we still get back to the problem that with all the hustle and bustle, forklifts are very manoeuvrable and quiet, so there is always the potential for an accident to occur.

Hon W.N. STRETCH: We saw a fair bit of this when the industrial safety awards were brought in by Hon Peter Dowding when he was a member of this House. We tend to load costs onto people operating the forklifts when in many cases the hazard is caused by casual visitors to the markets for the first time. The money might be better spent in training rather than in licensing. One of the great advantages in moving to Canning Vale is the extra space. While the drivers may be able to get up more speed, they are handling expensive pieces of machinery costing possibly \$45 000 to \$50 000, and carrying valuable cargoes. The general duty of care on a driver is something which a company like Mercers takes very much to heart. The company tends not to employ accident prone drivers. I wonder if we are going overboard in licensing and registering them. I would like to examine the statistics and quantify the problem. While we will accept that proposal now, I would hate to see us blocking the raising of fees by regulation when we have started off on this path of licensing drivers for the sake of safety. I am not sure that this is the right way to go. I wonder if we should not rather concentrate on public education and driver instruction.

Hon GRAHAM EDWARDS: I thank the member for his indication of support, but I ask him to consider the damage which is done to property, not just people. While concern for people is obviously an extreme priority, the costs resulting from the poor use of forklifts can be quite considerable. In the old market one problem was the number of bashes where forklifts had run into things. The problem concerns not just people but property, and where that relates to cold storage installations the cost is very expensive.

Hon DERRICK TOMLINSON: This question may be beyond the competence of the Minister to answer - I am not reflecting on the Minister - but it is important because it raises the possibility of double dipping, which is odious to most people. Will employers in the market be subject to the Commonwealth industrial training levy? If so, it would appear the proposal to impose a charge for training forklift drivers may prove to be a double indemnity.

Hon GRAHAM EDWARDS: I am not in a position to give an answer on that point.

Hon MURRAY MONTGOMERY: We are talking about educating drivers, but we should also educate the pedestrians. Perhaps, in view of the way in which the markets have been set out, we should ensure wherever possible the segregation of people and these dangerous machines.

Hon GRAHAM EDWARDS: The trust is aware of the need to educate and remind people of their responsibilities. There are signs at the markets to remind people of the dangers. The authority is considering running educational programs from time to time to remind people of those dangers. These seminars will be run at a bare cost to cover registration and so on. I refer to users in the main because it is not possible to get hold of every visitor.

Hon GEORGE CASH: Can the Minister explain what the owner of a forklift will get for his registration fee? I come back to the question of any liability which might be imposed on the authority in the event of an accident either on or off the public road. If no liability attaches to the authority, perhaps the Minister could make it clear to the traders at Market City that they have an obligation to insure their machines and drivers.

Hon GRAHAM EDWARDS: That is a good point, and I can assure the Leader of the Opposition that those unit owners are aware of their responsibilities and that those responsibilities are reinforced.

To return to the other matter, the drivers and all users, employers and employees at Market City will benefit because those drivers are being trained. The licence is really an authority for each agent to use a vehicle on the site.

Hon P.H. LOCKYER: I note that the Minister has some amendments on the Notice Paper and I ask him to deal with those.

Hon GRAHAM EDWARDS: These amendments were forecast during the course of the debate in another place. They make it perfectly clear that it is not intended to impose an annual licence fee on forklift drivers.

I move -

Page 4, line 19 - To delete "Providing" and substitute the following -

Subject to subsection (2b), providing

Page 4, line 26 - To delete "and".

Page 5, line 3 - To delete the full stop after "Authority" and substitute the following -
; and

Page 5, after line 3 - To insert the following -

(c) by inserting after subsection (2a) the following subsection -

(2b) A by-law made pursuant to subsection (1)(4d) -

(a) may prescribe a charge for the issue of identification plates for forklifts and for the training of persons seeking a licence to drive a forklift;

(b) shall not prescribe any fee or charge for the registration of forklifts or the licensing of drivers.

Hon P.H. LOCKYER: The Minister has explained that the charge referred to in proposed new subsection (2b)(a) will be a one-off \$25 fee. As to proposed new subsection (2b)(b), this matter was brought to the attention of the Minister for Agriculture in another place and as a consequence he gave an undertaking to include this provision in the Bill. The proposed new subsection is quite clear and I am happy to accept the amendments.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 9 to 16 put and passed.

Title put and passed.

Report

Bill reported, with amendments.

JUSTICES AMENDMENT BILL

Second Reading

Debate resumed from 5 June.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [10.17 pm]: I indicate the support of the Opposition for this Bill, which in general terms seeks to give effect to two areas that have concerned the Government. Firstly, the Bill enables certain offenders to be released without undue delay and without the need for the offender to be admitted and processed into a prison; secondly, the Bill makes it clear that the chief executive officer referred to in part VI.AA of the Justices Act means the Chief Executive Officer of the Department of Corrective Services.

Members will be aware that in June 1988 this House agreed to a Bill known as the Community Corrections Centres Bill. That Bill came into force some months after it was agreed to by this House and has been implemented by the various departments in the meantime. In general terms the Community Corrections Centres Act, as it is now, was designed to prevent fine defaulters from being sentenced to prison and to provide a situation whereby they could be granted work development orders rather than having to face periods of incarceration. At the time the Community Corrections Centres Bill was discussed in both this House and the other place, the Ministers handling the Bill in the respective Houses of Parliament made clear the criteria and conditions which would attach to offenders who were committed to a work and development order. I do not intend to waste the time of the House

tonight in referring to the various criteria or conditions that should apply. That information can be found in *Hansard*, for those who are interested.

One of the points made during the original debate was that the work and development order was only to be issued for an offender who had been admitted to a prison. Clearly, that has caused some problems in the administration of the Act. It is now obvious that the Act is working right across Western Australia, and that in some remote areas where an offender is sentenced to a penalty which may include a term of imprisonment, but that penalty is agreed to be converted to a work development order, the order cannot be initiated until such time as the offender is processed into a prison. Members will be aware that in remote areas of Western Australia it can take days for an offender to be collected by representatives either of the Department of Corrective Services or the Crown and transported to a prison, and that the offender may be held in custody at a police station for a number of days before he is sent to prison. That, obviously, changes the original purpose of the Community Corrections Centres Bill, which was to divert fine defaulters from imprisonment.

The amendments before the House, therefore, are intended to permit the Chief Executive Officer of the Department of Corrective Services to agree to a work development order being granted to an offender who is being held in custody rather than in prison and who in the past was required to be held in prison before such an order could be put into effect. It is really a case of streamlining the Act to enable the proper administration of it. The amendments are designed to carry out the original intention of the Bill; that is, to divert fine defaulters from serving time in gaol. The Opposition has no trouble in supporting that amendment.

In respect of the other matter, a need exists for the Justices Act to be amended in a technical sense to ensure that the chief executive officer referred to in the Act is in fact the Chief Executive Officer of the Department of Corrective Services. The Opposition has no trouble in agreeing to that amendment.

The questions I wish the Attorney General to address, in general, do not necessarily refer to the Justices Act but more to the Community Corrections Centres Act which was agreed to in a bipartisan way some two years ago. Does the Attorney General believe the Act is working? Is it working in the way that all members were led to believe it would work two years ago when it passed through Parliament? Is it indeed saving the considerable sums of money that the Attorney General suggested would be saved? I am reminded of some figures collected two years ago suggesting that to keep someone in gaol in Western Australia cost the taxpayers about \$50 000 a year, or about \$1 000 a week.

I would be interested to hear the Attorney General's views on the social argument; that is, whether young people have been diverted from the incarceration requirement and towards improving their skills by using the work development orders in the way set out two years ago. One could also refer to the original political arguments used in support of the Community Corrections Centres Act, such as that the introduction of the legislation would lower the number of persons subjected to imprisonment in Western Australia. Again, I would be interested to hear from the Attorney General whether the imprisonment rates in Western Australia presently are significantly less than when the original Bill was discussed in Parliament in 1988.

I guess it is possible for one to claim that the amendments are somewhat inconsequential inasmuch as they are bound up in minor amendments to the Act. It would perhaps be taking a much too narrow view of the situation to say that an amendment is inconsequential when it could be that a person was required to be kept in a police lockup for up to five days before being transported to a prison because the Chief Executive Officer of the Department of Corrective Services was not able to issue a work development order.

The Opposition has pleasure in supporting the Bill.

HON J.M. BERINSON (North Metropolitan - Attorney General) [10.27 pm]: I thank the Leader of the Opposition for his indication of support for the Bill and also for the broader interest which he has indicated in the operation of the Community Corrections Centres Act. I do not need to cover again the particular purposes of the Bill; he did that quite fully.

As to his questions on the community centres, I will respond in turn to those questions as best I could take them down at the time. Mr Cash's first interest was to inquire how the community corrections centres were working and were they working as intended. The

answer to that can be an unqualified yes. We have seen a high rate of usage of the alternative provided by the Act and a high rate of success. That could actually be statistically measured by the number of participants in the scheme and the number and proportion of those who have breached the conditions and had to be returned to prison. If the honourable member would care to have me extract those figures, I am happy to arrange for that to be done. It should not be a difficult exercise.

However, the proportion of success is very high; I would not be going too far out on a limb to say that it would be in the order of 90 per cent. The Leader of the Opposition asked whether the community corrections centre scheme was saving as much as was suggested. I really need to refer to the original debate to be confident about what I am about to say - but I will say it anyway. I believe I did not suggest that there would be a significant measurable saving in cost arising from this measure, with one exception which I will attempt to explain. It is true that the cost of holding a prisoner is approximately \$120 per prisoner per day; that is about \$50 000 a year as was suggested by Mr Cash. Unfortunately, the fact is that the numbers of prisoners being reduced by the availability of non-custodial sentences for fine defaulters does not necessarily save \$50 000 a year per prisoner diverted.

Hon Max Evans: When the number of prisoners increases, the cost goes up. More money is required to cover the unit costs when one is diverted.

Hon J.M. BERINSON: That is not my ambition, and I believe I am right in saying that is not Mr Cash's either.

Hon Max Evans: You like to use statistics to compare what you are doing with other States.

Hon J.M. BERINSON: I am pointing out -

Hon Max Evans: The fallacy of statistics.

Hon J.M. BERINSON: I am trying to emphasise that the great majority of costs attached to the running of a prison are fixed. One cannot, for example, reduce the staffing level at Fremantle Prison if 20 fewer prisoners were held from one month to the next because, apart from the food, the running costs are the same. So, the savings made in a measurable sense are not really the major aim of the exercise. That is not to say that the diversion of prisoners to non-custodial alternatives does not have economic benefits because at the end of the day it can contribute to deferring the costs of providing new prisons.

The point at which additional prison places must be provided is the point of potential saving, and I am sure that it is a real saving, but it is not one that can be measured in so many dollars per diverted prisoner.

Hon Max Evans: The costs go up by \$10 000 per prisoner if you open a new prison.

Hon J.M. BERINSON: Mr Evans is correct there too because there can be no denying the fact that the costs involved with a new prison are inevitably higher than the costs of running our old prisons. We will have a major indication of that when Fremantle Prison is closed and Casuarina opens. Fremantle was built and operated on Victorian lines and Casuarina will be built and operated on contemporary lines; that involves a substantial increase in staff as well as other costs.

It is worth adding at this stage, as the Leader of the Opposition has extended the discussion to the more general area of the community corrections centre scheme, that the economics of diverting fine defaulter prisoners was never the whole aim of the exercise; a very important aim was in respect of the general principle enunciated, with the support of the Opposition, in amendments to the Criminal Code and which has certainly been emphasised by the Court of Criminal Appeal in that imprisonment should be the penalty of last resort. In addition, the scheme opened the way for an important advance in principle following from the fact that the imposition of a fine by a court is in itself a clear indication that the court does not regard imprisonment as an appropriate penalty for the offence. The fact that the offender should end up in prison for no other reason than his incapacity to pay the fine has always been an inconsistency which gives rise to a problem in principle. I have already indicated that I believe it was always expected that a certain proportion of fine defaulters would end up in prison anyway because they were not prepared to comply with the stringent requirements of the work and development program. However, to the extent that that program continues to succeed, it will achieve that advance in principle as well.

I am unable to respond in any meaningful way to what Mr Cash referred to as the "social argument"; namely, the extent to which skills have been improved by the work and development orders. Again, these are matters that cannot easily be quantified although they will certainly be referred to, and commented on, in the annual report of the department. A number of variables exist in this area, particularly with the lesser fines. The period in which an offender attends these centres is necessarily limited and the emphasis is much less on skills development than simply on the community work as repayment to the community for the offence. Other matters are also relevant including the aim which was clearly enunciated at the outset; that was not only to look to the possibility of improved skills, but to assistance to prisoners in other ways. For instance, if they had alcohol or drug problems.

Finally, the Leader of the Opposition asked whether the imprisonment rates have reduced significantly. I am sorry to say that they have not. In fact, the imprisonment rates now are higher than they were at the same time last year. All that can be said regarding the Bill under discussion and the community corrections centre program in that context is that, to the extent that the rate has increased, it has not increased as much as it would have done otherwise. That is not much consolation and it is a matter of great concern that the numbers should have risen over that period. In turn that is a reflection of a number of quite separate issues including the higher success rate in apprehension and prosecution by the Police Department. Mr President, I am well aware that both Mr Cash and I have strayed beyond the strict limits of this Bill, but I welcome the opportunity it has provided to bring the community corrections centre program to attention and provide members with at least some indication of the extent to which its early days can reasonably be counted as a success.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee and Report

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

Third Reading

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

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [10.42 pm]: I move -
That the House do now adjourn.

Adjournment Debate - Personal Explanation - Aboriginal Legal Justice and Legal Aid

HON MAX EVANS (North Metropolitan) [10.43 pm]: I thought a personal explanation was necessary following an incident that occurred earlier this evening.

Hon J.M. Berinson: You were just trying to big note yourself.

Hon MAX EVANS: I thought everyone else was getting all the glamour and the limelight and that I had better do something.

Before I came into the House earlier this evening, my Irish friend on the door, Joe said, "Mr Evans, it may be worth \$20 to protect you from somebody in the gallery." I said, "What do you mean; is my wife up there?" He said, "No, your wife is not up there, but somebody has a list of the names of the members and wants to get in contact with a member." I came in here and a few minutes later you, Mr President, referred to somebody writing a note in the gallery. She explained that she was writing the name "Max Evans" on a note and asked whether she should throw it down. She gave it to Joe when she went outside and it is important and not to be taken lightly.

The lady's letter states -

Ian Taylor's remarks on ABC television to-night were, at least, in extremely poor taste and showed a poor loser. At worst they were an incitement to racial hatred. His

insinuation that Aboriginal People are not entitled to Legal Aid, to fight for natural justice, should bring immediate censure from his colleagues lest they be seen to support their acting Premier.

It was signed "Isobel". I now wish to refer to an article which appeared in today's *Daily News*. It states -

Perth Aboriginal Robert Bropho has won his long-running battle against the WA Government to stop excavation of two sacred sites at the old Swan Brewery.

In a unanimous decision today, the High Court in Canberra allowed an appeal by Mr Bropho and said any government employee who excavated, demolished or dynamited any part of the site would be guilty of an offence.

Mr Bropho and his supporters have fought to protect the Goonininup site and the Wagyl Dreaming Track, home of the Dreamtime Wagyl serpent.

According to today's High Court judgment, the WA Development Corporation had started to build roads and a carpark on the land without the consent of the sites trustees.

The article goes on to explain what the lady was worried about. It states -

The WA Full Supreme Court had upheld the Government's argument that a statute did not bind the crown unless it expressly or by necessary implication said it did.

The High Court said the presumption that a statute did not bind the crown had become so entrenched that Australian courts had used it as an inflexible rule.

The presumption had originated at a time when the crown encompassed little more than the sovereign and the basic organs of government and when the dignity, majesty and authority of the crown had to be safeguarded.

The court said the presumption was largely inapplicable to Australia where the activities of the crown - governments - reached into most aspects of commercial, industrial and development activity.

The rule could not provide an impregnable barrier behind which governments and their employees could hide.

Further, it stated -

In Mr Bropho's case, it was clear the Aboriginal Heritage Act applied generally to crown land and objects on that land.

Finally, it stated -

The seven judges allowed the appeal with costs.

The lady objected to Ian Taylor's saying that the costs involved in the case including legal aid and fighting it through the High Court were high and that those costs were awarded against the Government of Western Australia. She thought that every person in Australia, Aboriginal or white, was entitled to legal justice and to legal aid. That was the reason the woman brought the note to the House.

Adjournment Debate - Forklift Accident Deaths

HON MARK NEVILL (Mining and Pastoral) [10.47 pm]: Comments were made about forklifts during a debate tonight. I thought it was appropriate for me to draw the House's attention to research on that matter that I have undertaken in the last few days. It followed a Coroner's inquiry into the death of a forklift driver at Kalgoorlie who was using a forklift as a crane and running it up two planks to install a staircase. The young operator was killed.

I carried out some research on forklift fatalities and came up with some startling information. I looked at the Victorian Workcare figures, which are very comprehensive. They shocked me because they indicated that forklifts are a real sleeper when it comes to fatal and serious work accidents. It is no secret to many country members how many people are killed in tractor accidents every year. However, I do not think many people are aware of the number of accidents involving forklifts. My inquiries have shown that those accidents are not differentiated from other accidents in the statistics that we collect. They are usually included under the statistics of collisions with a vehicle and other statistics. The figures I received

from Victorian Workcare indicate that since October 1987, 20 people have died in forklift accidents in Victoria. That is less than three years. It is amazing. In the 10 years before that, 22 people were killed. The Victorian figures also indicate that, between September 1985 and May 1990, 3 381 claims were made to Workcare for forklift related injuries where five or more days were lost from work. Payments on those claims totalled more than \$20 million and 199 584 days were lost from work. The figures are horrifying. The average number of claims each year totalled 725, costing an average of \$6 200 each.

Other research that I did on the accidents indicated that they occurred mainly when forklifts were used as working platforms, as cranes, to carry people and they were also occasionally used, as one member discussed with me tonight, as dodgem cars. I obtained a copy of last year's annual report of the Department of Labour in Victoria which revealed that in that State in 1988-89 there were 51 fatalities in the workplace and six of them were related to forklift accidents. The first accident involved a man who died when a forklift reversed onto him. In the second accident a man died when crushed by a steel pipe which was knocked from a semitrailer by a forklift. The third accident involved a child who died when he fell off a forklift and was run over. I am referring to accidents which resulted in fatalities only and not to accidents causing serious injury. In the fourth accident a man died when he fell off the tyres of a forklift. In the fifth accident a man died when he fell from the raised pallet of a forklift. I was told in that case the person involved died of head injuries and shortly after that accident another person got up onto the pallet and finished off the job, which was quite disturbing. In the last accident a man died when he was run over by a forklift while trying to adjust bearers.

Members will notice that I have a series of questions on today's Notice Paper to determine the level of forklift accidents in Western Australia. The Coroner in Victoria recommended that forklifts be fitted with audible reversing warning devices, flashing lights and rear-view mirrors in the cabs. I look forward with great interest to the answers to my questions because it makes one think twice about whether people should be trained to operate equipment of this type; this subject was discussed during the debate on the Perth Market Authority legislation. It is one thing for Government departments to collect statistics ad infinitum, but the important thing is to analyse those statistics to find out where the problems lie and to solve them. I am of the opinion this matter was important enough to bring to the attention of the House following my inquiries from the Coroner's inquest in Kalgoorlie.

Question put and passed.

House adjourned at 10.52 pm

QUESTIONS ON NOTICE

STATE ENGINEERING WORKS - MOSMAN PARK SITE

Purchaser

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

- (1) Who purchased the State Engineering Works site at Mosman Park?
- (2) What was the sale price?
- (3) Was it a cash settlement?
- (4) If no, what were the settlement terms?
- (5) Were planning approvals obtained prior to the sale?
- (6) If yes, does the Government own the site now?
- (7) If yes, on what terms and conditions was the transfer of ownership back to the Government?
- (8) If no, has the ownership changed and if so, to whom?
- (9) Was a fee paid to the Western Australian Development Corporation for sale of the property?
- (10) Has that fee been refunded if the sale has been reversed?
- (11) What is the future of the site?
- (12) What are the problems with respect to the development of the site?

Hon J.M. BERINSON replied:

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

- (1) JIMWA Pty Ltd purchased the State Engineering Works at North Fremantle under contract of sale.
- (2) The sale price was \$12.1 million.
- (3) No.
- (4) The terms were 10 per cent deposit with the balance due at settlement. Settlement did not take place.
- (5) No.
- (6) The Government still owns the site.
- (7)-(8) Not applicable.
- (9) No.
- (10) Not applicable.
- (11) The site will be offered for sale by public tender in the future.
- (12) Contaminated soils are to be removed from the site in accordance with EPA approval.

ASSET MANAGEMENT TASKFORCE - OLD TREASURY BUILDING

Lease Negotiations

318. Hon BARRY HOUSE to the Leader of the House representing the Deputy Premier:

Further to the answer given to question 142 -

- (1) Have negotiations to lease the Old Treasury Building in St George's Terrace been considered by the Asset Management Taskforce?
- (2) If so, who is being considered to leave the building and under what conditions?

Hon J.M. BERINSON replied:

The Deputy Premier has provided the following reply -

- (1) The Asset Management Taskforce is presently analysing the best possible future use of this building as part of the Government's asset management program. Long term lease of the building is one management option the task force is examining. Until the Government has considered the AMT's analysis and has made a decision, negotiations on the possible future redevelopment of the building, quite properly, cannot occur. As with all AMT projects, if the property is to be made available for redevelopment, this will be arranged through a public, open and fair process.
- (2) The building is currently occupied by the State Taxation Department and the Department of Land Administration.

SCHOOLS - COOLBINIA PRIMARY SCHOOL

Asbestos Roof

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

- (1) Is the Minister aware of the concern expressed by the Coolbinia Primary School Parents and Citizens Association Inc about the state of the asbestos roof at the school?
- (2) Is the Minister further aware that the Coolbinia Primary School Parents and Citizens Association has considered the Education Ministry's proposed implementation strategy in respect to its assessment of its various properties during the next financial year but is concerned at the considerable delay in undertaking such an assessment?
- (3) Will the Minister ensure alternative action is taken at the Coolbinia Primary School to alleviate any delay in assessing the asbestos problem at this school?
- (4) Will the Minister further ensure that occupational health and safety officers attached to the Education Ministry or other departments are required to visit the school without delay and provide a report on the condition of the asbestos at the school to the parents and citizens association?

Hon KAY HALLAHAN replied:

The Minister for Education has provided the following reply -

(1) Yes.

(2)-(3)

Coolbinia, along with all other schools with asbestos roofing, will be included in the overall ministry's management plan which will be finalised following the full report being prepared by the working party on asbestos cement products, set up by the Western Australian Advisory Committee on Hazardous Substances.

(4) A visit has been made to the school by a representative from the occupational health and safety section of the ministry. A report will be provided to the Parents and Citizens Association.

ROADS - NEW WARRIEDAR ROAD, MONGERS LAKE

Yalgoo Shire Council

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

I refer to application No 1390, 19 November 1981 from the Yalgoo Shire Council to the Main Roads Department to construct a deviation on the east side of Mongers Lake to an alternative flood crossing south of Fields Find and ask -

- (1) Did the Main Roads Department recommend an alternative alignment known as New Warriedar Road?

- (2) Did the Shire of Yalgoo agree to the proposed alignment and did the Main Roads Department advise that funding would be made available to construct the New Warriedar Road to a trafficable condition?
- (3) Did the Main Roads Department, at a meeting held at the Yalgoo Shire Council on June 19 1988, advise that funding could be provided to enable the New Warriedar Road to be constructed to a trafficable condition, and at a further meeting held at Golden Grove on 1 September 1988, did the Main Roads Department advise that the estimated cost had increased to \$150 000 for the road?
- (4) Did the Yalgoo Shire Council in a letter dated 22 June 1989 request a special grant to complete the work on the Warriedar Road and if so, on what date did the Main Roads Department respond to this letter and why did it, after years of discussions between the Main Roads Department and the Shire of Yalgoo advise that it required further assessment on the future of the New Warriedar Road which it had previously recommended be constructed?
- (5) What is the status of the special grant of \$180 000 requested by the Shire of Yalgoo on 8 February 1990?
- (6) What is the involvement of the Main Roads Department and the Shire of Yalgoo in assessing the need for the New Warriedar Road and why has the Main Roads Department now decided to question the need for the road?
- (7) Will the Minister initiate an investigation into the length of time taken to bring this project to fruition and advise when funds will be made available for the project?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following reply -

- (1) The Main Roads Department advised the Yalgoo Shire Council in 1981 that of three possible deviations around Mongers Lake, the new Warriedar Road alignment was favoured.
- (2) The proposed alignment was agreed to in 1981 but there is no record of any commitment in respect of funding.
- (3) A meeting was held at the Yalgoo Shire chambers on 29 June 1988. A figure of \$150 000 was mentioned as an estimated cost of construction of the Warriedar realignment to a trafficable condition. A further meeting was held at the Gold Grove mine site on 1 September 1988. On 20 September 1988 the then Minister for Transport approved an increase of funds available for the Warriedar Road on the 1988-89 program of works from \$48 000 to \$150 000.
- (4) Yes. The Main Roads Department acting divisional engineer at Geraldton replied to the shire's letter dated 22 June 1989 on 8 September 1989. The acting divisional engineer needed to prepare an updated estimate of cost for completion of the road in order that this could be the basis of consideration for future funding.
- (5) The special grant of \$180 000 requested by the Shire of Yalgoo on 8 February 1990 was raised again by the shire in a letter dated 26 April 1990. A reply was forwarded on 2 May, in which the Main Roads Department advised the shire that a study of the existing road system was to be carried out. The study is in progress and a decision on the special grant will be made as soon as the results become available.
- (6) Warriedar Road is an unclassified road and is the responsibility of the Shire of Yalgoo. The shire has requested financial assistance for completion of construction of various sections of the road. The Main Roads Department has a responsibility to assess the priority of the project relative to other projects on a Statewide basis.

- (7) I have asked the Main Roads Department to complete its study into this matter quickly so that an early resolution can be achieved.

PETROCHEMICAL PROJECT - JGC ENGINEERS AUSTRALIA PTY LTD
Clough Engineering Group - Contract Cancellation Claim

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

- (1) Would the Treasurer advise how much the damages claim was by JGC and the Clough Group in respect to the cancellation of the contract for the petrochemical plant?
- (2) Was the claim against the petrochemical company or the WA Government?
- (3) If against the company, how will it pay as it is insolvent?
- (4) If against the Government, was it paying on behalf of the company and will it rank as a further creditor against the company?
- (5) How much has been paid in respect of the damages?
- (6) When was it paid?

Hon J.M. BERINSON replied:

The Deputy Premier has provided the following reply -

(1)-(2), (5)

JGC and Clough made a claim of \$23 million pursuant to the termination provisions of their construction and supply contracts with Petrochemical Industries Ltd.

(3), (6)

Pursuant to an undertaking it gave on 21 October 1988, WA Government Holdings Ltd paid the JGC and Clough termination claims on 26 January 1990.

- (4) WAGH includes the disbursements to JGC and Clough in the amount owed to it by PIL under a first registered debenture charge.

ROTTNEST ISLAND - LEASE

Victoria Co

409. Hon P.G. PENDAL to the Minister for Police representing the Minister for Tourism:

- (1) Is it correct that Victoria Co, a Japanese group, will not be awarded the Rottnest Island lease previously held by Lombardos?
- (2) If so, who is to receive that lease?
- (3) What are the terms and conditions of the lease?

Hon GRAHAM EDWARDS replied:

The Minister for Tourism has provided the following reply -

(1) Yes.

- (2) The lessee is Royal Australia Finance Ltd and the manager of the lease is Mr A. Halse of Ferrier Hodgson Pty Ltd, the receiver manager for Lombardo Ltd.

- (3) The lease agreement is a very detailed document. If the honourable member could be more specific about this aspect of his inquiry, I would be pleased to provide more information.

FUNERAL FUND - KALGOORLIE

412. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Goldfields:

- (1) Is the Minister aware of a funeral fund in Kalgoorlie that a number of pensioners have subscribed to?

- (2) If so, can the Minister give an undertaking that the fund has sufficient funds to meet its present and future obligations?
- (3) Who are the directors and administrators of the fund?

Hon GRAHAM EDWARDS replied:

The Minister for Goldfields has provided the following reply -

(1)-(3)

The member will need to provide more details should he wish this matter to be examined.

QUESTIONS WITHOUT NOTICE

ROAD TRAFFIC ACT - CHANGES

Blood Alcohol Level - 16 Year Old Drivers' Licences

272. Hon GEORGE CASH to the Minister for Police:

- (1) What changes, if any, is the Government considering to the Road Traffic Act in respect of the blood alcohol level?
- (2) Will any other changes be made in respect of conditions for the issue of drivers' licences to 16 year olds?

Hon GRAHAM EDWARDS replied:

(1)-(2)

On the recommendation of the Traffic Board, the Government intends to introduce a new offence of 0.05 blood alcohol level. The offence will be dealt with by way of infringement, and will carry a penalty of \$200 and the loss of six demerit points. My aim is to introduce that legislation to this House during this session.

- (2) I am prepared to investigate the question of 16 year olds being able to acquire a learner's permit. Shortly I will travel to Victoria and while in that State I will take the opportunity to examine a similar proposal currently before the Victorian Government. Presently, young people can acquire a learner's permit when attaining the age of 16 years and nine months.

BLOOD ALCOHOL LEVEL - 0.08 TO 0.05 EVIDENCE

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

Does the Minister have any statistical backup to support his move to introduce the offence of 0.05 blood alcohol content? Does he have any reason to introduce such an offence, other than blackmail by the Federal Government?

Hon GRAHAM EDWARDS replied:

An immense amount of expert written advice is available which strongly endorses the move from 0.08 to 0.05 blood alcohol level offences. I do not support all of such advice: Members will be aware that counter advice is also available which does not recommend such a move. The Cabinet decision to introduce the new offence and new penalty took into account both forms of advice. The recommendation which had most influence on Cabinet in making that decision was the unanimous recommendation of the Traffic Board to implement the new offence. The introduction of the 0.05 blood alcohol penalties also had the unanimous support of Ministers for Transport around Australia.

Hon George Cash: Did the State Minister agree?

Hon GRAHAM EDWARDS: Western Australia has indeed followed the steps recently introduced by the Northern Territory, South Australia and the Australian Capital Territory. Were Western Australia not to have introduced the new 0.05 offence, it would have been the only State in Australia not to do so. That in itself is not the main reason for the decision. We also recognise

that to not adopt the penalty would mean we would forgo the \$12.5 million allocated by the Federal Government. This money has been made available to other States for the purpose of furthering road safety. A combination of all these factors has compelled the Government to introduce the 0.05 penalty.

STATE GOVERNMENT INSURANCE COMMISSION - PROPERTY PURCHASE

*Bell Group Shares, Bell Group Convertible Notes,
BHP Shares, Holmes a Court Terrace Properties*

274. Hon PETER FOSS to the Leader of the House:

I refer the Leader to the transactions mentioned yesterday in relation to the SGIC's purchase of a number of properties. Did the Attorney in the course of the discussions leading up to the completion of the transaction meet any representatives or persons acting on behalf of, or have any discussions with such persons acting on behalf of Bond Corporation?

Hon J.M. Berinson: Could the member clarify the question. Yesterday, two sets of properties were referred to. One was purchased by the SGIC from Holmes a Court, and others; all were in the central business district. Could the honourable member clarify that he is referring to the Bond properties only?

Hon PETER FOSS: The transactions to which I referred are the purchase of the Bell shares by SGIC, the purchase of the Bell convertible notes, the BHP shares, and the city Terrace properties. The city properties were purchased from Holmes a Court with interests associated with him. The Leader of the House indicated yesterday that he was involved in discussions relating to those transactions prior to the agreements being concluded. Did the Leader of the House, in the course of those transactions, meet or have discussions with any person representing or acting on behalf of Bond Corporation?

Hon J.M. BERINSON replied:

There was only one such occasion. Members might recall that yesterday I indicated that prior to the question of the Bell shares purchase coming to Cabinet I had, at the Premier's request, made some inquiries as to how a valuation of those shares might be arrived at. I also indicated yesterday - and it has been done many times before - that the interest of Bond Corporation in purchasing some of those shares itself was well known. In the course of those inquiries, I was informed that Bond Corporation - which had indicated a different idea of the valuation of the shares from that of the SGIC - had indicated it would be prepared to make available the basis of its valuation. For that purpose, on the day before the Cabinet meeting, I briefly met with a Mr Mitchell of Bond Corporation. That was the occasion that I referred to in my report yesterday when I indicated that I found the meeting of no useful purpose - no doubt due to my own lack of knowledge in the area.

To anticipate any further line of questioning on the same point, the question of valuation was the one and only matter related to the Bell Group shares that was discussed. No other matter was discussed by me. I had no discussion with any such person as far as I can recall relating to the notes. I am as good as certain that the discussion was on the share valuations alone. I had no discussions with any such person in relation to the BHP shares purchase or in relation to the purchase of CBD properties.

STATE GOVERNMENT INSURANCE COMMISSION - PROPERTY PURCHASE

Vrisakis, Mr

275. Hon PETER FOSS to the Leader of the House:

With regard to the same transactions, did the Leader at any time meet or have discussions with Mr Vrisakis?

Hon J.M. BERINSON replied:

To the best of my knowledge I have never met Mr Vrisakis for any purpose.

ROAD SAFETY PLAN - FEDERAL 10 POINT PACKAGE

276. Mr McKENZIE to the Minister for Police:

In relation to the 10 point road safety plan, will the Minister provide information on the other nine points?

Hon GRAHAM EDWARDS replied:

I have dealt with the first point which involved a move away from the 0.08 blood alcohol limit to 0.05. The second point in the plan relates to national licensing of heavy truck and bus drivers. An agreement has been reached in principle on that proposal although more work needs to be done. Points three and four relate to the national uniform speed limit and the speed limiter for heavy vehicles. The Government believes that more work needs to be done on these two points. I am happy to advise the House that I oppose the compulsory retrospective fitting of speed limiters.

Point five deals with zero alcohol limits for young drivers. I think it is important that we retain the present 0.02 level blood alcohol content with strict enforcement. Zero BAC can only be enforced at about 0.02 BAC. The sixth point relates to random breath testing and to the attainment of a one in four level of achievement annually. We support this target; it is being met in Western Australia. The seventh point relates to graduated licensing for young drivers. I have some problems with this point and I am sure that those problems are shared by other members of the Government and the broader community because they relate to restrictions on the carriage of passengers. The intention is to impose that restriction on probationary drivers between 10.00 pm on Thursday and midnight on Sunday. That is a ludicrous proposal. Instead of a group of four or five young people being able to take one vehicle between those hours, they would have to take four or five vehicles and for that reason alone the proposal is ludicrous. It would discourage the use of skippers where three or four young people go out with one selected to be the skipper. In general terms, young people have responded very well to that responsibility.

Hon E.J. Charlton: It means that the rest get hopelessly drunk while one stays sober.

Hon GRAHAM EDWARDS: It is important that one person stays sober and chauffeurs the others around. That is what we are trying to achieve. Nothing could be worse than someone who was hopelessly drunk driving on the streets. The Federal Government has failed to recognise that in putting this point forward and I oppose the point.

Cabinet has agreed to support an extension of probationary drivers' licences from 12 months to three years but with a remission of 12 months' probation for those drivers who have a good driving record at the end of the second year's probation. The eighth point relates to the daylight operation of motorcycles with lights on. The Government is opposed to the compulsory retrospective fitting that would require lights to be turned on while a motorcycle is in operation. It is our view this can be achieved by amendment to the Australian design rules without its being retrospective.

Point nine relates to the introduction of compulsory cycle helmet wearing. We all support this in principle. I do not believe that it should be achieved, though, by compulsion because the problems of enforcement are evident. We should continue to encourage the wearing of helmets for bicycle riders. The tenth point relates to the enforcement of seat-belt wearing and child restraints. The Government supports both proposals. However, practical problems have to be overcome in relation to the latter part of point 10.

The Government has agreed to enforcing a blood alcohol limit of 0.05 and the graduated licensing for young drivers. However, much work needs to be done on those other points to assist that work. Cabinet has established a subcommittee with the responsibility of looking at road safety. It will be chaired by the Minister for Police and will include the Ministers for Local Government, Health, and Transport.

I apologise to the House for the answer having been so lengthy. However, I am sure that members will recognise that these are matters of importance to the State.

ROAD SAFETY PLAN - FEDERAL 10 POINT PACKAGE
0.05 Blood Alcohol Level - \$12 Million Deal

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

- (1) How did Cabinet come to a decision on the Federal Government's package?
- (2) Did Cabinet consider that there were two specific points; that is, a reduction in the blood alcohol level to 0.05 and getting the \$12 million?
- (3) Why was a package offered?
- (4) How much income will be gained from this Government's acceptance of the new regulations?

Hon GRAHAM EDWARDS replied:

(1)-(3)

I cannot explain why the Federal Government decided to put the proposal forward as a 10 point package. I can only assume that it was part of its approach to achieving greater attention to road safety across Australia, given some of the very bad accidents that have occurred mainly in other parts of Australia and I encourage its interest in these matters.

- (4) The State Government's share of the \$110 million package is approximately \$12.5 million over two years. That will be used to improve road safety in different areas of the State.

ROAD SAFETY PLAN - FEDERAL 10 POINT PACKAGE
0 and 0.02 Blood Alcohol Differentiation

278. Hon MURRAY MONTGOMERY to the Minister for Police:

In referring to the 10 points the Minister indicated that it is not possible to differentiate between a blood alcohol content of zero and 0.02. Why can that differentiation not be made?

Hon GRAHAM EDWARDS replied:

My understanding of the matter is that some people who have not consumed alcohol, in the form of beer or spirits, may give a reading of 0.02 after consuming some soft drinks. I also understand that the consumption of some cough mixtures will result in a reading of 0.02.

COAL TRUST - ARRANGEMENT
Griffin Coal Mining Co Ltd, Western Collieries Ltd and Muja Power Station

279. Hon PETER FOSS to the Attorney General:

- (1) Has the Attorney General heard of an arrangement which would involve the combining of Griffin Coal Mining Co Ltd, Western Collieries Ltd and the Muja power station into what would be known as the coal trust, which would be floated?
- (2) If so, when did he learn of that arrangement?

Hon J.M. BERINSON replied:

(1)-(2)

I have no knowledge of any such arrangement.

Hon Peter Foss: Do you know of any proposal for such an arrangement?

Hon J.M. BERINSON: I have no knowledge of any proposal along those lines.

Hon Max Evans: I mentioned it yesterday in my speech!

Hon J.M. BERINSON: Mr Evans has just indicated by interjection that he referred to this matter in his speech yesterday. I assumed that Mr Foss was talking about such matters having been brought to my attention in an official capacity and

especially by proponents. I am always interested in any matter brought to my attention by Mr Evans, but I would not expect Mr Foss to share my interest to the same extent.

SWAN BREWERY SITE - HIGH COURT DECISION

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

Does the Government intend to take any action as a result of the High Court decision in the old Swan Brewery case?

Hon J.M. BERINSON replied:

It is a small point but I think it is more correct to describe this as the Bropho case rather than the Swan Brewery case. I believe we all know what is being referred to, and it was reported in the Press today. A very significant judgment has been made by the High Court, which has held that the Aboriginal Heritage Act binds the Crown in right of the State. That affects previous actions in respect of the old Swan Brewery site, but the implications of the decision go much wider than that and have very extensive ramifications indeed. The decision might best be summarised by saying that it represents a fundamental change in the law, in that previously it was recognised that a Statute bound the Crown only where there were express words to that effect or where that intention was apparent by necessary implication. Statutes have not simply been drafted on that basis for many years; to the best of my knowledge Statutes of this State have always been drafted on that basis. The effect could well be that a very large number of Statutes would, in terms of this decision, have a much different effect than that which was intended and which has always been recognised.

I have had the opportunity of only brief preliminary advice from the Crown Solicitor on this matter, so I cannot take discussion of the decision itself much further than I have. I understand that, as is so often the case in constitutional affairs, the decision has a number of qualifications and reservations in it which would have the effect of leaving the position uncertain in many cases, as well as the position in other Statutes inconsistent with the original intention.

In anticipation of the possibility of the decision going this way, Cabinet has previously agreed that the Interpretation Act should be amended substantially with a view to retaining the status quo - or at least the status quo as understood until today - while more detailed consideration is given to the large number of Bills involved. I have already been asked today by the media what the amending Bill will include. It would be premature for me to respond to that in any detail, if only because the nature of the amending Bill must take into consideration more detailed advice on the High Court decision and its implications than is yet available.

In summary, I repeat that this is a very significant decision indeed. I would expect it to be considered at the first opportunity by all State Governments and the Commonwealth Government. No doubt the meeting next week of the Standing Committee of Attorneys General comes at an opportune time for that purpose.

STATE GOVERNMENT INSURANCE COMMISSION - BHP SHARES

281. Hon MAX EVANS to the Attorney General:

Was the decision by the State Government Insurance Commission to buy shares in BHP referred to Cabinet in the same way that the decision to buy Bell Group shares was?

Hon J.M. BERINSON replied:

I thought we also talked about the BHP shares yesterday. In any event the position is that the SGIC informed the Cabinet of its interest in purchasing the BHP shares before that transaction was finalised.

STATE GOVERNMENT INSURANCE COMMISSION - BHP SHARES

282. Hon MAX EVANS to the Attorney General:

- (1) Will the Attorney General confirm whether Cabinet was aware at the time that it was necessary for the SGIC to borrow \$300 million to finalise this deal?
- (2) Would this matter have been referred to Cabinet or would it have been made by the Premier as Treasurer?

Hon J.M. BERINSON replied:

(1)-(2)

I have been trying very hard in the past two days as questions of this nature have arisen to avoid the need to remind the House that we are talking about events which happened a considerable time ago.

Hon D.J. Wordsworth: What will happen if you put off the Royal Commission?

Hon J.M. BERINSON: Nothing will happen that will concern me. I have been able to respond to all the questions that have been asked, but we are now going back two and a half years or longer. I remember well enough and I have indicated my recollection of the SGIC advice about its intention to purchase. I cannot recall any discussion about its need to borrow funds for that purpose.

STATE GOVERNMENT INSURANCE COMMISSION - BORROWINGS
CONSENT

283. Hon MAX EVANS to the Attorney General:

Under the provisions of the State Government Insurance Commission Act, the Treasurer's consent is needed before the SGIC can borrow funds. Was it necessary for the Premier to refer these matters to Cabinet or could he make these decisions himself?

Hon J.M. BERINSON replied:

I do not believe it has ever been the practice of the Treasurer, in exercising his responsibility under the State Government Insurance Commission Act, and particularly in respect of details of borrowings and so on, to refer those matters to Cabinet.

My understanding of the position is that that is an authority which the Treasurer has by virtue of his office and which he exercises in a personal capacity.

STATE GOVERNMENT INSURANCE COMMISSION - CBD PROPERTIES

284. Hon MAX EVANS to the Leader of the House:

Were the four central business district properties referred to Cabinet as the State Government Insurance Commission purchase properties were referred to Cabinet from Robert Holmes a Court or the Bell Group?

Hon J.M. BERINSON replied:

As I recall, the SGIC's interest in the purchase of both the BHP shares and those central business district properties was indicated to Cabinet at the same time. I am reasonably confident that was the case. In any event, I can say that both of those interests were presented by the SGIC to Cabinet.
