



WESTERN AUSTRALIA

PARLIAMENTARY DEBATES

(HANSARD)

THIRTY-FOURTH PARLIAMENT
FOURTH SESSION
1996

LEGISLATIVE COUNCIL

Wednesday, 4 September 1996

Legislative Council

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

MOTION - STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS AND STATUTES REVISION

Fourteenth Report on Petition on Westrail Restricting Pensioners' Free Trip, Tabling

Hon Murray Nixon presented the fourteenth report of the Standing Committee on Constitutional Affairs and Statutes Revision in relation to a petition objecting to the Government's decision to restrict the use by pensioners of their free Westrail entitlement during holiday periods, and on his motion it was resolved -

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

[See paper No 564.]

STANDING ORDER No 341 - EXTENDED TO WEDNESDAY, 18 SEPTEMBER

On motion without notice by Hon N.F. Moore (Leader of the House), resolved -

That the order of the House made on Tuesday, 18 June 1996, suspending the operation of Standing Order No 341, so far as it applies to the Legislation Committee, be extended from Wednesday, 4 September 1996 to Wednesday, 18 September 1996.

MOTION - FISHERIES DEPARTMENT, ADMINISTRATION OF FISH RESOURCES MANAGEMENT ACT INQUIRY

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [2.36 pm]: I move -

That in the opinion of this House sufficient evidence exists to warrant the establishment of a ministerial inquiry into the administration of the Fish Resources Management Act 1994 by the Fisheries Department, having particular regard to the policies governing particular fisheries and the interpretation and application of those policies by the department.

I wish to acknowledge the cooperation the Opposition has received from and the liberty of the time today to discuss this matter given by the Leader of the House. We appreciate that opportunity. I am sure that the people to whom we will be referring in this debate will also appreciate the opportunity to have various matters raised in this House.

Members may well recall that during the budget debate I raised the issue of Aussie Lobsters and my concern about some of the activities of the Fisheries Department in regard to that organisation. Since that time I and my colleagues on this side of the House have been contacted by a variety of people in regard to some of the activities of the Fisheries Department. We will obviously be raising those matters today. The issue causes concern. Some of the actions of the Fisheries Department can, at best, be described as arbitrary and, at worst, one could use a lot more flowery language. I will refrain from that.

It is appropriate to start with the issue of Aussie Lobsters. I do not wish to repeat what I have said previously. Members from both sides of the House who were present and who spoke to me afterwards would have some understanding of the difficulties that confronted people who wanted to add value to an industry in Western Australia. They were seemingly locked out of that by the inactivity - I use that word advisedly as well - of the Fisheries Department. Since that budget debate the Minister for Fisheries has granted Aussie Lobsters an experimental licence to operate its facilities at Green Head. At this point I am able to provide the House with some results of that experimental period.

I understand from advice from the company that the process has been investigated - not on a daily basis - by the Fisheries Department. The results of attempting to keep crayfish alive are similar to those for all the crustaceans and some 96.85 per cent have been kept alive, which is significantly above the standard in Western Australia, which is reportedly somewhere between 35 per cent and 38 per cent. The price the company obtained for crustaceans varied between \$56.47 per kilogram to \$67.876 per kilogram. This represents over 100 per cent above the price for cray tails.

Quite clearly it is a significant step towards adding value to the crayfish of this State. I wish to speculate, if I may, on a couple of news articles in *The West Australian* and the *Business News*. *The West Australian* article was entitled "Ciccerello writ claims Aussie Lobster debt". The other article is entitled "Live crays are a big part of our exports". Aussie Lobsters applied to the Minister for Fisheries for either an annexure to its licence so that it could operate the

Green Head facility or for the continuation of its experimental licence. Within days of that happening "interestingly" the cartel decided to advance its cause on this particular issue, as it has previously.

I want to go first of all to the article in *The West Australian* which states, mistakenly, that Aussie Lobsters had been issued with three writs, one by Cicerello's which is being negotiated on the basis that, as I understand it, bait supplied to that company was off and the company was not prepared to pay the total amount for the bait. There is also a writ from Powerhouse Australia for \$31 000 for crayfish left at Kuala Lumpur airport that went off. The company was not too happy about paying the total amount for that. However, a settlement has been reached on that matter. A writ for \$59 000 was also issued to a firm of accountants. It is interesting that Aussie Lobster is suing the firm of accountants rather than the other way around.

Surprisingly, the Western Rock Lobster Development Association did not check those facts. It commented that it did not believe that 99 per cent of the cray catch could be kept alive. The figures reveal that to be the case. If it is not 99 per cent it is not worth quibbling about. The other article states that the technology to keep crayfish alive at that rate exists, and companies have that skill. It then refers to the group, Kailis and France Foods Pty Ltd, claiming that it can keep 38 per cent of a catch alive. There is an enormous difference between 97 per cent and 38 per cent. That is the difference of adding a hundred million dollars to our \$300m export industry. It does not behove an industry to go on the way this one has in regard to this company. So be it in regard to Aussie Lobsters. I think the records speak for themselves. I will take the opportunity later to table the documents so that members on both sides can avail themselves of the results of the experimental licence.

While I was in Broome nearly a fortnight ago I was contacted by the trap fishermen's association in the area that has had difficulties with the Fisheries Department. I will refer to that later in my comments. I want to refer to contacts I had with a gentleman by the name of Kevin Austin. Again, I propose at the end of my speech to table his correspondence on his dealings with the Fisheries Department. Mr Austin became interested in buying a licence from the Fisheries Department in 1993. He contacted an officer who told him there would be only eight boats, and at best 10 boats, in the fishery and that no other boats would be allowed.

Hon E.J. Charlton: What sort of fishery was this?

Hon JOHN HALDEN: This is the northern demersal scalefish fishery. He was told that it would be a highly controlled fishery with 10 boats, transferability of licences and the like. Interestingly, in 1992 the State Government took out of that fishery 15 state licensed boats to reduce the impact on stock. What it has failed to do and still fails to do, is remove the competition from commonwealth licensed boats in the same fishery. The pressure on that fishery continues today. Hopefully, a management plan will be agreed to shortly and that situation will be resolved.

Hon E.J. Charlton: There are no boundaries.

Hon JOHN HALDEN: There is a clear interim boundary from Port Hedland to the border. It goes out to the Australian fishing zone as defined.

Hon E.J. Charlton: It is not the limited boundary off the mainland that it used to be.

Hon JOHN HALDEN: That is an interesting point. In fact, there have been some shenanigans about that exercise that I will raise later. This gentleman wanted to come into the fishery and paid \$200 000 for a licence. He wanted to trap fish and contain them on a boat which was purpose built to keep fish alive, and then to export live fish to Asia. I will give the House examples of what the value adding of that process is worth to Australia, to this company and to the State. I hope that it will clarify the situation. These are approximate figures and there is market variation. Cod on the local market is worth about \$A3.25. In Asia and particularly Hong Kong it is worth \$US12. Coral trout is worth about \$7 on the local market and is worth \$US15 in Hong Kong and in other Asian cities, principally Singapore and Kuala Lumpur. On the Australian market pig fish is worth about \$1.50; on the Asian market it is worth \$US18.

One would have assumed that with these increased valuations for fish, every effort would have been made to support this initiative. Initially, Mr Austin received considerable support. However, there was a change of advisory officer in the region and things started to change. She said that she was not in favour of live fish exports. In spite of the investment that this gentleman had made, she was quite clear in her view that the situation would not change. It is all very well for an advisory officer of the Fisheries Department to have an opinion and to express that opinion as strongly as possible. However, what Mr Austin took exception to - I took exception to it on the basis of what I have seen - was the officer's meddling in the minutes of the management group meeting to ensure that live fishing would not happen from this fishery.

My understanding from Mr Austin, who has detailed these events to me, was that at one meeting a decision was made to look at the recreational fishing area around Broome. It was agreed that north and south of Broome there would be a 30 nautical mile exemption zone and out to the 30 metre isobar, an exemption zone in which commercial

fishermen would not fish and which would be available to recreational fishermen. It included an area of some 6 000 square kilometres. At the next working group meeting it was found that the minutes were changed so that the boundary had gone from 30 kilometres either side of Broome to the 30 metre isobar line. That included a 600 000 square kilometre exclusion zone, a little more than had been agreed to at the previous meeting. I accept that things can happen by accident. That could well be the case in this instance.

Hon E.J. Charlton: What happened as a consequence of that?

Hon JOHN HALDEN: My understanding is that it is before the Minister not to go out that far and they continue to work the area. However, the recommendation is to have the smaller exclusion zone.

Hon E.J. Charlton: Was the decision -

Hon JOHN HALDEN: It has not been agreed to because it is not a management plan yet. That is all pending.

Hon E.J. Charlton: When was this supposed to happen?

Hon JOHN HALDEN: I will give the Minister the date in a moment. My understanding is it was the first working group meeting and it was 1995.

Hon B.M. Scott: You said the minutes were changed.

Hon JOHN HALDEN: That is my understanding. I will refer to the minutes. I have a file that I will table.

Hon Kim Chance: This is from an earlier parliamentary question and a parliamentary inquiry.

Hon JOHN HALDEN: Hon Kim Chance is right in saying that a parliamentary question has been asked previously and an internal public service inquiry has been made into the matter. This is not the only time that the minutes have been changed. I can now answer the question asked by the Minister. I do not know the exact date, but it related to the first working group meeting and it could have been on Monday, 20 November 1995. A figures was changed from 6 000 square kilometres to 60 000 square kilometres. An insignificant difference among friends! I am advised by Fisheries personnel that other items which were never discussed were added to the minutes. I refer, for example, to item 9 -

Item 9 - Action Plan (Conclusions) Management

8. Live Fish

- * Huge demand for live fish - price very high, reef associated.
- * In Queensland, lots of undersize fish and big problem.
- * Long growing fish.
- * Restrict till further information because it could change species interaction and we need to monitor the effect

In spite of the fact that this matter was not discussed at the meeting, reference is made to it in the minutes. I am told that the person who made these additions to the minutes was right in saying there was a huge demand for live fish and it had a high price. She also stated there were many undersized fish and they were a big problem. One of the problems with cut fish is that once it has been headed, gutted, scaled and filleted it is hard to determine the original size of the fish. Therefore, it is difficult to ascertain whether it was undersized when caught.

Hon B.M. Scott: It is clear to me that one could estimate the size.

Hon JOHN HALDEN: The fish can be cut in a number of ways.

Hon E.J. Charlton: Now we are really onto fishing.

Hon JOHN HALDEN: It is a simple process which I will explain to Hon Barbara Scott later. It is difficult to determine the size of a fish from a fillet.

Hon Kim Chance: Processing disguises the size of the fish.

Hon JOHN HALDEN: It is difficult to argue about the size of a live fish, which is either on the boat or with the exporter. It is a simple matter to oversee.

I found the next reference to long growing fish rather odd. I understand it is the point at which fish mature and are able to breed. A couple of species in that fishery are under pressure - red emperor and golden band snapper. The prices for other varieties are not under the same pressure and they can be caught in traps. They could be the focus of this export industry, and a significantly higher return could be obtained than from the two species that are under pressure. It would allow for a far more diverse catch within, and better management of, the fishery. One would expect the trap fishing and export of live fish to be encouraged.

It is interesting to note that Mr Austin has explored the option of exporting live fish to Asia, and has made contact with Mr Lau from Hong Kong who owns 11 boats that could be used to transport the live fish to the holding tanks in Hong Kong. He arranged for Mr Lau to visit Broome to discuss the issue with officers of the Fisheries Department. An appointment was arranged for one o'clock, and in order to meet this appointment Mr Lau delayed his departure which originally he had planned for 1.30 pm. However, no-one from the Fisheries Department met Mr Lau. Mr Austin was not impressed at the way the department treated this person who could assist his business enterprise and significantly increase the value of an Australian export. The appointment could have been arranged at another time convenient to officers of the department but no appointment eventuated. I understand that until 48 hours ago no-one from the Fisheries Department had contacted Mr Austin and neither had anyone apologised.

Hon E.J. Charlton: When was it supposed to have happened?

Hon JOHN HALDEN: I do not know.

Hon E.J. Charlton: Was it recently?

Hon JOHN HALDEN: Yes. I am sure Mr Austin will be delighted to provide the details to the Minister. I will table all this information. The Opposition wants to discuss a number of issues and it wants the Government to go through this matter. Clearly there is a price advantage and an environmental management advantage with regard to fish stocks in allowing Mr Austin to continue.

I have given two examples of changes made to the minutes of this meeting. They were changed a third time but I will not go through that change, since the point has been made. All the changes impact on either Mr Austin or the trap fishermen in that fishery. The alterations and additions to the minutes are inexplicable. The Fisheries Department officer apparently said there was some objection to sending out the fish by boat. He said they could not be inspected. I do not know why; it is the job of those officers to inspect the fish. I understand that the airlines have expressed some concern about the fish being shipped out in bags containing oxygen. Apparently the airlines were afraid that the oxygen tank might cause an explosion. Therefore, the ideal way of exporting these fish seems to be by boat, and this man is prepared to use boats from Broome to export the fish live. The Fisheries Department is not cooperating to ensure that is the outcome. The documentation I will table provides the background of this matter and support for the points I have raised.

I now refer to the northern demersal scalefish fishery and what has happened in that area. I understand the notes are from the association, but I could be corrected on that point. The information was faxed to me this morning and it provides a fair summary of the difficulties this industry faces with the Fisheries Department -

2. Disregarding individuals rights and essential elements of Administrative Law including Principles of Natural Justice.

It continues -

3. Fish Resources Management Act "A management framework that provides security within which fishermen can make business decisions concerning their fishing operations.
4. Disregard for the enormous potential to value add and export.
5. Prior to coming into this Fishery Department I had a very good response to live fishing.

Hon E.J. Charlton: Is this the same officer?

Hon JOHN HALDEN: Yes, but I have blanked out his name on the document. It continues -

6. Sustainability was completely ignored by Fisheries of Both State and Commonwealth when allowing one Fishery into an already existing Fishery.

It is interesting to note that 15 licences were taken from this fishery, and then eight or nine commonwealth boats were allowed in, making a total of 17. The Fisheries Department, having allowed all the commonwealth boats into the fishery, then offered \$200 000 to buy out one Western Australian trap licence. It decided how many trap licences it wanted and how many could be sustained. It then allowed the commonwealth boats to go in and decided on behalf of the taxpayers of Western Australia to buy out a trap licence for \$200 000.

Hon E.J. Charlton: We have been through this before. You acknowledged that there was a formula for people being qualified to fish in the new area.

Hon JOHN HALDEN: I acknowledge that.

Hon E.J. Charlton: There was an opportunity to appeal.

The PRESIDENT: Order!

Hon JOHN HALDEN: I understand that, but the reality is that it was substantiated in 1992 - I understand people were advised in writing; I am sure a letter is in this file - that eight to 10 boats would be permitted under that trap licence. Today the potential exists for 15 to 17 boats to operate in that fishery. The matter has not been resolved over that period. However, in that time the Fisheries Department offered \$200 000 to buy out a trap licence. Surely Fisheries should get its priorities right and clarify who has a commonwealth licence and meets the criteria and can fish in the fishery.

Hon E.J. Charlton: That is because the State's jurisdiction over that ceased.

Hon Kim Chance: No; the State expanded its jurisdiction.

Hon E.J. Charlton: I will check that.

Hon JOHN HALDEN: In fact, by the OSCS agreement.

Hon E.J. Charlton: It was not limited to the State because it went out to 200 miles or whatever.

Hon JOHN HALDEN: Fisheries knew it had to be resolved, but it is not resolved and that is another issue. The Fisheries Department restricted to 20 the number of traps that could be used. That was an appropriate step, but to this day line fishermen still have unrestricted access to that fishery. Again, the matter relates to whether the commonwealth boats should have been allowed to continue in the number they did in that fishery. This matter is not resolved.

The process of the working group also became a concern. The working group comprised only two representatives out of seven from the client group when the working group guidelines provide that the client group will comprise more than half the total. As I said before, it seems that changes were made to the minutes of the working group, resulting in changes being made to the 30 metre isobar. A section on line fishing was added to the minutes, but was not discussed. I have been made aware of the dictatorial role of the advisory officer within the working group and the voting process she introduced to heavily outweigh the fishermen's views. I understand that the guidelines provide that no voting is required on all matters, but some voting was allowed. The advisory officer told the representatives of the working group that the minutes of meetings must be kept confidential. That meant that industry representatives could not advise the industry about what was decided, what was their input or whether they agreed with decisions. Again, that did not conform to the guidelines on how those working groups were to operate.

Some of these matters have been referred to the Public Sector Standards Commission. An inquiry has been undertaken, the results of which, to date, nobody knows. So be it. I do not know what that means. Serious concern has been expressed about activities that have taken place. I was told by a number of people that at the fourth working group meeting the same advisory officer said that an item on the minutes had to be changed because the Minister said it had to be changed. The Minister handling this may recall that I asked him whether he directed, advised or asked that the minutes of the fourth working group be altered. The Minister's response was, "No." Three people have told me that the advisory officer said at the meeting that the Minister asked for that alteration.

All these matters amount to a situation which is not conducive to the establishment of a good working relationship between Fisheries and those people involved in the industry. In fact, from the comments I have heard, which no doubt Hon Kim Chance will relate to the House, it is not unfair to say that fishermen in that fishery are somewhat concerned about their future and the direction fishery officers have taken on certain matters. They do not believe they are being treated fairly.

A range of other concerns were expressed about appeal processes and money being paid out for an appeal. The appeal process was established for groups, its guidelines were changed to cater for individuals, then it was not allowed to be used at all. People paid money to appeal and although they were told at the end of the day that they could not appeal, their money has not been refunded. To say the very least, the process is amateurish. As I said earlier, we are talking about investments such as \$1.5m by one fisherman. It is not good enough that amateurish responses are being made to a range of matters by what should be a professional group of people.

It is unfortunate that I have abbreviated my comments. It probably makes it difficult for the Minister to make a comprehensive response. Nonetheless, we must take this opportunity presented to us today in this debate. The Opposition has previously drawn the House's attention to the history of Aussie Lobsters; it has today highlighted the results of the experimental licences and explained how another opportunity to increase the value of our export commodity is being blocked and delayed and how the establishment of a fish management plan has been botched for four years as a result of too many circumstances to enunciate now.

At the end of the day, even if this matter involved only three examples, this motion should be supported by this House. In essence, it is fair to say that I could speak about tens of claims, but I will table them in this place to show at best the amateurism of the Fisheries Department. The implications of its actions on individuals and the State are enormous. It is time that something was done to lessen the impact of Fisheries Department decisions on individuals and to put an end to their arbitrary nature, of which I have been made aware and I believe have seen evidence in documentation.

I am not saying this situation has developed only since 1993. To be honest, I think that over a long term a department has got away with administrative murder and has been a law unto itself. It has been able to fabricate situations so that it could dictate who would go ahead in the industry and who would not. That arbitrary decision making has gone too far. On the basis of what we have presented today - with a little more strength than we would have individually - 10 different areas of concern have been highlighted in the time allocated today to substantiate what is happening. I hope that in a spirit of cooperation the House will support this motion. I seek leave to table the documents.

Leave granted. [See paper No 565.]

HON KIM CHANCE (Agricultural) [3.09 pm]: Members will recall that over the past couple of months I have raised issues related to the management of fisheries that fall under the formal management of the Fisheries Department. Those issues relate to the Kimberley demersal interim managed line fishery, in particular, and also to the Windy Harbour-Augusta managed rock lobster and deep sea crab fishery. I have no intention of taking the House over those issues again. However, a little later I will provide brief updated information on those issues. I mention them simply to put what I am about to raise now in its proper context.

I have expressed my views about the quality of the management of those fisheries and the processes that were undertaken in putting together the management packages and the effect they had on participants in the fisheries. The issues I raised about the Kimberley demersal interim managed line fishery concerned principally one person, Steve Reilly, although others were affected. In the Windy Harbour-Augusta fishery the effect is broader, even though it involves only a handful of commercial fishermen.

Late last year I received a letter from Reg Hunter. Mr Hunter had an interest in what was called the Comet Bay restricted entry prawn fishery; it now goes by another name. It is basically the trawl fishery that exists in the area just north of Mandurah. Mr Hunter alleged a case of criminal fraud in a contrivance to effect a de facto transfer of a licence. The licence to work in that fishery is non-transferable and operates under stringent conditions. As members can imagine from its location, the fishery is close to an area of heavy population pressure and also of not inconsiderable tourist pressure, and is effectively under the microscope. Whenever a commercial fishery is operated in close contact with a large population base, we must be careful about how that fishery is managed.

In the light of that, when this fishery was established - I believe the establishment date goes back to 19 January 1984, but it may go back a little beyond that - severe restrictions were placed on the conditions that attached to an endorsement on a licence to fish in that area. Those severe restrictions made it clear that once a person left the industry by way of selling his vessel, the endorsement to fish in that area was effectively cancelled: It was not possible to transfer from one fisherman to another. It was a non-transferable licence in every sense. The allegation I was provided with was that both the trawler, *Silvery Wave*, and the use of the licence, which has been attached by endorsement to that boat, were improperly transferred from Mr Boocock to a company trading as Blue King Holdings; and that the vessel and fishing rights were being operated for Blue King Holdings by one of its principals, Mr A. Butler.

Hon E.J. Charlton: Where did Mr Hunter come in?

Hon KIM CHANCE: He has an interest in the fishery. He was the former owner of another vessel. His son still owns that other vessel, which has been operating in the fishery. If this transfer as outlined in the letter I received has occurred, both the spirit and the letter of the licence endorsement have been breached. I am not alleging that they have been breached, but if those allegations explained to me are the facts, that seems to be the case. I will read an excerpt from the original letter that was signed by the then director of the department of fisheries and wildlife and sent to every person who was granted endorsement to operate in that fishery. The letter is dated 19 January 1984. It contains an introduction to the fishery and states -

The approval for you to operate within the restricted area will be subject to the following conditions:-

I will read conditions 2, 3 and 4. The first I will read is by far the most important. It states -

Any change in proprietorship of the vessel will result in the endorsement to fish in the area being forfeited.

That is an unambiguous statement. The first two words in that sentence are probably the most important. Condition 3 states -

Any breach of fisheries legislation whereby the vessel trawls in waters closed to trawling will result in cancellation of the endorsement.

Condition 4 states: "Replacement boats will not be approved." One could almost describe it as a terminal fishery. The Fisheries Department was aware of the possibility that a de facto transfer had taken place. This is confirmed by a letter from the Acting Director of the Fisheries Department at the time, Mr Peter Millington, dated 9 June 1988, to the senior district fisheries officer in Mandurah. The first paragraph of that letter reads -

I understand that there may be a possibility that the Silvery Wave, one of the three remaining Mandurah restricted entry trawlers, may be the subject of a de facto transfer.

The letter quite properly asks the senior district fisheries officer to look around and use his discretion to find out whether the rumours have foundation. The relevance of the letter is that at the highest level of the Fisheries Department at that stage, when Peter Millington was acting director, there was an awareness of the possibility - no more than fact - that a de facto transfer had occurred. As a result of that an investigation was launched, quite properly, by the Fisheries Department; however, as far as I am aware, it was never completed. No report of the investigation has been released publicly. When Mr Hunter made an application under freedom of information legislation he was told that it was an exempt matter and was not available to him. However, the officer who undertook the investigation advised Mr Hunter that it seemed that a partial sale agreement had taken place. I remind members of the first two words in condition 2; that is, "any change" in the proprietorship of the vessel.

So, that is clear enough. We have the suggestion here that the investigator carrying out the investigation on behalf of Fisheries confirmed, at least in his mind, that a partial sale agreement had taken place. From that point on there is no evidence of any further action having taken place. Indeed, Mr Hunter feels that the inquiry launched at that time by Fisheries was never completed. It appears that Blue King Holdings became the owner of the vessel - and that has been confirmed by parliamentary questions and my own inquiries - but that the original owner, Mr Boocock, remained the licensee and, again, that has been confirmed by parliamentary questions. In other words, the conditions of the endorsement read in that manner appear to have been breached; there has been a change in the ownership and proprietorship of the vessel. Why was action not taken at the time, and why has action still not been taken? I always leave the possibility that there is a very good reason that no action was taken then and that no action has been taken now.

Hon E.J. Charlton: In 1988?

Hon KIM CHANCE: I allow for the possibility that there is a good and cogent reason. However, why have we never been told that reason? Since this matter has been raised with me I have asked at least four parliamentary questions containing 28 parts. They were all simple, direct, non-tricky questions. Sometimes I got a good, straight, helpful and informative answers. Sometimes I got the most twisting, devious, convoluted replies one could imagine.

Hon John Halden: I hope you will tell us about them.

Hon KIM CHANCE: I will.

Those two questions about why action had not been taken intrigued Mr Hunter, particularly in light of the fact that another vessel, the *Sabrina*, had its endorsement withdrawn because of the sale of the boat - its ownership had changed - and that his son, Mr Vaughan Hunter, had to provide extensive records, including tax records, to Fisheries in order to prove his claim that he owned the boat he was using in the fishery. The Fisheries Department was doing its job.

Hon E.J. Charlton: When?

Hon KIM CHANCE: I do not know, but I imagine it was about 1988. Again, I am not entirely sure. The question of ownership of the vessel seems to centre on those two points; that is, the *Sabrina* and Mr Vaughan Hunter's need to prove ownership. It is entirely germane to the administration of this fishery, despite the later protestations by Fisheries that we will hear to the contrary, which said that the ownership of the vessel was of no interest. In fact, it was of interest in both of those cases. Because of his interest, Mr Hunter then pressed Fisheries and the Minister to take what appeared to him and what seems to me to be appropriate action to nullify the endorsement.

Hon E.J. Charlton: Who was the Minister?

Hon KIM CHANCE: The Minister approached by Mr Hunter in the first instance was Hon Monty House. The time lag will become obvious a little later, I hope. Mr Hunter was not satisfied with the response that he received and he first wrote to me in November last year, although he had made telephone contact a month or two earlier. In addition, he has provided me with other information that points to some of the history of the case. On 12 March 1993, the Fisheries Department received legal advice from the Senior Assistant Crown Solicitor, Mr Delaney. In that advice,

Mr Delaney first apologises that this is only his first view of the matter and he had not had long to consider it. In the sixth and final paragraph of his advice dated March 1993, he stated -

Since the advent of the Notice 403 licences issued for the limited entry fishery are not “transferrable”. So in the present instance licence 2084, which was issued to Boocock in 1989/1990 -

I will explain the difference in the date later.

- has not been transferrable. If you acted after receipt of that licence in a manner which constituted transfer of the licence then his action may be brought to account. Equally, if the present operator of “Silver Wave” is purporting to enjoy and exercise the rights conferred on Boocock by licence 2084 then he may be found to commit an offence of being unlicensed.

On 13 May 1994, Fisheries sought further advice on its powers, among other things, to constrain licensees' abilities to replace their vessels.

Hon E.J. Charlton: Are you still talking about the same fishery?

Hon KIM CHANCE: Yes, indeed. Members will recall that the constraint on the licensees' abilities to replace their vessels was one of the points of the letter. On 24 May - 11 days later - further advice was received from the Senior Assistant Crown Solicitor, which in part read -

The relevant licences appear to refer in their conditions to Notice No. 91 (and its successors) as part of the conditions. Notice No. 91 refers to an authorisation in writing. It is arguable that the Minister's letter accordingly represents the authorisation and thus runs with the licence and is deemed to be incorporated in it.

Alternatively, it is arguable that the same result arises from the terms of the licence which state it is subject to any conditions notified in the Gazette by any Minister. This imports the Notice No. 91 and as a result it is a condition of the licence that the licensee must act in accordance with any applicable authority, i.e. the Minister's letter.

Alternatively, it is arguable that the Minister's letter of 27/2/1984 operated as a direction to licensing officers under s.17 as to conditions to be imposed. If it is asserted that the conditions never properly became part of the licence then those who advocate that view may face the consequence that, as provided by s.17, the absence of those conditions made the licence null and void.

In any event, it seems also open to be argued that even if in the past refusals of boat transfers, boat replacements etc cannot be legally justified by reference to applicable conditions, it does not follow that the actual refusals were therefore invalid.

That means that the rules which were established in 1984 and which applied right through to 1988 were, despite some of the earlier doubts on this matter, legally and properly enforceable. At least, that was the opinion of Senior Assistant Crown Solicitor Delaney at that time.

Hon E.J. Charlton: Or if the Minister decides something else. This Act may give the Minister of the day the opportunity to do so.

Hon KIM CHANCE: Quite clearly, the Minister has discretion. When we talk about the Fisheries Act now we must remember that we are talking about the 1905 Act. It has never been suggested to me that the changes made resulted in an exercise of that discretion by the Minister. That might be the case, but why have we not been told? I do not think it is the case and as I go on -

Hon E.J. Charlton: I am not saying it; I am interpreting it.

Hon KIM CHANCE: I agree.

In spite of that advice and what I believe is the very clear wording of the conditions of the endorsement, no further action was taken, as far as I can see. The reason for this seems to be contained in a letter from the Minister to Mr Hunter dated 23 January 1995, which states in part -

In essence, that opinion states that whilst a sale agreement itself has been entered into, the arrangement between Mr Boocock and Mr Butler cannot at this time be construed as a completed sale -

And I emphasise that.

- effecting a transfer of proprietorship.

Your understanding of the alleged sale appears to differ from the precise legal position as identified by the Department. Whilst the arrangement between Mr Boocock and Mr Butler concerning "Silvery Wave" may well be outside the spirit of the relevant licence conditions, there does not appear to be any legal basis upon which action could be taken against either parties by the Department.

[Resolved, that debate be continued.]

Hon KIM CHANCE: We have to ask why is emphasis placed on the words "completed sale" and why is emphasis placed on the nature of the sale and whether it was completed partially or totally? I refer again to the original conditions, which state that any change in the proprietorship of the vessel will result in forfeiture of the endorsement.

Hon E.J. Charlton: To get this in perspective, why is it that all the activity and opinion on this issue has happened 10 years after the transactions supposedly took place?

Hon KIM CHANCE: I think 1988 was when the transaction took place. An investigation took place over some time but I do not know when it concluded because we have not had the benefit of that report. The whole issue virtually lapsed because nobody was interested in pushing it further until Mr Hunter picked it up. Presumably he raised it with successive directors of the Fisheries Department and probably successive Ministers. My record of his first contact with the current Minister is 1993. This matter is not aimed at the Minister.

Hon E.J. Charlton: I know. I am trying to get into context why there must be an inquiry into the Fisheries Department by the Minister. I am trying to pick up the threads.

Hon KIM CHANCE: Why is there a big time lag? I do not know. Officially I did not become part of it until 1995. It had been raised, but I think Mr Hunter found it difficult to get anybody to pick up the issue. The issue is incredibly complex.

Hon E.J. Charlton: I have the same problems with them too.

Hon KIM CHANCE: I think we all do. Trying to re-analyse the issue last night and this morning, knowing that I had to present the matter to the House in an understandable form, took some time. I think I gained a rather better understanding by doing so. I must press on.

Hon John Halden: Or I will shoot you!

Hon KIM CHANCE: Yes, the Leader of the Opposition will do nasty things.

Was the Minister poorly advised by the Fisheries Department? Mr Hunter thinks he was. In a letter to me that he wrote on 6 April 1995 he wrote in part -

We were called to a meeting at the Fisheries Dept and Director P. Rogers informed us that he had received further legal advice which now made the original Rules legal. We have not been able to see this advice. An investigation was carried out by a Fisheries Inspector with advice from us. The result was the boat and licence had been sold. Documents had been produced to show that of the sale price of \$53 000 \$1 had been withheld to make it an uncompleted sale. The person who arranged the sale has stated that the boat was sold in 1988 and has not been carried on their books for taxation purposes since.

If that is correct, we have a change in the ownership of the boat. Going back to the Fisheries Department's original investigation, it revealed that the sale was incomplete. We have some level of confirmation that it was not completed by a factor of \$1.

Hon E.J. Charlton: What does that sound like to you?

Hon KIM CHANCE: It sounds like an incomplete sale or contrivance -

Hon E.J. Charlton: Yes, it sounds like people were doing a deal to ensure that they could meet the requirements of the original 1984 deal.

Hon John Halden: The difficulty is with the words "any change" because there was a change.

Hon KIM CHANCE: My view is that the conditions refer to "any change" in proprietorship. It could be a change from 100 per cent to 50 per cent by Mr Boocock, or a change by a factor of \$52 999 to \$1, which is a major change.

Hon E.J. Charlton: I am not arguing with you one way or the other. If I owe you \$1 000 and I do not pay at all, it is not yours or it is not mine.

Hon KIM CHANCE: That is true, but the conditions refer to "any change". It could be a change in whole or in part. It seems from the evidence that we have seen there was a contrivance in the change of ownership of the vessel, yet

the Minister seems to have been convinced from what he has said that it was not a completed sale, and thus there had not been a change.

Hon E.J. Charlton: I think the buyer and seller may have done a deal of which the Fisheries Department has no knowledge.

Hon KIM CHANCE: The buyer and seller seem to have done a deal, although I do not want to unfairly blacken anybody's name. It also seems that the Fisheries Department knew about it because we had the earlier reference to the investigation by the Fisheries Department investigator telling Mr Hunter of a partial sale agreement. We have the Minister recognising that there had been an incomplete sale. Certainly people seem to know about the nature of the sale. The question is what have they done about it, given the black and white definition of change of ownership in the original conditions? If the incomplete sale as described is correct, it seems that the partial sale agreement is nothing but a contrivance and the Fisheries Department should have acted but did not. The question also arises as to whether the Minister was misled by the Fisheries Department. In a later letter from the Minister to Mr Hunter, dated 4 August 1993, the Minister wrote -

In the first place the term "proprietorship" as was then applied by the Fisheries Department was taken by common practice to refer to the Fishing Boat Licence . . .

Remember that we go back to "any change" in proprietorship of the vessel. The Minister's letter suggests we are not talking about a vessel when we are talking about proprietorship but the fishing boat licence. It continues -

This approach is quite consistent with both the powers conferred under the Fisheries Act 1905 and the licensing policies of the Department which have never sought to, nor indeed been able to, control the ownership of the hull used in a fishing operation, as opposed to the licence to permit such an operation.

If the department had not sort to control the ownership of the hull, how did it enforce the forfeiture of the *Sabrina* endorsement when its ownership changed? The next paragraph reads -

Given this position, one must then determine whether, along with the replacement of the hull, the several changes in registered ownership of this hull can be constituted a "change in proprietorship" for the purposes of the Fisheries Act 1905. In my view it cannot, and no action can be taken on this basis.

There is another reason for no action being taken because when the director's letter referred to a vessel it meant a piece of paper in the form of the licence. That is arrant nonsense. To describe a vessel as a piece of paper is ridiculous. Nobody with any understanding of the word could possibly agree with that.

Hon John Halden: Nor does the Act.

Hon KIM CHANCE: I will get to that. What the Fisheries Department is trying to say apparently is that when the original conditions clearly stated that any change in ownership of the vessel would result in forfeiture, it did not mean what it said because a vessel or boat is not really a vessel or boat; it is a piece of paper! The Fisheries Act clearly defines what is a boat. So none of us is misled that there is any parlance in the fishing industry which says that a "boat" means a "licence", let us have a look at how the Act defines a boat. It states -

"Boat" includes every vessel, boat, barge, floating platform or punt of any description whatsoever;

What is missing in that definition is "a piece of paper". A boat does not mean a licence. The definition for boat licence is "a licence issued under the Act to use a boat for fishing". However, we know a boat is broadly described as something which floats. To pretend that a boat is an endorsement or a licence is not just laughable; it is much more serious than that. It is a deliberate attempt to conceal the facts. The facts strongly point to a breach of section 17(5)(b) of the Act, which states -

Any person who -

. . .

uses his boat, or permits or suffers his boat to be used, contrary to any condition to which his licence is subject . . .

commits an offence.

It is very clear that the conditions referred to in the 1984 letter are being breached, certainly in my view. If they are not being breached we need to know why that determination has been made.

Hon E.J. Charlton: Are you saying that the departure from 1984 was not picked up on this transfer that Mr Hunter has followed up, but it was adhered to in the case of the other vessel?

Hon KIM CHANCE: Yes; in the case of the *Sabrina*. Additionally, boats are referred to in numerous places in the Act. I am holding a copy of the Act which has six tags protruding from it. In a five minute examination of the old Fisheries Act, I have found references to the ownership nature of boats. They are recognition that boats are things that float, and people can be passengers in them. They are recognitions within the Act. Nothing in the Act could lead anyone to confuse what is a boat and what is a licence.

Hon John Halden: It does not say anywhere that a boat is a piece of paper!

Hon E.J. Charlton: The issue is about the sale.

Hon KIM CHANCE: Yes. It becomes clear in section 32(2)(k), which states -

A notice under subsection (1) in relation to a limited entry fishery may specify -

. . . the method by which boats or persons authorized to operate in that limited entry fishery shall be replaced, and by which an authorization may be transferred.

That is the machinery which enabled that 1984 letter to be written, which determined the conditions, and which the Crown Law Department says is legal, as I read Crown Law's advice.

Sitting suspended from 3.45 to 4.00 pm

Hon KIM CHANCE: During the break I was requested by the Leader of the Opposition to keep my contribution relatively short. I think I will stop bleeding soon! I will draw my remarks to a conclusion as quickly as possible. My contribution required that I take some time because, Mr President, you will have gained the impression that it is a complex issue. In trying to reach some resolution to this matter I have asked some simple, but fairly detailed questions to determine the facts. It is not a complicated matter by virtue of the material facts of the issue. However, it has become a complicated issue because of the nature of response to us from the Fisheries Department and, presumably as a result of that, from the Minister.

As I indicated earlier, the answers to my questions have on occasions been frank and helpful. However, on other occasions the issue has been made obscure by the tortuous and seemingly deliberately convoluted replies. On Tuesday 24 October 1994 in a question without notice of which some notice had been given I asked a 16 part question which in part confirmed some of the things I said, firstly that Boocock is the owner of the licences. Although the matter is outside the scope of the Fisheries Act, the Minister informed me that he understood that Mr Butler/Blue King Holdings is registered with the Department of Transport as the owner of the vessel. Separation of ownership of the two vital assets had been clearly established. A little later in part (13) of that question I asked -

Has it been concluded that the transaction between the parties has been a vehicle to legitimise an otherwise improper transfer of a non-transferable endorsement?

The answer was -

No such conclusion has been reached.

That prompts the next question to which I have not had an answer: Why has such a conclusion not been reached when, on the face of it, the facts are so clear? I think you will understand, Mr President, why I have become so frustrated handling this issue. If there is a clear reason for no action being taken - I allow for the fact that there could be a good reason - why have Mr Hunter and I not been provided with that reason?

I refer quickly to a matter which I have previously brought to the attention of the House - the Windy Harbour-Augusta rock lobster managed fishery. The only issue that I want to raise is a material change since I spoke on this matter on 20 June in an urgency motion. On 30 August the management plan of which I spoke in the context of that motion was gazetted. That will result in a 60 per cent cut in pot numbers in that fishery and will effectively transfer all the responsibility and pain from events directly back to the fishermen involved in that fishery. Therefore, the worst nightmare of those people in the Windy Harbour-Augusta fishery has come true.

In this case, there was a stage when both the Fisheries Department and the rock lobster industry advisory committee supported an arrangement for a geared exchange of pots between that fishery and zone C of the west coast rock lobster fishery which would have allowed people to exit the industry with some dignity. I referred to Hon Paul Omodei's part in promoting that scheme. I said that at one stage RLIAC and Fisheries supported that proposal. They changed their minds along the way and I asked Fisheries why. Fisheries said that it had set aside its view on that proposal after the Rock Lobster Industry Advisory Committee had been lobbied by the west coast zone C fishermen. I later found that not only had Fisheries not been lobbied by the zone C association, but also the association had not even discussed the matter. It had been on the agenda for the 1994 coastal tour but it had been removed from the

agenda. Somebody lobbied RLIAC and caused Fisheries to change its views from what I, Paul Omodei and others thought was a reasonable option.

Hon E.J. Charlton: Do you know whether zone C would have agreed to the proposal?

Hon KIM CHANCE: Unfortunately I do not because, according to the information provided by Fisheries, somebody lobbied RLIAC. Does Fisheries know that RLIAC was lobbied by an individual whom I will not name here, but who told me he was the individual? Does Fisheries know that it changed its policy on the advice of one person, that that one person influenced RLIAC's view and that it adopted the view put by RLIAC as a result of that lobbying?

HON MARK NEVILL (Mining and Pastoral) [4.10 pm]: I want to contribute to this debate because over the years I have been appalled by the management of the Western Australian fishery by the Fisheries Department. It has shown no professionalism in the way it has dealt with its staff or the industry. It has been living off the reputation it gained in the early days of managing the rock lobster industry. It has generally made an absolute mess of most other areas and attempted to patch it up. It could be said that the Fisheries Department is fairly expert at covering its backside. I will run through the way the Fisheries Department's executive management treats its staff. I will give an example of two very competent fisheries officers who refused to go along with the culture of the department and were ostracised and victimised, and of other officers who committed criminal offences but were never brought to book simply because they were part of the Fisheries Department's culture.

I have asked a number of questions of the current Minister about events that occurred basically in the first part of the 1990s, and the Minister has disappointed me because he has never really tried to get to the bottom of these problems. He has provided to this House answers which have obviously been written by the Executive Director of the Fisheries Department - members will have heard them; they are quite facetious - such as, "This matter occurred under a previous Government." I do not care what Government it occurred under. As I said in a follow up question, her Majesty's Government continues no matter who is in power. I received that answer to quite a number of the questions. I also received the answer, "The executive director will give the member a briefing if he is interested." I have never received forthright answers from the Fisheries Department.

There is no way in the world that in the 30 minutes that I have I can cover all these issues, but I will allude to a few. In the President's Gallery are two guests whom the President kindly allowed me to invite -

The PRESIDENT: Order! You should not refer to them.

Hon MARK NEVILL: I will rephrase that. For a number of years, fisheries officers who have not received any justice from this department have been in contact with me. The department has obfuscated, suppressed, dissembled and done everything it can to avoid tackling the issue. It has done nothing to assist these men to get on with their lives and rehabilitate themselves. One of these men has had a very serious nervous breakdown. Hon Norman Moore met one of these men when he came to Parliament last year and did not recognise him. He said, "When I knew him a few years ago working at Tom Price as a baggage handler for Ansett, he was very popular and jovial, and was everyone's friend." He was shocked at the change to that person. That resulted from six years of isolation and other treatment in the Fisheries Department.

One of those fisheries officers, Jim Sutton, happened to move in next door to me in Esperance some years after I first moved there in 1983. He was an acquaintance, probably not more than that, in the early years. He was a very effective fisheries officer. When I first got to Esperance, the fisheries officers lost most of their cases; they got rubbed out in court because their investigation techniques were absolutely incompetent. One of the abalone divers said to me, "I want you to go to the courthouse and listen to the evidence given by the senior officer of the Fisheries Department in Esperance today." It was quite amazingly incompetent, and I could see why the Fisheries Department lost that case. I wrote to the Minister at the time, Julian Grill, with the result that the Fisheries Department undertook training of officers in investigative techniques, and it hardly lost a prosecution after that.

Jim Sutton arrived at Esperance at about that time. He was held in high regard by the fishermen. He cleaned up the poaching in the abalone industry in Esperance. He was involved heavily with the southern bluefin tuna fishery, which is a commonwealth-state administered fishery, and he was highly respected within both the Fisheries Department and the local fishery. Jim Sutton's big mistake was to write a report about possible corruption in the Esperance purse seine development pilchard fishery; that was the absolute end of his career.

Hon John Halden: It is just unbelievable that anyone could take exception to it.

Hon MARK NEVILL: He was asked by the director of operations, Ernie Little, to investigate that matter further, which he did, and he put forward a report and asked to be instructed whether he could continue. I am not sure whether the letter was not answered or whether he was instructed otherwise, but he was never allowed to follow through that inquiry. The possible corruption in that case, which was never followed through, was within the pilchard

management advisory committee and included a Fisheries Department policy officer and one of the executives of the Western Australian Fishing Industry Advisory Council in that area. That matter was never followed up, but it resulted in the ruination of Jim Sutton's career. He also compiled a breach report on the southern bluefin tuna fishery. That was a commonwealth-state investigation, and it can be seen from that document that the state Fisheries Department was very busy getting a local processor and the Western Australian fishermen off the hook. It did not assist in the prosecutions which were recommended by that breach report. The Fisheries Department has a history of looking after certain people and absolutely rubbing out others who are not part of the inner circle, if we can call it that. Jim Sutton was subjected to malicious, vindictive and sustained attacks upon his work credibility, which then turned into attacks upon his character. That was basically orchestrated by people at senior levels of the Fisheries Department. Those attacks were successful in destroying both his health and his career.

Hon E.J. Charlton: When did this happen?

Hon MARK NEVILL: It started around mid-1992.

I want to go through some of the things that have happened to Jim Sutton and to Chris Thomas, and I will give a few examples. Jim Sutton was prohibited from patrolling outside the Esperance town boundary - a radius of 20 kilometres. In an attempt to break him, he was instructed not to work weekends or overtime, including seagoing duties. He was denied the opportunity of relieving in the senior position in Esperance, contrary to long term practice, simply because he wrote this report on the pilchard industry. He was instructed not to attend Fisheries Department and industry meetings. His patrol vehicle was taken from him and redeployed to Broome. He was ostracised from the operations of the Esperance district, including basic office duties. He became the subject of a highly critical, adverse performance appraisal, which was kept secret from him and which, quite clearly, can be proved inaccurate. He was also labelled not psychologically stable, by unqualified Fisheries Department executive staff - people at the very top. Jim Sutton was a very normal person when he lived next door to me. It was the actions of the Fisheries Department and this sort of treatment that have affected the health of these people. Jim Sutton was subjected to statements by executive staff that he was affected by a degree of paranoia and that some of his actions were irrational. I have been through the material in the file and there is nothing irrational or paranoid about it. The file contains simple, straight-out documentation and notes of events that occurred about that pilchard fishery.

Hon E.J. Charlton: When did he do that report into pilchards?

Hon MARK NEVILL: It was in 1992. He wrote to senior management to get assistance and guidance on what he should, or should not, be doing, but those letters were ignored. The typical isolation job was done on him. Some senior executive Fisheries Department staff members were obsessed about getting him removed from his position or getting him sacked. There is evidence that a professional fisherman was contacted and asked to supply information to help the Fisheries Department get rid of this officer. In 1993 his immediate supervisor told him that senior staff members had lined him up for a transfer or dismissal and were trying everything they could to establish a case against him. He was restricted in his workplace to the point where he was ineffective and could do nothing. Then he was accused of undertaking no inspection duties. On one occasion he had no petrol for his vehicle. The funding for the running expenses for his vehicle had run out so he could not travel.

Jim Sutton was a highly recommended officer. I will quote from a couple of letters. In 1990 the director general of operation advised him that he was to attend the fisheries officers' course at the Australian Maritime College in Launceston. The letter states -

I congratulate you on your selection for the course, as it reflects acknowledgement of your personal endeavours demonstrated in your work role.

In October 1990 a letter was written to Neil McLaughlan, the deputy director of fisheries, by Graham Peachey, Manager of Licensing and Surveillance, Australian Fisheries Services in Canberra advising him of Jim Sutton's contribution in a successful operation off the east coast of Australia leading to the apprehension of the Japanese tuna long-line fishing boat *Shaun Maru 12*. Jim Sutton, the Esperance fisheries officer, led that raid. It was the first time an overseas fishing boat was caught and the charges stuck. The operators were fined \$4m or \$5m. In May 1991, in a request from Australian Fisheries Services, Mr Looby of the management section of the Western Australian Fisheries Department was asked whether Jim Sutton was available to coordinate a seagoing patrol on board *HMAS Bendigo* and lead a team of officers from South Australia, Queensland and New South Wales. A letter from Colin Ostle, the senior fisheries officer of the Australian Fishing Zone in Perth, states -

Jim built up an excellent understanding of the Southern Bluefin Tuna fishery and is now considered a leader, if not the leader in that field in Australia, having headed teams of officers from various states.

His expertise has been used to support successful land and sea operations and patrols with Naval Patrol vessels around New South Wales, Tasmania, South Australia and Western Australia.

He has been given and accepted a high level of responsibility in those situations and has always given 110% effort, which at times has called for major sacrifices on his part with no complaint.

He is a former Royal Australian Navy serviceman and I know he was at sea for very long periods on the surveillance exercises. Another letter from the AFS states -

Messrs Ostle and Sutton participated in the workshop on foreign tuna operations where they took a leading role in refining further our SBT catch monitoring arrangements. This has been undertaken with the help of the South Australia Fisheries Department.

Quite clearly this is a very competent - probably too competent - fisheries officer. As soon as he wrote a report on the pilchard fishery his career started to fall apart. After he wrote the report he was warned by a Fisheries Department officer at Esperance, Graeme Hall, to expect a rocket from head office. A few days later in June 1992 he received a telephone call from Laurie Caporn, operations manager south, expressing his displeasure with the pilchard report. Mr Caporn told him that the report had done little but destroy Jim Sutton's credibility within the department. He told him that the policy of the pilchard fishery was not his concern and his involvement was not achieving its purpose. He said that the only thing it was doing was bringing about Mr Sutton's downfall and hurting others along the way. Mr Sutton was told to stick to his areas of responsibility and not to get drawn into the matter as he would only get hurt.

Clearly if this report was wrong, it should have been dealt with professionally by the Fisheries Department and shown to be wrong. However, the report was not acted upon; nothing was done about it; and the officer who produced it in good faith was victimised and isolated. Jim Sutton was called to Perth to appear before Mr Ernie Little, the acting director general of operations. The following Monday his vehicle was to be deployed to Broome. He was advised that his position as a commonwealth southern bluefin tuna officer was now under review and to expect a transfer from Esperance. He was advised by Graeme Hall, the officer in charge, that Mr Caporn had issued instructions preventing him from relieving in the officer in charge position at Esperance in the future.

When Jim Sutton was shifted out of Esperance, he was replaced with two officers, one of whom has gone on stress leave. I have absolutely no doubt that this was a very competent, dedicated officer who wrote a report that was not dealt with in a professional manner. In August 1992 the chief executive officer, Mr Peter Rogers, wrote to the state Minister for Fisheries stating -

It is the opinion of the A/DO Ernie Little that the officer concerned, Mr Jim Sutton, is not psychologically stable at the present time and he is concerned at some of Mr Sutton's actions in recent times. He is arranging for Mr Sutton to be transferred to the metropolitan area.

This minute to the Minister dated 11 August 1992 and signed by Mr Rogers was later found to have been written by Mr Little. Its existence was kept secret until 1 September 1993 and did not appear on Jim Sutton's personal file for 18 months. The existence of this letter was denied by the Fisheries Department until the department was confronted with a copy of it, and only at that time did it admit a letter to this effect existed. I could go through a whole series of other actions that have been taken against Jim Sutton; however, I do not have the time to do so.

I will now just make a few comments about Chris Thomas. He was a new recruit to the Fisheries Department and under the control of a person called Kendrick. I have already mentioned the case of Kendrick and Dixon in this House. Kendrick took a woman from her house to the Midland Police Station and interviewed her. He used his Fisheries Department powers to investigate her bank accounts about a private debt. That has never been pursued. I will read from the Fisheries Department file note about the occasion that Kendrick was brought before McLaughlan, Birch and Rogers - the director, deputy director and officer in charge of personnel. The meeting considered some accusation made against him. I quote from Peter Rogers' note of that meeting -

However, on the human resources management side I have come to the following conclusions -

1. Virtually all management staff within the Operations Division no longer have confidence in your ability to continue to manage the Special Investigations function. This lack of confidence arises from a gradual loss of trust emanating from your specific management style, in particular your lack of openness and a veneer of dishonesty in matters of discussion.
2. Your management style in relation to peers and subordinates could be described as autocratic, overbearing, excessively demanding, inconsiderate of subordinate staff and families, vindictive, obsessed with secrecy and lacking in candour.
3. Throughout the organisation in the words of some officers, but more especially the CSA who in fact have conducted their own inquiry, the generation of genuine fear amongst subordinates and

peers to the extent that they feel threatened by your virtual presence, creating a sense of insecurity and loss of confidence. This feeling goes beyond officers within the Operations Division.

For this, Mr Kendrick was slapped on the hand with a wet feather. I further quote Mr Rogers -

In your particular case, I would be transferring you away from the Special Investigations Branch to . . . have an ongoing role in purchasing and training.

So they put him into training! Continuing -

In relation to your particular management skills it will be my intention to expose you to a number of training requirements which will assist you in the long term in personnel management.

This is the person who freely used a bug in Fisheries Department offices and in private residences. That bug came from the Police Department to the Fisheries Department, but the Fisheries Department claimed it was his own private bug - no-one believed it. He was involved in breaking into vehicles. He instructed officers to break into vehicles and wire them under the dashboard. He was involved in the break-in of a plane to disable it. When the investigation was conducted into illegal activity in the Fisheries Department, this matter was not mentioned in the report. It was a cover-up, and it has been happening all the time.

Hon E.J. Charlton: When did Kendrick's exercise take place?

Hon MARK NEVILL: Over a period of time. Perhaps in the late 1980s through to the early 1990s until he left the department. This man has been involved in activity for which he should be charged, but nothing has happened. I have asked questions of the Minister for Fisheries, but nothing has happened. That is the disappointing aspect. I do not care under which Government these things occurred: When we are made aware of these matters, we should take action.

Chris Thomas refused to go along with many of the illegal tactics in which he was asked to engage. A raid was conducted on some illegal fisherman up the coast, and he was asked to dig trenches on the beach in which sharpened stakes were to be placed. Therefore, if the offender went past, these would slash the tyres of his vehicle. Mr Thomas refused to break into houses as Kendrick and Horton did. The answers I have been provided are not the truth. They did not enter through an open side door; they went in through a side window, and in so doing damaged the side window. The frame was taken back to the Fisheries Department in Ellam Street and put in the bin. These were the same offices in Ellam Street in which the Fisheries Department helped the police to bug Frank Peters in 1989 and 1990. Members can see the link. Who was running internal affairs at the police at the time? Our friend Mr Ayton. He was controlling Mr Horton who was providing these devices to the Fisheries Department and using the department's power to enter without warrant.

Hon Derrick Tomlinson: Is that Ellam Street, South Perth?

Hon MARK NEVILL: It is a continuation of Berwick Street. I have with me the registration numbers of the two police vehicles there, both of which were registered in the name of the then Commissioner of Police, Mr Bull. They had a double-wheeled tape with a microwave dish focused on the Police Department.

Kendrick was involved in all of those matters, and nothing has happened to him. However, the other two officers have been pilloried because they tried to do the right thing. Basically, both of them are at their wit's end. I doubt whether Mr Thomas' health can ever recover.

Hon John Halden: I can table this report so members know. It is so innocuous, yet the consequences and results for these blokes is appalling.

Hon MARK NEVILL: No programs have been provided to try to help rehabilitate these people. They have tried to destroy and ostracise them absolutely. How the current Minister cannot have that seriously addressed leaves me cold. As I have said to many members, by far the best of the four National Party Ministers is the Hon Eric Charlton. That shows the degree of esteem in which the Minister for Fisheries is held!

Hon E.J. Charlton: I was starting to doubt your judgment for a moment!

Hon MARK NEVILL: I will conclude my remarks by making reference to another fisheries officer who has got away with blue murder; namely, John Breeden. He assault a disabled person at Wellington Dam because he thought David Bonavita had some illegal marron. It was discovered that the marron were not his, but somebody else's nearby. Breeden should have been charged with an assault. He knocked him over and dragged him through the bush looking for the marron, which turned out not to be his. Mr Breeden had a complaint laid against him for bully tactics at Deep Water Point, where he accosted some people on the night of 9 January 1986.

Mr Breeden made a travel claim - I have a copy of his diary with me - when he was on duty at the Rose Hotel in Bunbury. He claimed he went to Margaret River on the Saturday, and finished in Mandurah that night and was on duty in Mandurah the next morning. However, that night he was in Perth, yet he put in a travel claim for Bunbury. I asked questions of the department about this, which said that the files could not be located. I have a copy, not the original, so it was just a convenient excuse. He was dressed down, so the department knows all about it.

I have a confidential memorandum with me referring to fisheries officer Breeden written by McLaughlan, the chief fisheries officer. He did not believe it could be seen to be a responsible use of the time of two officers in a government vehicle to drive from Mandurah to Bunbury and back for the purpose of serving a summons which they had three months to serve. They could have served it on the way back on another trip. This is the night that they ended up in Perth. The third point was that it was apparent that the details of the report of 18 and 19 January were not correct.

The fourth point was that he had not provided an acceptable explanation as to why he was in possession of a government vehicle at Deep Water Point at nine o'clock on a Saturday night when he was asked to do so. The memorandum also said that although it appeared that earlier in the day he had formed the intent to spend Saturday night in Perth and had the opportunity to book out of his room in Bunbury, he retained the room and subsequently claimed travel allowances for accommodation in Bunbury when in fact he was in Perth. It goes on to say the he had towed a privately owned speedboat from Bunbury back to Perth behind his patrol vehicle in order to use it for water skiing at Bunbury during the period he was in that region on patrol duties.

I asked whether any disciplinary measures had been taken against Mr Breeden. The answer was that his diary has been lost, nobody knows anything about it and Mr Breeden has been promoted. The department likes this type of person because they go along with the culture of the Fisheries Department. What happens to the other people who do not go along with it? Their life is made an absolute misery. I understand that the marriages of both these officers have broken up because of the situation. The human cost is immense simply because these officers would not go along with the corrupt culture which existed in the Fisheries Department. There has been no accountability for it.

I have only touched the surface. I have not had the courtesy of even a half truthful answer to many of the questions I have asked the Minister. Unfortunately, the Minister has failed to take any action. I have a few misgivings about a ministerial inquiry for which a Minister can choose the inquirer.

Hon N.F. Moore: You could get Gordon Hill to chair it. I think he was Minister at the time.

Hon MARK NEVILL: I certainly would not agree to that. Any Minister who was aware of these issues and did nothing about them does not have my sympathy. The reason they are appointed to the Ministry is to address these matters and deal with them competently. This department does not have the competence to deal with these issues.

I am aware of a report by the Equal Opportunity Commission on this department which reflects its absolute incompetence. If members were to look at the competence of almost every fishery in this State they would find that a massive number of licences have been issued and the stocks have been overestimated. As a result, the department has had to buy back licences. It sold the tuna quotas at \$4 000 a tonne, which Julian Grill and I tried to stop. As soon as they hit the market, they were worth \$22 000 a tonne. It really is incompetence at its worst. If it is not incompetence, it is certainly corruption. I would like to think of it as incompetence. The Fisheries Department should be turned upside down because it does not have competent people at the top managing it.

The inquiry into illegal activities in the Fisheries Department was supervised by Mr Little, who I regard as the culprit at one end, and the then Deputy Commissioner of Police, Mr Ayton, who was in charge of the internal affairs unit while this was taking place. The result was a couple of mealy-mouthed recommendations which went to the Director of Public Prosecutions who said there was not enough information to prosecute. I am sure the Director of Public Prosecutions did not ask whether a statement was taken from the driver when 8 Sassoon Place, Northlake, was broken into. The driver will give a sworn statement about what happened. I am sure he was not asked to make a statement because the whole idea was to present a report which did not include enough information to prosecute. That is the way the system operates. It is time the system changed and it is time for Parliament to exert its authority over the Executive and initiate a proper inquiry into the operations of the Fisheries Department. It certainly does not have the confidence of the people in the fishing industry or some members of Parliament.

HON B.K. DONALDSON (Agricultural) [4.45 pm]: I will not repeat what the Leader of the Opposition, Hon Mark Nevill or Hon Kim Chance said. When members talk about the live lobster industry they should be aware that lobsters have been kept alive by a number of companies for long periods.

Hon John Halden: There is a 38 per cent success rate, at best.

Hon B.K. DONALDSON: I am concerned about those figures, but I am not defending the position. It was a messy issue from day one. The issue is not which party is in office.

The Fisheries Department's role is to manage the fishery and to assist the industry by making the guidelines very clear for people who wish to enter it. It must also regulate to ensure the industry is sustainable. Over a number of years the department has lost its way. When I was campaigning for the seat I now occupy in this House I met some people in Esperance who raised this issue. Hon Mark Nevill spelt it out very well, because I have also received copies of the correspondence about the abalone and pilchard fisheries. I met with officers of the Fisheries Department, but I did not take that correspondence with me. I felt that some of it could have led to defamation actions if it had fallen into the wrong hands. I was supposed to have received a summary of the meeting as well as the answers to the questions I raised. I did not hear another word and that was disappointing because it was a straightforward approach.

On one occasion I was asked to assist Batavia Fisheries in Geraldton, which is owned by a syndicate of fishermen. They wanted to establish a processing plant in time for the Abrolhos season. The general manager of the company was unable to contact the acting director or Dr Peter Millington of the department because he was stopped at first base by a girl at the end of the phone. The general manager rang me and the Premier in absolute frustration. I rang the department and gave them a choice. I said I would put the phone down and immediately ring the Premier if I were not put through to Peter Millington. At the time, the acting director, Mr Stephen Home, had been in the position for only a fortnight. At least I was able to make contact with Peter Millington and he assured me that the processing plant could go ahead. I was amazed when I was questioned on why the proponents would come to me about it because it was felt they should be speaking to the department. I carefully explained that the general manager of the company had been trying to speak to someone from the department for some time. I reminded the person that it was my responsibility to act on behalf of my constituents. I said it was not at all strange that people rang me for assistance. It is not unusual for me to receive three or four phone calls a year like that! It was a real joke and I was annoyed.

I recognise that one of the problems the Fisheries officers encountered in the early 1990s, before the Fisheries Resources Management Act was put in place, was people with abalone in their possession. Members are aware of the price of abalone - a small box of it is worth a lot of money. I understand that Queensland and the Australian Capital Territory do not have an export quota licence. I also understand the Australian Taxation Office reported that \$100m worth of tax was not being paid on the illegal export of abalone from Australia. Export licences for abalone are pretty tightly controlled, so the department must have had a fair idea that a lot of poaching was going on. I was told - I cannot prove this, however it seems logical - that abalone was being put in the back of a freezer truck and packaged out of either Queensland or the ACT. I was disappointed that was happening.

The Fisheries Department has lost its focus in the area of product information and assistance. I do not know whether I am being too critical, but in the areas of aquaculture and mariculture - in particular, marron and fish farming - it seemed as though the Fisheries Department had seen a truck on Adelaide Terrace with the word "aquaculture" written on the side and the officers rushed out on their pushbikes to see what it meant. I am glad that the focus has come onto that new industry, and that some money has been allocated by the Government to the Fisheries Department which has become very active in those industries. The Fisheries Department is supposed to be the leader in this field. It should be leading developments in Western Australia.

Like every organisation, the department has some good officers. It is a shame that a trail of incidents involving a number of department officers has occurred over a long period; where there is smoke there is fire. I am not sure that a ministerial inquiry is the right answer or that it is in the best interests of the Fisheries Department or the State. Many people within the Fisheries Department who are committed to carrying out its mission statement would like to know that these ancillary goings-on are nipped in the bud. It is true that mud sticks.

We must acknowledge that the Western Australian fishery is well managed. Part of the process has been industry working in cooperation with the Fisheries Department; that is the way it should be. However, when the industry sees what has been happening over the past six or seven years with departmental officers persecuting others within that same organisation, it is not healthy. I do not know whether a ministerial inquiry is the answer, but I would like to see an investigation of the matter. I do not know whether we can throw the book at a few people for what occurred in the past; that is not what it is all about. However, I would like to think that any inquiry that is conducted, in whichever form, will ensure that those faults can be eliminated from the system. It is important for the future of the department.

I am glad that the debate was brought on as the matter has been simmering for a long time. We must sort out fact from fiction, and look at how we can best ensure that the Fisheries Department can hold its head high into the future.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [4.54 pm]: I thank members for the manner in which the debate has taken place. It is an example of how the Leader of the House and the Leader of the Opposition can cooperate so this House can delve into matters which have occurred over a long period.

I will respond to the issues as best I can in my role as Minister representing the Minister for Fisheries in this place. While debate was in progress I was able to obtain some answers to specific questions that were raised. This issue requires a detailed response. I will go through the various issues that have been raised. I will obtain a full and comprehensive report on the history of these issues, and what action the Minister has taken or intends to take in the future. It is not in the best interests of the House to support the motion to set up a ministerial inquiry. An inquiry may be the outcome, but it might be in some other form. I want to report to the House in detail. I am not running away or stalling for time, because that is not the issue. As Hon Bruce Donaldson stated, we must ensure that the Fisheries Department can do its job, which is to manage the fishery, not only providing scientific expertise, but also ensuring that the industry is dealt with in a fair and reasonable manner, so that personnel within and outside the department can carry out their roles in an effective and appropriate way.

One point that came through was that these issues go back to the 1980s. As a consequence, it is important that I ask the Minister for Fisheries to advise this House of the changes he has implemented or intends to implement in the future. That advice will reflect on Hon Mark Nevill's comments on inaction by police in some of these issues. That has been the subject of debate of late and it seems to be consistent with what was voiced today; that is, a lack of confidence that the Police Service was dealing with these issues in an appropriate manner.

[Questions without notice taken.]

Hon E.J. CHARLTON: Prior to question time I was outlining the fact that I thought it would be in the best interests of the House if I were to acquire a detailed account of events in the Fisheries Department since Hon Monty House has been Minister and what future changes are envisaged, before agreeing to a ministerial task force to look at the issues. I also said that I will go through some of the matters that have been raised. Some of the other issues will be outlined when I have the opportunity to report further in the future.

The issues and comments regarding Aussie Lobsters have to be taken in a total context of what has been, as far as my knowledge is concerned, a very long running saga. When I was in opposition I was interested to know of some of the accusations that were being made about people involved with Aussie Lobsters, the new development that took place at Green Head, the change of licence and other issues associated with it. I do not think it would be beneficial to delve into that.

I noted today that the Leader of the Opposition, when touching on that subject, did not go into any more detail than the keeping of live lobsters and the benefits from shipping live lobsters. That is well recognised in the industry today. I am pleased that we have been able to achieve those benefits by our actions. The Air Freight Export Council that we established has enhanced not only the export of live lobsters but also the export of other perishable goods to destinations around the world.

As everybody knows, we now have two freighters going out of Perth Airport every week. The jumbo of Singapore Airlines lifted out of Perth a world record cargo for that size plane. We are looking forward to significantly increasing the operation with perishable products being produced in the north of Australia being exported from that area. At present some fish is leaving the north of the State by air.

That brings me to the role of an officer of the department in not allowing the operation put forward by Aussie Lobsters. I have been advised that the product is a fairly new development. Some sad economic results have occurred as a consequence of that. The area from which the fish are being taken has been very precisely assessed to ensure that the fish will survive. The department's role is to administer the Act and oversee the industry. It is not simply to allow an exporter or other people in the industry the opportunity to develop a market and meet market targets. It has a responsibility to ensure that the fish taken from the sea will survive, because obviously if they do not then they are not only a loss to a company but also to the whole industry because that product cannot be developed.

Obviously a demarcation line exists as to how far the departmental role goes. I am advised that area is developing and is being enlarged by the new flights that we have been able to introduce into Western Australia. I look forward to obtaining an agreement soon that will see a very significant increase in air capacity out of the north of Western Australia. The Federal Government controls aviation. If it were my responsibility it would be happening now. I want to see international flights coming into the north of Western Australia which would not be part of the national reciprocal rights that are so vehemently adhered to by the federal and other Governments in their exchange of rights with airlines around the world. I want to see that airlines which wish to come into the north of Western Australia are not compromised by international agreements about flying into Sydney or Melbourne. Flights into northern Western

Australia would not affect the viability of other airports. By getting tourists into the north of Western Australia, we will have the opportunity to export perishables out of that area which will cut the cost of operating in that region.

Hon Kim Chance: Is there any likelihood of the policy being reviewed?

Hon E.J. CHARLTON: It is being reviewed. I look forward to a positive response from the federal Minister. Obviously he has a responsibility to deal with the airline operators around the world and with people on the other side of Australia. I hope he does not take too long. I do not believe that the other airlines will ever support it. I smile about deregulation and national competition policy. Here we are in Western Australia being totally disadvantaged by rules and regulations applied to the Eastern States. I could probably take a little licence and say that is why I want to see Western Australia own Perth Airport and its operations and not have them compromised by some multinational or joint operation which owns Sydney and Melbourne airports as well. If we want true competition, Perth Airport and all the other major airports must be owned independently. Then we will have real competition.

Hon John Halden: I like old agrarian socialists. We nearly get somewhere sometimes.

Hon E.J. CHARLTON: It is quite the contrary in fact; it is about real, genuine competition. We will not get that if the same people own all of the major airports.

Hon Kim Chance: I agree with you.

Hon E.J. CHARLTON: We are leaving no stone unturned to try to get a local consortium to be successful in owning Perth Airport.

I understand that, as a consequence of the investigations of the pilchard industry in Esperance, the Executive Director of the Fisheries Department referred that issue to the police for them to deal with, in addition to the action referred to today.

Hon John Halden: That does not bring a warm glow to your heart, does it?

Hon E.J. CHARLTON: No, but it gets back to what I said in response to Hon Mark Nevill; that is, it is consistent with what has been going on and the frustration being felt by people who want to go about their business but who run into dead ends. It is worth acknowledging that we agreed to that. That is why we have been keen to see the new Commissioner of Police making the changes to the Police Service that he is making.

The inquiry has failed to substantiate any case against the Fisheries Department policy officer, now the Director of Fisheries in South Australia, or the management advisory member. Again, that did not come from the Fisheries Department. That has come about as a consequence of the request for it to be referred to the police.

As has been said, Mr Sutton suffered as a consequence of his position. In June 1992, the department's insurer, the State Government Insurance Commission, commenced weekly workers' compensation payments. Two offers of vocational rehabilitation have been made to Mr Sutton by the SGIC. However, he has not met with the rehabilitation counsellor. The SGIC has convened three meetings with WorkCover Western Australia to discuss rehabilitation, and Mr Sutton failed to attend the most recent meeting scheduled for 23 May this year. His workers' compensation salary entitlements were exhausted as from 11 June this year and Mr Sutton has provided medical evidence confirming that his illness continues to prevent his returning to work until at least 7 September this year. His salary is currently being paid from accrued sick leave entitlements. In June 1994, Mr Sutton requested and was supplied with copy of his personal file. He has since asked for another copy. That was given to him and another copy since that request has also been given to him.

I think we have oversimplified the Mandurah situation. Three boats and three licences were issued for that restricted area in Mandurah. The intervention by the department into the so-called transfer has not proceeded because the Crown Law Department advised the Fisheries Department that it would not succeed in taking these people to task for the deal that was done. It is as simple as that. The Fisheries Department has been advised that if it takes action and that action is defended, it will not succeed.

In the case of the Hunters, an application was made for a transfer from father to son. That is the reason the department was required to go through that process. As tough and as arduous as it was for the family, it was done to ensure compliance with that ownership. No application for transfer has ever been made by the Boococks.

Hon Kim Chance: That is true.

Hon E.J. CHARLTON: That is something with which we can deal in more detail when the Minister gives me a more detailed response. That situation must be acknowledged. We can all speculate about who is right and who is wrong. There is no question about what is written or about what has happened since 1984. The fact is that a deal was done with the full amount not being paid. I have been led to believe also that none of the boats is operated by the owners.

Unless there is an owner-operator requirement, other people are allowed to operate the boats without a change of name of the boat or the licence.

We have debated the north west fishery on previous occasions. When the decision was made last year to move away from commonwealth jurisdiction to the state jurisdiction and at the same time to increase the area of fishing opportunity, a procedure was put in place which everyone agreed was not perfect or a long term arrangement. It was put in place as an interim procedure and a working party was set up. I am advised that that working party has completed its assessment and that its report is now with the department.

Hon John Halden: Is this the authorised amended version or the unauthorised amended version?

Hon E.J. CHARLTON: I understand it has been signed off by everyone on the working party. That does not mean they all agreed to the recommendation; but it has been signed off. With regard to the officer changing the minutes of the work party, the minutes were not correctly recorded by the minute officer. However, they were corrected at a subsequent meeting and the corrected minutes were accepted by the working party. I have been told that a letter has been sent to Mr Austin informing him of the outcome of the inquiry and that there was no breach of public sector standards by the officer concerned.

Hon John Halden: It says that but it also says that all these things will be rectified, which means they found something wrong, but they said they did not find anything wrong. You couldn't make head nor tail of it.

Hon E.J. CHARLTON: That gets back to what I said at the beginning. If I were the Minister for Fisheries in the other place I would want to have an opportunity to give a detailed response to all the points that have been raised.

Most of the people referred to by Hon Mark Nevill have left the department. It is pretty difficult when one takes over the responsibility for a department to deal with people who have been involved in questionable activities when they are no longer there. The Minister has a responsibility to ensure that the department is administered correctly, obviously.

Hon Mark Nevill: Mr Breeden is still there and has been promoted, and Mr Kendrick left a couple of years ago.

Hon E.J. CHARLTON: The names I have here are Kendrick, McLaughlan and Breeden.

Hon Mark Nevill: McLaughlan and Little have left, but Little still does consultancy work.

Hon E.J. CHARLTON: Dr Hancock is no longer with the Fisheries Department. In the past two years the department has made substantial changes in dealing with a whole range of these issues. I will seek more detail. My immediate response with regard to the Mandurah fishery is that in this day and age those sorts of licences would never be issued in the first place. Times have changed since they were issued. The action recommended by the Opposition today has not been taken by the Fisheries Department, following advice from Crown Law that if the matter were challenged the case would not succeed in court. The department agrees with the Opposition on this matter. It is not in the best interests of the Opposition to support this motion, because I will give a detailed response on behalf of the Minister for Fisheries in the near future.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [5.52 pm]: I do not wish to criticise the Minister, and I recognise the good faith in which he has made these proposals. However, I note that his response did not include a time line, and the Opposition is asked to wait for the Minister's response to its queries. The difficulty is that, once again, the Fisheries Department will be asked to respond.

Hon E.J. Charlton: No.

Hon JOHN HALDEN: That will happen, as it has before. I make no criticism of the Minister and I do not intend to impugn him in any way. In many cases the answers provided by the Fisheries Department to this Parliament have been obfuscatory to say the least. The reason I asked for the inquiry is that the matters raised are just the tip of the iceberg. I do not want answers to only the narrow questions to which the Opposition has confined itself today. The issues are much broader. I want the Minister or his representative to talk to the people who have spoken to the Opposition and to understand their frustration.

It has been said that the minutes of the meeting involving the northern demersal scalefish fishery in Broome were incorrectly recorded. That was done to keep one person out of a sector of the industry and allow another into it. I do not know the detail, although it has been explained to me, as have the ramifications. However, in order to come to grips with the problems the Minister must speak to those who are affected, one of whom has invested \$1.5m. He has been given the runaround by an amateurish bunch of people from the Fisheries Department. It is appalling. How would the Minister for Transport feel if he had spent \$1.5m and someone from Agriculture Western Australia told him he could not grow wheat?

Hon E.J. Charlton: You must take into account that what you are telling us is not necessarily right. We will find that out. Let us not prejudice.

Hon JOHN HALDEN: That is why I asked for a ministerial inquiry. I cannot suggest anything safer than a ministerial inquiry. The Minister for Fisheries may appoint a person to carry out the inquiry. It is a good safeguard and it is not a concession I have ever offered the Minister for Transport.

Hon E.J. Charlton: Because you would pick the one to do it!

Hon JOHN HALDEN: The Minister for Fisheries will have the choice. Clearly, this is not a situation for a parliamentary inquiry. These people feel aggrieved and they want to put their complaints to someone who will listen to them and report to the Minister, so that he can take action. I have no doubt that the Minister would like to take some action in the Fisheries Department. I would if it were my department, and some of it would not be too pleasant.

Hon E.J. Charlton: With respect, you should have influenced other Ministers some time ago because much of this happened in the 1980s.

Hon JOHN HALDEN: Some of it this year.

Hon E.J. Charlton: The issues are continuing but the problems originated long before we came to government.

Hon JOHN HALDEN: Of course, one could go back to the Governments of Sir Charles Court, Sir David Brand and Mr Tonkin.

Hon E.J. Charlton: I go back to Gordon Hill.

Hon JOHN HALDEN: That is not right. This is a culture within the department and it is not worth blaming any Ministers. I have tried to avoid that. This motion will provide a means with which the Minister will feel comfortable and the Government will be able to talk to these people so that they feel they have a voice. They may well get it. However, the Minister did not give a guarantee about when the Minister for Fisheries will make a statement.

Hon E.J. Charlton: The Minister is very keen to ensure that in the future the Fisheries Department will be well administered, and he has already taken some action. That is why I want to give him the opportunity to deal with this matter.

Hon JOHN HALDEN: I would not like a response from the Minister in which he deals with the individual problems presented today. They are just the tip of the iceberg.

Hon E.J. Charlton: I guarantee that will not happen.

Hon JOHN HALDEN: It would assist if the Minister spoke to the three opposition members, read the tabled papers and went through some other documents we have. I understand the difficulty with the *Silvery Wave* issue, and I accept the Minister's answer. However, if the Fisheries Department knew about that situation, the Minister's answer is typical of that department. The department has known about the problem and the loopholes since 1988 but it has done nothing legislatively to correct it.

Hon E.J. Charlton: It does not have to be fixed because no-one else will get into it.

Hon JOHN HALDEN: It is responsible for management of the fishery and it had a plan to terminate it. However, somebody was able to get around that. If officers in the Fisheries Department were smart and motivated in any way at all they would have fixed the problem.

Hon E.J. Charlton: There is no problem with the management of the fishery, the issue is about who is operating the boat.

Hon JOHN HALDEN: It wants to terminate the management of the fishery. Somebody got around it and the Fisheries Department has done nothing about it for eight years.

Hon E.J. Charlton: You would not agree to retrospective legislation.

Hon JOHN HALDEN: I have never been averse to it and neither have members opposite. With regard to the management of the fishery, the Minister has said the department wants to promote the export of live fish. In that case why has an officer in the department made every effort imaginable to frustrate it? There is no question that that has happened. The minutes, the statement and the failure to keep an appointment with the person from Hong Kong all indicate that. I am sure the Minister for Transport made his statement with the best of intentions on the basis of very good notes from the officers in the gallery.

Hon E.J. Charlton: No.

Hon JOHN HALDEN: If that is the aim of the department we need to know why this man has been frustrated on every occasion.

Hon E.J. Charlton: It is worthwhile acknowledging, as pointed out by Hon Bruce Donaldson, that many good things have happened in the fishing industry through the Fisheries Department.

Hon JOHN HALDEN: That may well be the case. That is the problem with being in opposition; the Government gets only the negatives. However, those negatives can be very significant.

Sitting suspended from 6.00 to 7.30 pm

Hon JOHN HALDEN: I know I am extending the Government's good grace in this debate by a couple of minutes so I will sum up. As I said earlier in my submission, this issue regarding the Fisheries Department is nothing but the tip of the iceberg. I think I am at liberty to say that I spoke to the Minister for Transport - the Minister in this House representing the Minister for Fisheries - during the dinner break. I think we were both frank with each other about the direction we want to take on this matter. I do not think there is a great deal of difference between the Minister's and my proposition except in the following areas.

I am of the view my proposition will provide some security to the Government. Some instances must be highlighted by those people involved in them as soon as possible so that they can have that view put to the Government and not to the Fisheries Department in which they have no confidence. I do not think that is an exaggeration by even a millimetre. It is important that the people who have had some very unfortunate and costly involvement with the Fisheries Department be able to feel that they can put that view publicly. As I said in informal discussions with the Minister earlier, I must agree with him that comments made to me or members opposite may not be correct. I propose that evidence be put under oath so that the veracity of people's accusations is tested. That is reasonable.

At the end of the day, the vital question we must decide regarding a very moderate approach, not one I have put before regarding this Minister's responsibilities, is how long we will tolerate the excesses of this government department. It is an absolute scandal that people who are constituents of us all should be put in the intolerable situation of being victimised by the Fisheries Department. The situation is no more simple than that and not exaggerated one iota.

I will not back away from the comments I made about total victimisation of certain individuals by this department of State, the reason for which I am not yet clear about. It is an outrage that for anything up to 20 years - whatever period - this department has been able to carry on under the protection of the Crown and a range of mechanisms unavailable to other people, except I guess members of Parliament, thank God. It is time this abuse came to an end because it is intolerable. Many of us on either side of this House know the situation.

The Minister for Transport said to me that he hopes to read a statement tomorrow from the Minister for Fisheries in this place on the future of the department. I hope the Minister for Fisheries will provide an independent person to examine the department and provide an opportunity for people to voice their objections in great detail so that the Minister and the Government understand the extent of the persecution in some cases, victimisation in others, that this department has perpetrated across the State. That may sound strong, but that is the situation.

I am not sure whether the Minister or Hon Bruce Donaldson said that in certain instances the Fisheries Department has done a good and reasonable job. However, there are too many excesses and examples of this department being totally out of control. I do not personally care whether it began in 1961, 1982 or 1992; it is still out of control. On that basis, I suggest my motion tonight is the best method of delivering a solution to the people of Western Australia on this matter. If the Opposition is wrong and the information put to it is incorrect, I will personally cop that. However, I do not believe that it is for one second. I am out on a rather large limb. It is time that the Department of Fisheries in Western Australia was brought to heel for the sake of Western Australians. It is not the master; it is nothing more than the servant. It has lost perspective of its role. It is a great tragedy we all bear, but it is time this problem was investigated and ended.

My proposition offers that opportunity. I hope, in spite of the commitment by the Minister - which I do not denigrate - the House decides that enough is enough, not for me or us in this place, but for Western Australians who have committed enormous amounts of money to be pilloried by the excesses of this department. I mean pilloried in its complete sense. The examples are too frequent and too obvious. I hope the House will support the motion.

Question put and a division taken with the following result -

Ayes (10)

Hon Kim Chance
Hon Val Ferguson
Hon N.D. Griffiths
Hon John Halden

Hon Mark Nevill
Hon J.A. Scott
Hon Tom Stephens
Hon Bob Thomas

Hon Doug Wenn
Hon Tom Helm (*Teller*)

Noes (13)

Hon George Cash
Hon E.J. Charlton
Hon M.J. Criddle
Hon B.K. Donaldson
Hon Max Evans

Hon Peter Foss
Hon Barry House
Hon I.D. MacLean
Hon Murray Montgomery

Hon M.D. Nixon
Hon B.M. Scott
Hon Derrick Tomlinson
Hon Muriel Patterson (*Teller*)

Pairs

Hon A.J.G. MacTiernan
Hon Graham Edwards
Hon Cheryl Davenport

Hon P.H. Lockyer
Hon W.N. Stretch
Hon N.F. Moore

Question thus negatived.

ROAD TRAFFIC AMENDMENT (MEASURING EQUIPMENT) BILL

Receipt and First Reading

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

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [7.40 pm]: I move -

That the Bill be now read a second time.

This Bill amends section 98A of the Road Traffic Act to allow the evidence of civilian operators of both speed and distance measuring equipment to be received in the same manner as that of members of the Police Force. This course of action has been found to be necessary due to the ruling of a magistrate in the Court of Petty Sessions. The magistrate held, and rightly in the view of the Crown Solicitor's Office, that an affidavit sworn by a civilian operator was, by itself, insufficient to support a finding of guilty to a speeding charge resulting from the detection by a speed camera. To overcome this, the Police Service and the Crown Solicitor have prepared a series of affidavits designed to more fully present evidence to courts. This Bill then will put beyond doubt the status that is to be given to evidence given by a civilian operator of speed and distance measuring equipment. It clearly states such evidence is *prima facie* evidence and that in the absence of some other competent evidence it is sufficient to prove a charge. This is nothing new in the Road Traffic Act. The evidence of police officers in relation to their use of measuring equipment has had a *prima facie* status for a number of years.

Should this Bill not be passed, there will be unfortunate circumstances. Civilian operators were employed to free up fully trained police officers to perform the front line policing functions for which they have been trained and employed. In the event that it is said there is something different in the operation of equipment by civilians as opposed to police officers, let me state categorically that there is not. Both police officers and civilian operators receive identical training.

Let me also state categorically that there is no difference in the expertise and ability of civilians or police officers to operate this equipment. It is a requirement of the Police Service that before a person may operate the equipment, they must undergo and pass a training course. The training course has now been run for more than a decade, and during that time a number of candidates have failed to qualify. This indicates that certification of competency is not given lightly. This situation will not be altered in any way by this Bill, because under it the Commissioner of Police must certify the competence of operators. Without that certification, the civilian operator will not be an authorised person and the evidence of that civilian operator will not attract the *prima facie* status.

The Bill also provides that there is no need to produce evidence that a certification given by the commissioner has been so given. Again, this is nothing unusual in legislation, and one has only to look at section 70(2) of the Road Traffic Act to verify that.

Finally, this Bill does not interfere with the right of a charged motorist to defend the matter before a court. A charged person may still enter a plea of not guilty and may put the prosecution to proof. Additionally, the motorist may still present evidence to contradict that given by either a civilian or a police operator. This Bill does not make legal something that is not lawful. The introduction of the operation of speed measuring equipment by civilians has been a positive initiative, introduced to enable fully trained police officers to be returned to core policing duties within the community. This Bill overcomes an evidential anomaly which came to light as a result of the introduction of civilian operators or speed measuring equipment, and its passage will ensure that the positive benefits of that initiative will continue into the future. I commend this Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

MEDICAL AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [7.44 pm]: I move -

That the Bill be now read a second time.

This Bill has three main purposes, namely -

to enable the Medical Board to vary the structure of the fees payable by persons who are registered as medical practitioners;

to enable the board to grant general registration to those persons whose names were removed from the register by the operation of the Medical Amendment Act 1994 and who under those provisions were given only non-continuing special conditional registration; and

to simplify the general administration of the Act by enabling the board to grant general registration to those practitioners who were granted regional or auxiliary registration under the Act as in force before the Medical Amendment Act 1994.

The first amendment relates to the fees payable under the Act in connection with registration. Currently, the Act allows the board to impose fees on persons who are registered and who practice. Many practitioners allow their names to remain on the register but do not apply for the annual practice certificate. In this way they are not liable to pay the annual practice fee from which a major portion of the revenue of the board is obtained. It is necessary to increase the board's revenue base at least for the purposes of recovering the costs of maintaining the register. The Bill proposes to amend the relevant provisions so as to confer greater flexibility in the matter of fees. Additionally, the Bill will confer a discretion on the board to waive or reduce fees in certain circumstances at its discretion.

The intention of the amendments effected by section 13 of the Medical Amendment Act 1994 was to implement the interstate agreement entered into in 1992 by the then Government to restrict registration of medical practitioners to graduates of Australian universities. However, it was not until 1994 that the necessary legislation was introduced. In the intervening period many overseas trained medical practitioners who were qualified for registration under the Act as then in force entered the State - some only temporarily and others with a genuine intention to reside and practice in Australia.

The effect of the Medical Amendment Act 1994 was to remove the names of many of these practitioners from the register but to allow them to be granted general registration under the criteria in the Act. Those criteria as set out in the schedule to that Act have been found to be too rigid in that they imposed fixed periods of practice and residence.

The removal of these practitioners has resulted in some shortage in the delivery of medical services and a degree of instability for the persons involved. It is now found that a more generalised approach would have achieved satisfactory results for the purposes of meeting the need for medical services at the level required in the various parts of the State. Those of the affected practitioners who can demonstrate a genuine intention to reside and practice here should be given the opportunity to do so. The Bill therefore proposes to amend the Medical Amendment Act 1994 to enable the board to grant general registration to those practitioners whose names were removed by the 1994 amendment if they are able to satisfy the board as to the genuineness of their intentions to reside and practice in Australia.

Before the commencement of the Medical Amendment Act 1994 a number of persons had been granted registration under the principal Act under the concepts of regional and auxiliary registration. Those provisions ensured the provision of medical services in some specialities and in rural areas to the level thought satisfactory, even though practitioners holding registration under those provisions did not have the normal qualifications prescribed in the Act. Only a small number of these practitioners remain, but it is important that they be brought into the mainstream of registration and practice. However, it may be necessary to ensure that the standard of medical services is maintained. In order to allow the board to consider each case on its merits, the Bill proposes to confer a discretion on the board to grant general registration to those persons subject to conditions specified by the board. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

CHattel SECURITIES AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [7.49 pm]: I move -

That the Bill be now read a second time.

The Bill contains two proposals. The first proposal provides for the introduction of a fee for all inquiries made by industry customers of the Register of Encumbered Vehicles, more commonly known as REVS. The second proposal provides for a fee to be charged for processing an application from a finance company to change the particulars of a financial interest previously registered on the REVS system.

Members will no doubt recall the introduction of the Chattel Securities Act 1987, which provided for the establishment of the REVS service. REVS is a computerised registration system maintained by the Ministry of Fair Trading. The system records financial interests or encumbrances held by financial institutions over licensed motor vehicles and unlicensed self-propelled farm machinery, such as tractors and harvesters. By checking with the register, someone intending to buy a motor vehicle or piece of farm machinery can find out whether money is owing to a financier which is secured against the vehicle.

REVS also offers a free telephone inquiry service, but information given over the telephone is not guaranteed under the Act. To be protected fully by the Act, those intending to purchase a vehicle, including motor vehicle dealers and financiers, must obtain a certificate from REVS. A certificate confirms the information recorded on the register at the time of an inquiry and may be used as evidence in the event of a dispute about ownership of an encumbered vehicle. Any person who suffers a financial loss as a result of a certificate not showing an encumbrance which was registered by a financier can also claim compensation from the register for that loss.

When the Chattel Securities Act was proclaimed in 1988 it was anticipated that regular customers, such as dealers, would take advantage of available account facilities to purchase certificates. However, the majority of dealers, rather than pay for a certificate, rely on information provided over the telephone by a REVS operator at no cost to the dealer. A market survey undertaken by the then Ministry of Consumer Affairs in 1992 found that the cost of a certificate was a major reason for dealers not purchasing certificates more frequently. As I have already mentioned, industry customers not obtaining the required information in the form of a certificate are not benefiting from the full protection of the legislation. The current provisions of the Act do not allow dealers and other industry customers to be charged a fee for making an inquiry to REVS where a certificate is not issued.

The Bill therefore provides for the introduction of a fee for all inquiries made by industry customers. This approach will now ensure that industry customers obtain the same protection of the legislation as though they had obtained a certificate under the present Act. This will be achieved by recording all inquiries on a monthly statement of account. Each entry on the account will have the same legal standing as a certificate.

The cost of these inquiries will be significantly less than the cost of obtaining certificates. This means dealers and other industry customers will now have the choice of either purchasing a certificate if immediate written confirmation of the information recorded on the register is required, or paying the inquiry fee and getting written confirmation at the end of the month when the statement of account is issued. In both cases the customer will be protected by the legislation from the time of inquiry. Under this proposal all industry customers will contribute to the cost of maintaining this important service at a lower level than previously set. It will not prevent the general public from using the free telephone inquiry service to search the REVS system before finalising the purchase of a vehicle.

Members of the public will continue to be encouraged to purchase a certificate to be protected fully under the legislation.

The Ministry for Fair Trading is also providing an on-line computer based inquiry service. Under this arrangement, industry customers will be able to make inquiries using their own computers with the cost of each inquiry being automatically debited to their accounts with REVS. This will be of particular benefit to motor vehicle dealers as it will enable them to obtain information out of standard working hours, without operator assistance. The information obtained through the on-line computer service will have the protection of the legislation. It will have the added benefit of reducing the demand on the REVS telephone inquiry service. As a result, REVS operators will be able to respond more promptly to telephone inquiries from the general public.

As previously mentioned, this Bill also provides for a fee to be charged to a finance company that applies to change the particulars of a financial interest already registered on the REVS system. The majority of these applications result from the financier's failure to provide the correct details when the financial interest is first registered. By charging a variation fee, financiers will be encouraged to check the accuracy of their information prior to making an application to register an interest. This will benefit both financiers and REVS by providing for the immediate protection of the financier's interest and reducing the number of variation applications required to be completed by financiers and processed by REVS staff. The proposed fee will be set by regulation. In the first instance the fee will be set at \$5 for each manual transaction and \$4 for each computer disc transaction.

This Bill has been discussed fully with representatives of the peak motor vehicle and finance industry bodies. Independent motor vehicle dealers who are regular customers of the REVS service have also been consulted. As a result of these consultations, the proposals contained in the Bill have the support of both the finance and the motor vehicle industries.

In summary, the amendments proposed in the Bill will result in improved services and greater protection to industry customers of REVS. They will also provide for a fee structure that is more equitable to all dealers and financiers who use the service. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

LEGAL PRACTITIONERS AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon Peter Foss (Attorney General), and read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [7.57 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to amend the Western Australian Legal Practitioners Act 1893. Section 33AA of the Legal Practitioners Act was inserted by the Legal Practitioners Amendment Act 1995. That section enables the Legal Practitioners Complaints Committee and the Legal Practitioners Disciplinary Tribunal to treat convictions by courts in Australia, external territories and New Zealand as conclusive evidence of illegal conduct.

The section was introduced in response to a request by the Legal Practice Board because practitioners previously found guilty of criminal offences by courts had subsequently appeared in the Legal Practitioners Disciplinary Tribunal and denied they were guilty of illegal conduct. Section 31AA was not generally extended to foreign courts because of the possibility of differences; for example, in the procedure and jurisdiction. However, because section 33AA is confined to conviction by courts in Australia, external territories and New Zealand, the tribunal faces the same problems involving proof of illegal conduct as it existed prior to the 1995 amendment when dealing with matters involving convictions of lawyers in jurisdictions other than those mentioned in section 31AA.

Lawyers who have been convicted of offences by a criminal court and who are appearing in disciplinary proceedings in Western Australia can require the disciplinary tribunal to hear, in effect, all the evidence and retry the matters dealt with by the criminal court. This may involve, for example, additional costs and require witnesses from overseas who cannot be compelled to attend before the tribunal. This imposes a virtually impossible task for a voluntary part time tribunal to undertake. Therefore, the Legal Practice Board and the chairman of the tribunal, Hon Peter Brinsden, QC, have requested an amendment to section 33AA(1) as it now appears in the Bill.

It would appear to be a particularly narrow attitude to ignore the processes of the remaining countries of the world. Such attitudes have dogged the law of conflicts in the past. The proposed amendment to section 31AA(1) will enable

the Legal Practitioners Complaints Committee or the disciplinary tribunal to take into account a conviction wherever it may have occurred. I commend the Bill to the House.

Debate adjourned, on motion by Hon Bob Thomas.

CRIMINAL INJURIES COMPENSATION AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon Peter Foss (Attorney General), and read a first time.

Second Reading

HON PETER FOSS (East Metropolitan - Attorney General) [8.00 pm]: I move -

That the Bill be now read a second time.

The intent of this Bill is to amend the Criminal Injuries Compensation Act to, first, enable the appointment of additional assessors to clear the backlog of applications for criminal injuries compensation and reduce delays in the processing of applications; and, second, clarify the intent of the Act in respect of claims for compensation. That is, where an applicant's claim for reimbursement of costs would otherwise be recoverable from a health insurance fund; or where the application has arisen from a motor vehicle accident. I will comment on each of these matters in turn.

The Criminal Injuries Compensation Act 1985 establishes a necessary mechanism for the provision of compensation to victims of crime. The Act provides for the appointment of an assessor of criminal injuries compensation for the purpose of determining applications for compensation and for carrying out other necessary functions under the Act. It does not contemplate the appointment of more than one assessor to determine applications. In recent years a very significant growth has occurred in the number of applications for compensation for criminal injuries. In his 1995 annual report, the acting assessor stated that, during 1995, over 1 400 new applications for compensation were received - a 16 per cent increase on the preceding year. In the order of 750 applications were determined or discontinued during the year. At year's end, over 2 500 applications were outstanding.

As the Act does not permit the appointment of additional assessors to help clear the backlog, applicants are faced with lengthy and unacceptable delays. The Government is not prepared to allow this situation to continue. To clear the backlog and reduce delays, amendments to the Act are proposed in this Bill which will enable the appointment of a person as chief assessor and additional persons as assessors.

The Bill uses the terms "chief assessor" and "assessor" rather than "assessor" and "assistant assessor" because this nomenclature is consistent with that used in other jurisdictions. In determining matters of compensation, assessors will have the same powers as the chief assessor. However, as is the case with the assessor under the present legislation, the chief assessor will have additional administrative functions relevant to the operations of the office and the allocation of applications.

Clarification of the responsibilities of health funds: This Bill also seeks to amend the Act to clarify the responsibilities of health funds in respect of meeting medical costs of applicants. The intent of the Criminal Injuries Compensation Act is to enable the payment of compensation only after all other avenues of compensation, damages or payment have been pursued. The Act, through section 22, provides for the assessor to require an applicant to take alternative proceedings, where they exist, and to defer determination of an application until the outcome of those proceedings is known. Provision is also made, in section 26, for the assessor to deduct from any award any amount the assessor is satisfied will be paid to the applicant independently of the Act by way of compensation or damages or under a contract of insurance. Exercise of this provision compels the applicant to pursue from the other source or insurer, recovery of the amount so deducted.

Following a change to its regulations, the Hospital Benefit Fund now requires that an application for compensation under the Criminal Injuries Compensation Act be satisfied before HBF considers its obligation to meet any outstanding medical costs. Alternatively, HBF requires a member of HBF to repay medical expenses once an award has been finalised by the assessor. The matter of the responsibilities of health funds in meeting the medical costs of applicants for compensation under the Criminal Injuries Compensation Act has been of concern for some time. If the matter were to be referred to the District Court for resolution, and if the court were to determine that an applicant is entitled under the Criminal Injuries Compensation Act to be reimbursed for all medical expenses, the financial implications could be very significant. To remove any doubt regarding the intent of the Act, it is proposed to amend it so that no right of compensation will be available under the Act where, but for the Act, a person could otherwise recover from a health insurance fund.

Claims arising from motor vehicle accidents: A second area where there is an urgent need for clarification of the Act relates to claims for compensation for injury or loss arising from motor vehicle accidents. Amendments to the Motor Vehicle (Third Party Insurance) Act place a threshold, currently \$10 000, below which no claim may be made under that Act. A number of claimants in this category and their legal representatives now see an application to the Assessor of Criminal Injuries Compensation as an alternative means of gaining access to compensation. The Criminal Injuries Compensation Act was never intended to accommodate this category of claim, yet there is no legislative impediment at present to such claims being made.

An indication of the potential impact of this category of claims on the funds available for the payment of awards made under the Criminal Injuries Compensation Act is that in 1992-93 claims of less than \$10 000 under the Motor Vehicle (Third Party Insurance) Act amounted to more than \$24m. Payment of even a small fraction of this total to applicants injured as a result of motor vehicle accidents would place a severe strain on the availability of funds intended to compensate victims of those offences for which the Act was intended.

To address this problem, the Bill will amend the Criminal Injuries Compensation Act to remove any rights to compensation under the Act for injuries arising from motor vehicle accidents except where the motor vehicle was used for the commission of the crime which caused the injury or loss. The term "crime" as defined in section 3 of the Criminal Code is used to define the gravity of the offence to which the relevant provision - section 24B(1) - does not apply.

An added complication arises if the entitlement under the Criminal Injuries Compensation Act is substituted for an action in negligence arising from an ordinary motor vehicle accident. Not only would this bring everyday accidents within an Act that is directed to compensation for criminal activities, but it would also impose an obligation on people involved in accidents to pay that compensation. When an award is made under the Act the offender becomes liable to pay it. However, a driver would not be entitled to be indemnified by the SGIC because the statutory liability to pay compensation does not fall within the liability that is indemnified under the Motor Vehicle (Third Party Insurance) Act. Therefore, ordinary people involved in motor vehicle accidents resulting in personal injury, who although at fault are not criminals, could incur a liability with no right of indemnity. This device is contrary to the intent of both this legislation and the Motor Vehicle (Third Party Insurance) Act.

In order to remove any rights to compensation which may arise from motor vehicle accidents which occurred between the proclamation of the amendments to the Motor Vehicle (Third Party Insurance) Act and the proclamation of this amendment, it is further proposed that this amendment be made retrospective to 1 July 1993 to coincide with the amendments to the Motor Vehicle (Third Party Insurance) Act.

Review of the Criminal Injuries Compensation Act: The amendments contained in the Bill which I introduce today address only those areas of the criminal injuries compensation legislation which are in most pressing need of attention. Numerous other areas of the Act are in need of reform. For this reason I have directed the Ministry of Justice to undertake a comprehensive review of all aspects of the Act with a view to making it more responsive to the needs of victims of crime.

In conclusion, this Bill will assist in ensuring a more timely response to victims of crime seeking access to criminal injuries compensation. It will also ensure that funds allocated to the compensation of persons for injury or loss suffered in consequence of the commission of a criminal offence are not diverted to purposes for which they were not intended. I commend the Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

ROAD TRAFFIC AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by Hon E.J. Charlton (Minister for Transport), and read a first time.

Second Reading

HON E.J. CHARLTON (Agricultural - Minister for Transport) [8.07 pm]: I move -

That the Bill be now read a second time.

Following the introduction of legislation last year to facilitate the transfer of licensing functions of the Road Traffic Act from the Police Service to the Department of Transport, the State Government has adopted a stronger and more coordinated approach to road safety. To achieve this the previous legislation is replaced by this Bill, which will facilitate the introduction of new and drastic initiatives to address licensing and road safety.

Road safety is to be given the highest priority by this Government and the newly formed Ministerial Council of Road Safety comprising the Ministers for Police, Education, Health, Local Government and chaired by me, is committed to using its resources to achieve a major turnaround in the community's attitude to road safety. This Government is committed to tackle the appalling injuries and loss of life which occur daily on Western Australian roads. This commitment is reflected in the amendments contained in this Bill, which provide for an integrated approach to road safety.

Pivotal in this Government's strategy is the adoption of a partnership approach to road safety, drawing on the expertise of government, industry and the wider community. In order to achieve this partnership, the Bill transfers responsibility for road safety from the Minister for Police to the Minister for Transport and provides for the creation of the Road Safety Council which will replace the existing Traffic Board.

Membership of the council draws on the expertise of professionals from the areas of transport, safety, coordination and planning, local government, education, health, enforcement and the insurance industry. Most importantly, the council will also include a person to represent road users and an independent chairperson who will have a strong commitment to improving road safety and reducing road trauma, be a good communicator and have the ability and desire to focus the council on achieving its objectives.

The position of road user representative has been advertised and an appointment will be made by the Minister on the recommendation of the council. In making its recommendation the council will ensure that the appointee represents a range of road users involving vehicle drivers, cyclists and pedestrians. This person will be a "team player" with suitable expertise and experience in road safety and come from an organisation which makes a contribution and has a major role in respect of road safety. The local government representative to be nominated by the Western Australian Municipal Association will be the chair of the local government committee on road safety. All appointees to the council will have positions within their organisations which will ensure that they have a principal coordination role in respect of road safety.

The Road Safety Council will have the role of developing a strategic plan for road safety in Western Australia; identifying and coordinating the implementation of priority road safety action; recommending expenditures from the road trauma trust fund; and evaluating the effectiveness of the strategic plan on improving road safety. Facilitation of road safety, coordination, planning, community involvement and administrative support to the council will be provided by the Department of Transport through the Office of Road Safety. The first objective in the recently published strategy, "Road Safety Directions for Western Australia", is to achieve better road safety coordination. In addition to funding road safety projects, moneys from the road trauma trust fund will be utilised to assist this coordination through funding of the operations of the Office of Road Safety, as well as operational support for special priority road safety projects involving other agencies.

In future legislation, the Government will address funding issues raised in the fifth report of the Ministerial Task Force on Traffic Calming chaired by Hon Barbara Scott, MLC and the Auditor General's report No 1 of 1996 on improving road safety. These include a proposal that the road trauma trust fund be credited with all fines collected from camera based traffic infringements rather than the current one-third. It would appear appropriate that those who put road safety at risk contribute to the cost of its improvement. The Government believes that the funds should be credited with revenues from other approved sources such as road safety activities; for example, licensing the use of road safety logos.

The changes to the administration of road safety and licensing will bring Western Australia into line with administrative practice in the other States and will enable the Minister for Transport to contribute more effectively to the Ministerial Council on Road Transport.

The Bill divides the enforcement provisions of the Road Traffic Act into two distinct functional areas. The licensing provisions of the Act will be enforced by the Director General of Transport, while on-road enforcement will continue to remain the responsibility of the Commissioner of Police. The Bill empowers the Commissioner of Police and the Director General of Transport to appoint wardens to perform enforcement functions for their various areas of responsibility. These amendments will enable officers from the Department of Transport's mobile transport unit to more effectively enforce the heavy haulage functions of the Act. In placing responsibility for licensing under the Director General of Transport, the Act creates a single licensing authority for all driver and vehicle licensing in Western Australia. This will result in a simplification of reporting lines and will enable a more efficient management of licensing functions.

Clause 47 of the Bill empowers the Minister to enter into an agreement with the Commissioner of Police, local government authority or any other body to perform licensing functions on behalf of the Director General of Transport.

In addition to the transfer of the licensing functions, the Bill requires applicants for the issue of a motor driver's licence to undergo compulsory tuition on the traffic laws and safe driving techniques. This initiative will enhance road safety awareness and ensure that applicants are better motivated and prepared to accept the responsibilities of holding a driver's licence.

The Bill also corrects a minor anomaly whereby inspection of buses and taxis can be required only on the renewal of a licence. This places an unfair burden on operators who renew their licences six monthly rather than annually. The amendment will provide for the annual examination of these vehicles irrespective of their renewal period.

Finally, the Bill validates actions taken by the Traffic Board in respect of the transfer of the licensing function to the Director General as from 1 August 1995. In Committee I will move an amendment to remove clause 48 of the Bill as this issue has already been addressed in the Statutes (Repeals and Minor Amendments) Bill. I commend this Bill to the House.

Debate adjourned, on motion by Hon Tom Helm.

CENSORSHIP BILL

Report

Report of Committee adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Hon Max Evans (Minister for Finance), and returned to the Assembly with amendments.

CRIMINAL CODE AMENDMENT BILL (No 2)

Second Reading

Resumed from 3 September.

HON J.A. SCOTT (South Metropolitan) [8.15 pm]: Last night I was giving examples of the slow response by police officers to investigate home entries. Many examples have been given in the Fremantle papers. I was giving an example of what appeared to be a case of extortion occurring in my neighbour's home. I rang the police and it took them 45 minutes to arrive at the scene, which was probably only three minutes by car from the police station. I had the unsavoury feeling that there could have been some involvement by the police in that incident. When I knocked on my neighbour's door and called out "police" to frighten the intruders away, I could hear a person being beaten up. The intruders left through the back door. I returned to my home to protect my family in case the intruders leapt over the fence and broke into my home. My wife told me that they had run down the back alley. When I investigated the back alley, which is very sandy, I could see very clearly the imprint of ripple sole shoes in the sand.

The police eventually arrived and found my neighbour, who had been beaten up, tied to a chair. I was speaking to police at the front of the house when a car drove past and the occupants were acting rather strangely. I asked the police whether they were suspicious and they actually pulled the car over to the side of the road and the occupants immediately produced what were CIB badges. There were about six or seven of them in the vehicle and they were all wearing ripple sole shoes. I was very suspicious.

On another occasion when somebody entered my home in the middle of the night I chased the intruders outside and called the police. I could hear the police debating whether they would bother sending the patrol car to look for the intruders whom I had chased outside. If they had come immediately, they could have done something about it. However, they were debating whether they should remain in the comfort of the police station or carry out an investigation.

The reason for the problem confronting the community is that the police do not have a very good attitude about investigating these incidents in the early hours of the morning to try to apprehend the offenders.

Before I give my vote to this Bill I want to know which programs the Government and the Attorney General have in mind to balance the punitive measures in this Bill. What measures do they have in place to deal with the underlying causes of crime - that is, poverty, addiction, unemployment, inequality of opportunity and the destruction of community values. The Government must look to a more holistic approach to solving crime instead of increasing prison sentences or penalties. While it may appear to some people to be solving the problem, it is not. I am glad the Attorney General said that he does have programs to put in place and I am interested to hear what they are.

HON TOM HELM (Mining and Pastoral) [8.19 pm]: I am very proud to follow the previous speakers on this Bill, which I support. I will make a couple of observations about the way the debate has been conducted. Mr President, while you were not in the Chair last night because you were attending to parliamentary business, I am sure you listened to the debate. You would have been aware that there was some decorum in this House when Hon Nick Griffiths was making his contribution

Hon Peter Foss: It was a very good contribution.

Hon TOM HELM: Yes, it was. This is no reflection on the Chair, of course, Mr President. I am sure you took note of the pair of baying hyenas on the other side when Hon Jim Scott was on his feet. The Attorney General and the Minister for Transport were screaming and shouting and it must have been most difficult to contain them. Their behaviour seemed at odds with Hon Jim Scott's call for a bipartisan approach to this problem. All of us would see a cooperative approach as a way of preventing some of the punitive measures contained in this Bill from being applied to young or old people, but to young people in particular. The House will have noted Hon Jim Scott has first hand knowledge of the effects of home invasion, as I have. The adrenalin runs when one's home has been broken into and one wants to hurt the person who has dared to invade one's home. However, in the light of day our desire surely must be to prevent those sorts of things from happening. We must learn the lesson that punitive measures have not solved the problem. More gaols, fines and punishment do not necessarily make one's home any safer. At one stage, by way of unruly interjection, the Attorney General advised this House that the Bill is not intended to prevent home invasions.

Hon Peter Foss: Neither is it intended to address the cause of crime. It does not even pretend to do that.

Hon TOM HELM: I share Hon Nick Griffiths' view that some measures have been taken by this Administration to address the causes of crime.

Hon Peter Foss: This is not one of them, and it does not pretend to be.

Hon TOM HELM: We should spend more time and resources addressing the problem than on the punishment.

Hon Peter Foss: I agree, but not with this Bill. You do not do it by amending the Criminal Code.

Hon TOM HELM: The message this Bill sends is that we must join the bidding war; that is, the popular Press is saying we should increase the punishment. The Attorney General has fallen for that hook, line and sinker.

Hon Peter Foss: The second reading speech does not say that, and I have not said that.

Hon TOM HELM: Listen comrade, you will get your chance shortly.

Hon Peter Foss: Do not put words in my mouth.

The DEPUTY PRESIDENT (Hon Barry House): Order! Let me interpret the rules. There are two rules: The speaker on his feet directs his comments to the Chair; and nobody interjects, including the Attorney General.

Hon TOM HELM: Thank you Mr Deputy President. The Chair will have heard Hon Peter Foss state that this Bill has nothing to do with stopping home invasions.

Hon Peter Foss interjected.

Hon TOM HELM: Will the Minister never learn?

Hon Peter Foss: It is like putting words into my mouth.

The DEPUTY PRESIDENT: Order! The Attorney General will have an opportunity to make a statement on this piece of legislation. I suggest he wait until then.

Hon TOM HELM: I want to have my say and sit down. However, if the Attorney insists on interrupting I will not sit down as quickly as I would like.

The DEPUTY PRESIDENT: Order! Let us hear some comments relevant to the Bill.

Hon TOM HELM: The whole thrust of our job as an Opposition is to demonstrate the futility of some of the measures that have been introduced in this Bill. The Government is entering into a bidding war; it is responding to popular opinion. It should be doing more about the causes of crime rather than providing more sophisticated punishment. We must address those issues. What I am saying here is no more and no less than what I have said in the Caucus room. I expect I will be received in the same way by many members on this side of the Chamber who will agree with me; however, I doubt that many members opposite will agree with me. The Government has not addressed the causes of crime. Diversionary programs for young people have demonstrated the success of addressing

the causes of crime. Those programs are not advertised, because they do not appear to be politically popular; they do not grab the headlines. Hon Cheryl Edwardes allocates money to community groups every week, and she should be congratulated for that. Although that is in the form of a press release that may be picked up the local newspaper, it goes no further than that. It is a harder row to hoe, but it is the most successful. I have repeated ad nauseam in this place the success of the programs in Port Hedland, and I will not explain those programs to this place again. It has been shown that alternatives exist, and we should shift resources away from privatising prisons and from the "three strikes and you're in" policy. What are we playing here, baseball? Why would we be attracted to an American process?

Hon J.A. Scott: It is a political cliché.

Hon TOM HELM: It is even worse when those clichés have no value or credibility. Surely the Government would not be silly enough to put in place the American experience? The crime rate in New York has been reduced; however, that has had nothing to do with "three strikes and you're in". It is a result of diversionary programs, of society being fed up with increasing insurance premiums, with not being safe in their houses and wanting to do something about that. Young offenders are on the streets doing something useful like graffiti art programs and other things.

An example of the approach of the Government and members on the Treasury benches was evident in a question asked tonight by Hon Muriel Patterson. It was an interesting question, and members may understand what I am saying by the way in which it was slanted. Hon Muriel Patterson asked the Attorney General what restitution had been made by juveniles during the previous 12 month period. He was unable to answer her question because the Children's Court did not have that information. However, the Attorney General was able to advise her that about 700 young people either paid restitution or undertook community work to pay for the crime they had committed. That is an indication of how members on that side of the Chamber feel. They are more interested in catching young people and punishing them, than preventing them from reoffending. That is not the thrust the Opposition wants to see. I hope the Attorney General's response will indicate programs are in place that demonstrate an even handed approach to this matter.

I cannot put my party's programs forward as an example. The House will remember that I was given a pair for a vote for the Labor Party's serious and repeat offenders Bill, because I could not agree with it. I am consistent in that view; it is not something I am aiming at that side of the House. We all bear some guilt. It is depressing to listen to some radio commentators - Howard Sattler's name has been mentioned, although he is not alone - who use clichés like "There is a war out there" and "We can't give the streets over to criminals".

Hon Peter Foss: You do not see any of that in the second reading speech.

Hon TOM HELM: It is what is left unsaid. The thrust of the second reading speech relates to statutory punishment. The judges' discretion in sentencing is to be taken away. Let us not kid ourselves about that.

Hon Peter Foss: It does not say that.

Hon TOM HELM: It certainly will not prevent home invasion.

Hon Peter Foss: It does not address the causes but it will prevent them.

Hon TOM HELM: If the Attorney General is not using punishment as a deterrent -

Hon Peter Foss: It can prevent home invasion by locking up the people who commit that offence.

Hon TOM HELM: So this legislation will not prevent people committing the offence in the first place. Is this not a "three strikes and you're in" effort?

Hon Peter Foss: It will prevent it.

Hon TOM HELM: Does it?

Hon Peter Foss: If people are in gaol they will not be breaking into homes.

Hon TOM HELM: The Attorney should not demonstrate his stupidity too much. It could be argued that this Bill is supposed to prevent home invasion.

Hon Peter Foss interjected.

Hon TOM HELM: The Attorney should not say two different things. Yesterday he interjected in an unruly fashion - which is his wont - and told Hon Jim Scott that this Bill did not intend to prevent home invasions.

Hon Peter Foss: It does not prevent the cause.

Hon TOM HELM: Do I hear someone squeaking? I recall what the Attorney said yesterday, but I do not know if Hansard picked it up.

Point of Order

Hon PETER FOSS: The subject matter of the Bill is the degree of punishment for people who commit the offence of home burglary. I understand that people may wish at the same time, within the relevance of the Bill, to discuss preventing the causes of crime. However, the member is debating what I said, even though that is irrelevant. I am happy to tell him what I said, but when dealing with what I said, it is not germane to discuss the punishment for home invasion.

The DEPUTY PRESIDENT (Hon Barry House): That is not a point of order. Technically, the Attorney has not said anything. He will have the opportunity to respond. I suggest he wait until he has that opportunity, then the member on his feet will not say anything about what the Attorney said.

Debate Resumed

Hon TOM HELM: If the Attorney General does not believe that some people will think that this legislation will be a deterrent for people breaking into homes, I do not know where he is coming from. This is the sort of stuff that radio commentators deal with all the time. Do members remember the revolving door system of justice? If the Attorney is not saying that this Bill will stop the revolving door process, he is crackers. He does not know what he is doing.

Point of Order

Hon PETER FOSS: That is unparliamentary language. It is directly contrary to what you, Mr Deputy President, suggested the member do - and that is to address the Bill.

The DEPUTY PRESIDENT (Hon Barry House): The member should cease his character assassination and address the Bill.

Debate Resumed

Hon TOM HELM: This Bill is designed to set statutory sentences. It will do away with the judges' freedom to determine sentences, within certain boundaries. This Bill reflects a "three strikes and you're in" policy. That will be the perception. If anyone wants to argue against that theory, they can do so when I sit down. Anyone can argue that this will not be the public's perception of this legislation. Members can argue that this is not part of an election process. However, the perception will remain in the public arena that the intention of the legislation is to assuage the concern of the general public. It is to say, "We are the Libs" or, "We are the coalition." Members will bare their chests and say that this is how they will deal with the matter. In some sections of the community it would be far more popular than putting together programs such as that at Lake Jasper, or training programs at Riverbank or any other juvenile institution. It would probably be more popular than saying we will have mobile boot camps which will go to where crimes are being committed rather than send offenders to Laverton.

There is something wrong with this Bill, but that is not unusual. The Bill does not say all those things, but people are making those judgments about it. The Labor Party will support the damned legislation, because it will be a demonstration of its recognition of the public's perception of the problem. This is an opportunity to move away from the argument about who is the most macho; it is an opportunity to ask the Government to indicate the programs that are in place and what is being done to prevent crime. That is the point I am trying to make. My argument does not relate to what the Bill says or does not say; it is all about the intention of the Bill. The Attorney General cannot make one statement one night and another the next night. If he does not understand the contents of the Bill he should not have introduced it in the first place. If he does not understand my argument, he should not have introduced the legislation. I know what the Bill will do, and if the Attorney is embarrassed, that is because he should be -

Hon Peter Foss: You are an embarrassment.

Hon TOM HELM: It cost a lot of money to set up Camp Kurli Murri. The former Attorney General went to America to observe how similar programs work in that country. Because we have the open space of the Western Desert and the Murchison, the former Attorney General thought - as did the entire coalition - it was a good idea to set up such a camp and to put into effect the short, sharp shock policy, so that people would learn self-discipline.

Hon Peter Foss: It worked.

Hon TOM HELM: How many offenders went to that camp?

Hon Peter Foss: Twenty nine, and 28 have not reoffended.

Hon TOM HELM: How much did it cost?

Hon Peter Foss: Don't you think that the camp was important to those 28 people?

Hon TOM HELM: If only one person were involved, I would still think it was a good thing. However, I am not sure that the taxpayers are thrilled that 28 people have not re-offended. I suspect that is the reason that the camp is about to be closed.

Hon Peter Foss: Are you pleased that 28 people have not re-offended?

Hon TOM HELM: Not for the cost, and not when people have been playing games about the alternatives -

Hon Peter Foss: This is an alternative which has worked for 28 people.

Hon TOM HELM: That is fine. However, programs already exist which would have not only prevented people from going to the boot camp in the first place, but also prevented that sort of crime -

Hon Peter Foss: The problem is that people do get to that stage of their lives when they have not responded to other programs, and they are incarcerated. That is the case around the world.

Hon TOM HELM: For a long time our argument has been that Riverbank and other detention centres offer people something positive. The money being spent at Laverton could be put into existing centres rather than putting people into cold, tiled cells, and taking Aboriginal people from their home country to a place 1 000 kilometres away in Perth. If something better were done, by looking after the family circle, rather than building another desert boot camp -

Hon Peter Foss: I certainly agree.

Hon TOM HELM: Twenty-eight out of 29 offenders have not re-offended. That is fantastic. However, surely we must be about preventing offences, not catching the offenders.

Hon Peter Foss: I couldn't agree more.

Hon TOM HELM: If that were done, surely to goodness the Government would not be talking about building a boot camp or stowing someone away for \$354 a day. The Government would not be talking about privatising the prison system or building another Casuarina. If it were dinkum about preventing reoffending, it would not produce Bills such as this, which will create a song and dance, without promoting the alternatives it will put together.

Hon Peter Foss: We did; they were announced at the same time. Unfortunately they are not reported by the newspapers.

Hon TOM HELM: Family and Children's Services funds the continuing program for alternative programs.

Hon Peter Foss: Do you support that?

Hon TOM HELM: Of course I do. I am trying to make it clear that the punitive measure of "three strikes and you're in", which the Government thinks will prevent crime, has been proved to be incorrect. This next step is attractive to political parties of all persuasions. The Opposition is as guilty as the Government; however, it has not gone as far.

Hon Peter Foss: Your leader's announcement goes a lot further.

Hon TOM HELM: We went much further previously.

Hon Peter Foss: Your current leader's announcement referred to by Hon Nick Griffiths goes a lot further.

Hon TOM HELM: Not with our new policy.

Hon Peter Foss: You had better read the policy. Have you not read Mr McGinty's policy?

Hon TOM HELM: Do we have "three strikes and you're in"?

Hon Peter Foss: You have more than that. Have a look.

Hon TOM HELM: Guilty as charged. I am not trying to protest my innocence about this.

Hon Peter Foss: You are disagreeing with your leader.

Hon TOM HELM: Yes, I am. Surely we should get rid of that bidding war.

Hon Peter Foss: You've gone far beyond that. The Government is not bidding.

Hon TOM HELM: That is the way it appears. We must talk about the alternatives that have been presented. Both sides of the political fence should try to convince the public that evidence exists that it is not necessarily a good idea to increase punishment. One of the policies the Government pursued before the 1993 election was on being strong on law and order and stopping the crime wave - but it failed. Frankly, if the Opposition had won the election, I do not think there would have been much difference. However, that is because of the approach adopted.

Hon Peter Foss: The origins of crime go back a long time - 10 or 15 years.

Hon TOM HELM: That is right. I suppose at the time the Labor Party decided that it would be a good idea to follow the radio commentators and address concerns about the revolving door syndrome and the then Government being soft on crime. Ex-chief judge of the Children's Court Hal Jackson was public enemy number one.

Hon Peter Foss: You cannot overcome the causes of crime overnight. In the same way as those causes mature over a long period, addressing them takes a long period.

Hon TOM HELM: The causes of crime today are similar to the causes 100 years ago.

Hon Peter Foss: A thousand years ago.

Hon TOM HELM: Okay. It does not really matter; the causes have not changed much. The incidence may have changed; however, I am not sure even about that per capita. The incarceration rate has definitely changed. I suppose that is because we do not kill as many offenders as we used to. All those matters together show that whatever has been done has not worked; it is not right. The Opposition is talking about doing something a little different.

I will quote a few press articles that will demonstrate the view I take in this matter. The House must understand the sort of response this measure has received from journalists. I quote from *The Australian* on Thursday, 29 August. An article under the headline "Jail for third-time burglars out west" states -

The Court Government's legislation has come under fire from civil rights groups, who claim injustices are inevitable when judges' discretion is removed.

The Australian Civil Liberties Council, the Law Society of Western Australia, the Australian Society and academics are among the critics. So is the State Labor Opposition, but not for the same reasons. Also keen to take a tough stand on law and order, the Opposition claimed after the introduction of the legislation that it was "a pale imitation" of the ALP's home-invasion policy, which also included a mandatory jail term for those convicted three times of burglary.

I take back what I just said. I must read the policy now! The article is not far from what I was saying. It continues -

A State election is due in Western Australia by early next year. Already there are fears that concern over law and order issues will see the two major parties seek to outdo each other with proposals for tougher and tougher penalties.

Fuelling these fears is recent news confirming that the State has the worst record in Australia for home burglaries.

Hon Peter Foss: I am certainly not doing that.

Hon TOM HELM: A pale imitation the Attorney General is probably not. To continue -

The Court Government has failed to answer concerns about the potential for injustice in individual cases. Under the legislation, there is no time limit set over which the three convictions apply. This means a person could be convicted twice for burglary as a teenager and then, years later, face a jail term for a third offence, irrespective of the circumstances.

This is where the Government can cop some criticism. I have said before in this place that when someone has been unemployed for 14 months -

Hon Peter Foss: Unemployment is not the main cause of home burglary.

Hon TOM HELM: It must be one of the major causes. The Attorney General should get down from his ivory tower and have a look around. It does not matter whether the youth committing the crime is employed; one or both of his parents may not be.

Hon Peter Foss: Unemployment has dropped.

Hon TOM HELM: Has it just? Does this Attorney General belong to the Western Australian State Government?

Hon Peter Foss: The statistics show that unemployment has dropped, and this State has the best unemployment figure in Australia.

Hon TOM HELM: The Attorney General should look around him. Generally, everything that happens now in development is capital intensive.

Hon Peter Foss: You cannot deny the fact that more people are employed than used to be.

Hon TOM HELM: Does the Attorney General say that more people are employed or that more people are underemployed?

Hon Peter Foss: There is a higher rate of participation.

Hon TOM HELM: The unemployment figure is higher than it should be, given the economic circumstances of this State.

Hon Peter Foss: You cannot say that the Government is to blame, because in fact employment has gone up.

Hon TOM HELM: Who introduced workplace agreements?

Hon Tom Stephens: More people are unemployed now than have even been unemployed in Australia.

Hon TOM HELM: The Attorney General is probably right in some senses that it is not all this Government's fault; however, a lot of it is the Government's fault.

Hon Peter Foss: The causes of crime go back to childhood. It is pretty difficult to blame us for the childhood of the people committing crimes.

Hon TOM HELM: Because it is only young people.

Hon Peter Foss: Most causes of crime go back to childhood.

Hon TOM HELM: Again, the Minister is perpetuating the myth. His comment suggests that the majority of young people are either criminals or potential criminals.

Hon Peter Foss: No, I said the causes go back to childhood. You say we should address the causes. I am saying they go back to childhood.

Hon TOM HELM: They go back to poverty, deprivation and unemployment.

Hon Peter Foss: Yes, but it starts in childhood.

Hon Derrick Tomlinson: Explain Mr Bond.

Hon TOM HELM: That is probably greed. He did not do three strikes and he was in; he did only one. Let us not be facetious.

Hon Peter Foss interjected.

Hon TOM HELM: The Attorney General should tell me why there is such a disproportionate number of Aboriginal people in gaol.

Hon Peter Foss: For the same reason: It goes back many times to the family circumstances in which they were brought up. It starts in childhood. Because of our society, many are doomed to end up in contact with the police and in gaol.

Hon TOM HELM: As long as this Government remains in power they are doomed; there is no doubt about that.

Hon Peter Foss: It is pretty hard to say that the Aboriginal problem is recent or that any Government has had a great deal of success in the past.

Hon TOM HELM: The way to address those difficulties is not to do what this Government and the Attorney's federal colleagues have done - to reduce the funds allocated to ATSIC. That is what this Government did when it was in opposition. Members opposite insisted that the audit of Aboriginal organisations be far in excess of audits on individual organisations and most other non-Aboriginal organisations. At Port Hedland the Bloodwood Tree organisation was struggling to get funds. It was an Aboriginal organisation but non-Aboriginal people went to it for support. It was struggling and fighting to justify where the money was going. That action is okay as long as it is applied equally across the board.

If we want to reduce the number of offenders by implementing a preventive or diversionary program and if we recognise that Aboriginal people will be disproportionately represented in gaols, we must move away from the "lock'em up" philosophy and talk about, assess and identify those -

Hon Peter Foss: Of course, you do. You must also recognise in the meantime that that will take a little while to have any effect. It will never be 100 per cent effective. You have a population that is suffering.

The DEPUTY PRESIDENT (Hon Derrick Tomlinson): While this conversation is very interesting, the honourable member has a little over 11 minutes to address the Bill. I suggest that he address his remarks to the Chair and return to the substance of the Bill.

Hon TOM HELM: A number of people in this place have perhaps been misled by the heading of the Bill and the second reading speech.

Hon Mark Nevill: And by the Minister.

Hon TOM HELM: By way of unruly interjection, the Attorney General said that by locking people away we prevent them from committing further offences during the time they are locked up. Obviously, the longer we lock them up the less chance they have to commit crimes. If that were the case, as we have so many people locked away there should not be any crime in the State.

Hon Peter Foss interjected.

The DEPUTY PRESIDENT: Order! The honourable member will address the Chair.

Hon TOM HELM: The Bill and the second reading speech do not say so, but the intention of the Bill is to punish those who commit crimes, and to give the impression outside the Chamber that the longer people are locked up the less chance they have to commit a crime. If that were true, then by increasing the number of people incarcerated we would achieve a crime-free State - unless one follows the argument that we have not locked up enough. That is the stupidity of the argument.

If we pursue the argument that while they are locked away the streets are crime free, we need to lock up more offenders. That is why we are looking at privatising prisons, mobile work camps, boot camps and so on. There is also mention of bracelets incorporating a GPS system attached to a satellite. We could also have Arnold Schwarzenegers with microchips in their brain so that we know where they are every minute of the day. The more I go into this the worse it gets.

I refer members to a magazine called *The New Internationalist*, which contains an article entitled "Rush to Punishment". It amazed me to read that prison expos are held around the world. The people who supply handcuffs, video cameras, stun guns, mace and so on go to international forums -

Hon Mark Nevill: Any restraining gear?

Hon TOM HELM: Yes, they have it all. They go to international forums where they drink wine and so on while they are selling this gear.

Hon Peter Foss: What you are reading from?

Hon TOM HELM: It is a magazine called *The New Internationalist*. It is an English magazine.

Hon Tom Stephens: No, it is South Australian.

Hon TOM HELM: The article to which I will refer is entitled "Rush to Punishment".

Hon Peter Foss: What is its political background?

Hon Tom Stephens: It is often called an alternative magazine. In fact, many of the people with whom the Attorney General mixes are devotees of this magazine.

Hon TOM HELM: The article states -

The booths are a delight for anyone into post-modern iconography. There are dummies of prisoners cowering in special bunkbeds. There is one of a prisoner strapped into a restraining chair and made up to look like Saddam Hussein. There is the dummy of an LA cop, looking for all the world like Vampira, advertising a portable video pack complete with helmet camera and wrist monitor: 'All for under \$5 000.'

Hon Mark Nevill: It was on the way to Brazil. The Attorney could have stopped on the way.

Hon TOM HELM: Yes, I am sure he could have. The article continues -

I'm assured. There are the salesmen from Bob Barker Inc., dressed in their convict stripes, selling 'paddy-wagon retrofits'. The slogans are catchy too: 'Built to last a life sentence'; 'We design for the world's toughest customers'; a line of prison T-shirts with slogans like 'Hard Time Bed and Breakfast: Three Hots and a Cot'.

That is how bizarre it is getting. We are going down that track. We would not be the first Australian State to privatise its prison system. We need to get together to discuss how we can stop spending more money on gaols and putting more people in them - wasting their time and that of everyone else's.

Another quote refers to a man who sells prison equipment. It reads -

'It's ugly, how much money he's now worth.' The speaker was a big ol' boy from one of the west Virginia jails. He was recalling a common acquaintance on the prison design business with an enthusiastic young blonde woman from down in Tampa, Florida. We all went and visited your jail down there. Made me think I was in a NASA space station in Houston. Talk about high-tech.' It turns out his designer pal had made his fortune by selling out to the Corrections Corporation of America, one of the biggies of the lucrative industrial prison complex. The woman from Tampa is in awe of the new facilities just up the road in Orlando: They get all that money from tourists visiting Disneyworld and they use it just to keep building more and more gaols. They have got the highest rate of incarceration in the State'.

This Bill is taking us in that direction. We must start talking to people and stop listening to popular radio shows and to those who say, "If you are soft on crime, what else can you expect?" We must look at the way we address each other. There is no doubt that we must look at changing this philosophy and culture so that we get away from thinking that the way to stop crime is to punish people more and more. It seems that while we are doing that and directing energies, resources, and the small amount of cash that is available and the less which will be available, the more we must spend on building these high tech places. I have never been to Casuarina Prison, but those cameras outside give the impression of a high tech place. Visiting Riverbank and seeing the cells for young people leaves the impression that they are no more than toilets. They have a bunk and tiles to the ceiling, and they are so cold. It is no wonder that the young people there learn to be better criminals. We will continue to teach them to be better criminals if they cannot talk to anybody - and surely nobody can be that cruel. Maybe we will start breeding people who will be cruel enough to do that sort of thing. I support the Bill but I look forward to the alternatives that this Government says it will present.

HON TOM STEPHENS (Mining and Pastoral) [9.04 pm]: The state parliamentary Labor Party has made the decision to support this Bill and therefore I support it. The speech delivered to the Chamber by Hon Nick Griffiths presented a very measured response to this legislation on behalf of the Opposition. The response endeavoured to step cautiously through the provisions in the legislation and indicate a variety of reasons why the state Labor Party has opted to support the legislation. It occurs to me regularly when I look at legislation such as this and many of the Bills that come before the House that we have an extraordinary State with an enormous range of circumstances, to which we respond with legislation which embraces the State from top to bottom. What might seem appropriate and relevant for the circumstances of the metropolitan areas or major population centres of the State readily falls short of the needs of many in our community. I am conscious that this is the case with legislation which we introduced when we were in government, not specifically in this area but including it.

I am regularly reminded of how inappropriate the licensing laws are for the needs of the entire State. Liquor licensing which is appropriate for responding to the needs of metropolitan Perth or the major domestic and international tourist areas is inappropriate for responding to the needs of much of my electorate. It has a population which has substantial difficulties with the use and abuse of alcohol which is leading to so many significant problems for its own community and in turn for the wider community of which it is a part. I look at the provisions of this Bill and recognise that they overlay the entire Western Australian community and that our community is so complex these days. Our community is not simply made up of community members such as those from which some, if not all, of us come.

I have just come from dinner with my family, which is now based in Perth. We are a typical, gentle family with two parents and three young children. The whole notion of an intruder into our family home is a violation of the circumstances in which we live. All of us would want a legislative response to find ways of expressing the outrage associated with the intrusion into our home. To have someone come into that blissful environment and to violate it is an anomaly for us. It has happened. The sense of outrage associated with it is often irrational. I guess we join the rest of the community with that heightened sense of outrage when it has happened. When we have had burglaries we have felt aggrieved. We can verge on having irrational responses to it in the same way as the rest of the community.

Hon Peter Foss: You could also describe it as an emotional response - not necessarily irrational.

Hon TOM STEPHENS: I agree that it is emotional. I also think it is an irrational response that makes one want to lash out at an intruder. I take the Attorney General's point and will adopt the term "emotional".

Hon Tom Helm: I would not want to cry - just kill him!

Hon Peter Foss: That is emotional!

Hon TOM STEPHENS: That is what I call irrational. I am conscious of the bliss we have had in our family homes in Perth and prior to that in Broome. When that environment is subjected to an intrusion there is an enormous sense of outrage and we look to the Statutes to try to find ways of responding to those circumstances. The most recent intrusion into our family home was a simple case of robbery. It was nothing too serious. Someone succeeded in getting through our front door and passing between me in my study and my wife in her study. It was an extraordinary feat. They went straight into the bedroom and stole the wallets that were on the dressing tables before whipping off with the money. I suddenly heard footsteps running out of the house and remember thinking that it did not sound like my wife. I then quickly discovered that we had had an intruder who had managed to take away some property which I would prefer they had not taken, not the least of which was the cash.

When we were living in Broome the intrusion into the family home occurred while I was away at the State Parliament. A youngster picked up a knife from the kitchen and emerged with the knife, threatening my wife in her bedroom. She was outraged, but it provided her with a sense of outrage for a community in which these circumstances are no longer rare. Beyond my wife's emotion was a strong desire to have direct contact with that juvenile. This youngster was a 17 year old white chap from down the street. The police tracker quickly tracked him down within an hour of dawn. He came to our garden and followed the footsteps up the street, through St Mary's College. He followed the wrong set of tracks for a while, but eventually realised and backtracked until they entered the yard of a house a few houses down the street from our house. He knocked on the door, which was answered by the youngster. The police aide did not look at the youngster's face; he looked at his feet and said, "That's him." The lad was arrested, charged and convicted. My wife was keen to have direct contact with the youngster as a part of "reality therapy" as she put it. She wanted to make sure that the youngster knew how significant the intrusion was into her life and paradise, which our home had always been to that point. Regrettably, the Statutes at that time did not allow that.

Hon Peter Foss: A juvenile justice team is what we will have.

Hon TOM STEPHENS: I hope that the Minister will outline in his response to the debate exactly what will be put in place for the victims of crime. Will they be able to interface with the perpetrators of crime if they choose, to ensure there is human exchange within the limits of what is decent and appropriate in the circumstances? It will provide people with a bit of reality therapy so that the perpetrators understand the adverse impact they have had on the life of a very decent human being in my wife's case.

Hon Peter Foss: It is not just like watching a video.

Hon TOM STEPHENS: Yes. I would like the Minister in his response to outline the provisions that will be put in place. I will be keen to see how widespread the use of that option has become in the system.

I was developing a theme of contrasting the circumstances in our lives and those of many other people in my electorate, particularly those of many Aboriginal people who live in my electorate for whom homes are so very different. They are not shelters for one family unit. They are shelters for an extended group of people that regularly go into a home, sometimes uninvited. They are part of a large family group that has the right to take shelter whether invited or not. Those domestic units become large groups in many Aboriginal communities.

Hon Kim Chance: Not just in Aboriginal communities.

Hon TOM STEPHENS: Yes, and in population centres also. The second reading speech states that the Bill replaces the concept of breaking and entering with entering or being on the place of another person without that person's consent. Many Aboriginal people find living in their homes regularly large numbers of people whom they have not given consent to be there, but those people have taken the opportunity to shelter in that home just the same. If they steal a toothbrush from that house on their way out in the morning, they are almost likely, by the way the Bill has been drafted - .

Hon Peter Foss: That was done in 1988. This distinguishes between those who are in a home and those who are not.

The DEPUTY PRESIDENT: Order! This sounds like a Committee debate to me.

Hon TOM STEPHENS: Was it done in 1988 or in 1991?

Hon Peter Foss: 1991, I beg your pardon.

Hon TOM STEPHENS: If that was the point at which the change occurred, this Bill does not address the problem; that is, that there are so many people in my electorate, particularly in the Aboriginal community, for whom consent for being on premises has not been a significant cultural issue. Often in the normal hubbub of community life, and with the deprivation and problems associated with the lives of that section of the community, there will be offences that will not in normal circumstances be particularly significant offences.

Hon Peter Foss: But breaking and entering includes opening the door. It has not made a huge difference. The only time he did not break and enter is when he walked through an open door. If you had in any way to open a door, you are breaking and entering. Merely opening a door is breaking and entering.

Hon TOM STEPHENS: That will not solve the problem for many of these people.

Hon Peter Foss: The problem was there before. Unless the door was open, you are breaking and entering.

Hon TOM STEPHENS: If that is the case, the circumstance is not a lot better and I fear it is made a bit worse by this legislation, because it keeps trying to reinforce this notion of the sanctity of a home, which is sacred and important for people like us. However, other people in this State live in different circumstances. They may not want certain things to happen, but would also not want the full force of the law brought down on the people who have entered their homes uninvited.

Hon Peter Foss: They do not have to complain.

Hon TOM STEPHENS: Too often laws such as this can be utilised without complaints being lodged.

Hon Peter Foss: First of all it must be proved that they came in without consent. Unless the owner is prepared to testify that the person got in without consent and committed an offence, it would be hard to establish that.

Hon TOM STEPHENS: I acknowledge the Attorney General's response. I am expressing my fears about the way these provisions could be utilised in the administration of laws such as this.

Hon Peter Foss: That has not changed. It has been available, especially if a person opens the front door, since 1901. It has been available in this form since 1991.

Hon TOM STEPHENS: I acknowledge the Attorney General's response to my concerns through his interjections. I hope his assessment of the situation and his response to my concerns will reflect future events. I am not sure that will be the case. I fear the amendments before the House will add a new complexity to the circumstances in which many of my constituents live. It will allow this legislation to become an additional heavy weapon to be used against a section of the population already dramatically overrepresented by any standards - not only Australian but international - in the prisons in this State. So much of the prison population in Western Australia is made up of Aboriginal people. That is a matter of great concern for us all. Having recognised that the circumstances in which they live are very different from the domestic bliss I share with my family, I fear that when Statutes such as this are put in place -

Hon Peter Foss: There are changes in the penalties, not the circumstances. The matters you are talking about were changed in 1991.

Hon TOM STEPHENS: Nonetheless, the penalties will have the effect of increasing the prospect of those persons landing in gaol.

Hon Peter Foss: Yes.

Hon TOM STEPHENS: Their prospects of going to gaol for an offence which in their world would not be regarded as an offence will increase.

Hon Peter Foss: I am not aware of anybody having been charged in the circumstances to which the member refers.

Hon TOM STEPHENS: Neither am I, but I fear this Bill does not allow for the circumstances that prevail in those communities.

Hon Peter Foss: That is quite true, but it has not changed.

Hon TOM STEPHENS: The penalties are more severe.

Hon Peter Foss: Yes.

Hon TOM STEPHENS: If my fears are realised, an increasing number of people from the Aboriginal population will go to gaol as a consequence of circumstances which are different from those that impact on the lives of the non-Aboriginal population. I hear the Attorney General's response that my fears are misplaced.

Hon Peter Foss: I will reply to them.

Hon TOM STEPHENS: Perhaps the fact that he and I do not know of any person being charged under the existing provisions of the Criminal Code, means that nobody has been.

Recently I listened to a very heated exchange between one of my colleagues and a legal practitioner working for the Aboriginal Legal Service in Kununurra - Margie Bourke. She is a Victorian based in Kununurra and she described to me and my colleague how totally different are the world views of the people on either side of the race divide in this State. She said how easy it was for politicians to legislate in response to circumstances within the major population areas in the State, and to introduce Bills to change the Criminal Code in ways that impact so significantly and adversely upon the lives of Aboriginal people. She said these changes would increase their rates of incarceration and continue the downward spiral which many indicators show, as that population is declining into social chaos.

Hon Peter Foss: Do you realise the change is more likely to impact on white people than on Aborigines?

Hon TOM STEPHENS: I look forward to hearing the Attorney General's response.

Hon Peter Foss: Aboriginal people are seldom given a second, third, or fourth chance and, therefore, the people most likely to be impacted upon are non-Aborigines.

Hon Mark Nevill: They go to gaol the first time.

Hon Peter Foss: That is right, and it is one of the unfortunate things. However, I looked at the ratios that applied and it will impact much more on white people because they get all the chances. Aboriginal people never get the chances. It is a bizarre consequence, but that is the result.

Hon Kim Chance: We have come to expect that.

Hon Peter Foss: I wanted to know whether it would have an undesirable impact on Aborigines. It obviously increases the prison rate but it reduces the ratio.

Hon TOM STEPHENS: I am surprised by some of the information the Attorney General has given us tonight. I would like to circulate the Attorney General's comments to legal practitioners and ask them how their experience corresponds to the Minister's observations.

Hon Peter Foss: I just got the statistics.

Hon TOM STEPHENS: I shall be interested to know how those statistics correspond to the experience of legal practitioners.

I will not prolong the debate. I have had the opportunity of hearing the Attorney General's response to some of my comments earlier than I anticipated. In some ways that has led me to curtail my comments. I look forward to the Attorney General's response to my query on juvenile justice.

HON SAM PIANTADOSI (North Metropolitan) [9.29 pm]: I support this Bill. I am a little disappointed at the comments from some of my colleagues in this place. This Bill has been a long time coming. I firmly believe my home is my space and I have every right to enjoy the security of that home. When I leave my home and my son or mother are at home they should be able to feel secure even though I am not there. On one occasion someone jumped my fence at midnight and watched my wife undress, until my dog got hold of him. I do not think that intruder will return, because the dog came back with parts of his trousers in its mouth. I dare not reflect on which parts of his body she may have tackled. I shudder to think what would occur if someone were to break into my place when I was home. I would not ask any questions about his background or what caused him to invade my space. I can assure members I would hit first. The intruder would not be in a fit state to answer questions. Invasion of my home is the worst abuse of my privacy, space and security.

In the past we have been too soft. Neither I nor my family can be held responsible for some of the problems in our society, of which there are many. I do not deny that problems exist in the community and acknowledge that we need to take action to help people such as the unemployed. Tonight when I drive home I am sure I will encounter some young people on the streets. I often see 13 or 14 year old children, who are about the same age as my son, wandering along Walter Road as late as midnight. What are they doing at that hour? Whose responsibility is it? It is certainly not mine and I do not think it is the Government's responsibility. We must consider whose responsibility it is. I think it is the parents' responsibility.

Last week my son was grounded for a week because he arrived home twenty minutes late, even though he was only next door. Although she knew where he was his mother had told him to come home at 6 o'clock, but he came home at twenty past six. He had struck a deal. We try to accommodate all his needs, but he did not keep his end of the

bargain so he was grounded. My colleague Hon Jim Scott thought that was a bit harsh. However, my son is given all the support he needs. My wife and I decided when my son was born that she would stay home rather than go into the work force to ensure that when my son arrived home from school she would be there. We had the luxury of my mother-in-law living on our property in a granny flat and the school being only a few hundred metres away. It would have been easy for my wife, a schoolteacher, to continue with her career. We would have welcomed the extra money from her working. Nonetheless, we stuck to our decision because we believed that our investment was in our son.

Whether we like it or not many burglaries are committed by young people in the hope of finding cash or something that can be sold to buy drugs. I do not think the reasons are relevant at this stage. This Bill is to provide protection to people in their own homes. I commend the Government for this legislation. As I said, I am one of those people who would not ask questions if my home were invaded. I would take action, because my home is sacrosanct to me. If I have not invited people in, no-one has the right to invade my space.

Members have referred to mitigating circumstances such as unemployment. I believe in giving support to unemployed and disadvantaged people. However, their circumstances do not give them any right to take away my rights.

Hon Peter Foss: It is the difference between reasons and excuses. I am agreeing with you.

Hon SAM PIANTADOSI: I am sure that other Bills will come before this House which will give us an opportunity of considering ways that we can provide assistance to those people.

I listened from my office to some of the debate and I was disappointed that reasons were given for not considering stiffer penalties. The very people who were being overlooked in this debate were the ones we want to protect in their own homes. Why should we be prisoners in our own homes?

As I said before, I own two big dogs. People around me have been burgled, but I have not. Only two weeks ago the daughter of one of my electorate officers went to her bedroom to brush her hair and she encountered a person of Aboriginal descent holding a screwdriver. He had just grabbed their jewellery and money. The daughter ran out of the room screaming, which caused the rest of the family to rush to the scene, wielding golf clubs. As a result the two offenders - one was inside and one was outside - disappeared. I dread to think of what may have happened had that 15 year old girl been home alone. My electorate officer is now assessing the various breeds of dogs that are available. The family is considering buying a German shepherd. They do not want to be prisoners of fear in their own home, not being able to watch television or live a peaceful life. My staff member was a nervous wreck and away from work for a week because of that experience. She is a prisoner in her own home. I guess a dog will provide security for her. If she is asleep or watching television, at least a dog will warn her of any movement outside. She was completely destroyed by that intrusion.

The handbag was found, but not the loot or the jewellery. We gave the general description of the offenders to an Aboriginal elder who uses the facilities in my office when he is in town. He visited some of the Aboriginal camps and areas and the police now have clues which may lead them to the offenders. Even though the burglars may be caught, my colleague lives in fear. She is a divorced lady, living alone with two children. Fortunately on this occasion her sister and brother in law were visiting from Hong Kong. She was traumatised in this instance; I dread to think what she would be like if she had been on her own. That sort of thing should not happen.

If I visited some of my colleagues' homes uninvited, they would show me the door, and rightly so, because their home is their space. I would feel exactly the same way if I were in their position. I urge members to look at the intent of this Bill and to focus their attention on that area. Sure, there are a lot of other problems in our community, but this Bill will not solve those problems; other actions will help to alleviate some of those problems. Rather than get on the political bandwagon and point score about general problems that exist in the community, we should stick to this Bill and give it our full support. Part and parcel of this problem is that we tend to be busy with political point scoring rather than with getting on with the job and showing the leadership that the community expects of us with regard to giving legislation due consideration to ensure that it serves the constituents whom we have been elected to serve well.

HON B.K. DONALDSON (Agricultural) [9.41 pm]: I support the Criminal Code Amendment Bill (No 2). I have heard a lot of discussion tonight about the causes of crime and why we should build more gaols. To pick up on the last part of Hon Sam Piantadosi's speech, it really does boil down at the end of the day to parents' responsibility. Parents must instil in their children a knowledge of the difference between right and wrong. That does not always work, of course, but those fundamental principles are pretty important to any family unit. Unfortunately, at times those fundamentals are not adopted by young people and other people within our society. We also have a responsibility to ensure that people who are not willing to conform with society's rules are set aside from the community for rehabilitation or to reflect on what they have done to incur that sentence.

A friend of mine is a warder at a juvenile detention centre. A young fellow at that centre had a pair of pretty good Nike runners, and he thought that kid had a good chance in life, so he used a bit of psychology and during the meal break he took one of those runners and hid it. When that kid came back some time later, he started looking for the missing runner, and he just about raised the roof of the detention centre, accusing everybody of having stolen his runner, so finally this friend gave it back and said, "Now you know how it feels to have something stolen from you, because that is what the people whose homes you invaded and whose goods you stole felt when they walked in and saw it. You did not like it, did you?" The interesting part about all this is that he got into trouble from the superintendent because he should not have done that. I thought it was a pretty good, commonsense approach to make that kid understand how people feel when their homes are invaded.

We need to respond to community opinion. The community expects us as legislators to ensure that home invasion has a fairly high priority in the Criminal Code. People are getting sick and tired of their homes being broken into. People's homes are supposed to be their castle, and most people spend a great deal of money on them; it is probably the largest single asset that they have. Over a number of years, people collect items of a personal and sentimental nature which can never be replaced. Women often feel more strongly about this than men because they are more sentimentally or personally attached to some of those items in the home, and they regard home invasion as an invasion of their privacy and security, which is what family life is all about.

We need to distinguish between burglary of a home and burglary of a non-residential premise. We are seeing a change of pattern in the home invasion area, where many of our seniors are being bashed. I was told recently about some elderly people who had arrived home and had just opened the door when a person suddenly flew out of the house as they entered. They did not try to stop that person, thank goodness, because they did not know for sure whether any other people were inside and had weapons, and they also thought, "We could have been at home when this person entered." There is a great deal of concern and anxiety among our senior citizens about what is happening at present within our society.

Hon Tom Helm: A person can go to gaol for that.

Hon B.K. DONALDSON: I realise that, but it now has far greater emphasis because people in the community have been discussing home invasion and to what extent they can protect themselves.

Hon Peter Foss: A person can use reasonable force.

Hon B.K. DONALDSON: Those are interesting words, because how do we measure it?

Hon Peter Foss: It used to be worse; it had to be an indictable offence or an arrestable offence, depending on the type of property a person was defending.

Hon B.K. DONALDSON: I realise some changes have been made, but it is a bit late when a person has probably five or 10 seconds to ask an intruder, "Were you going to do me some bodily harm? If so, I will use my baseball bat on you". It is not a laughing matter. It is a very serious matter.

Hon Peter Foss: A person had to get out the Criminal Code to find out what kind of offence it was going to be.

Hon B.K. DONALDSON: Yes. People can argue continually that we should be addressing the cause of crime, and I guess there are programs which attempt to do just that, but at the end of the day we have a responsibility to ensure that people are protected and that those who break the law, particularly when it comes to home invasion, are treated far more severely than people who commit run of the mill burglaries. The pattern is changing and people are moving back into that type of home burglary. Although we have changed the pawnbrokers legislation, which will stop many stolen goods from being sold through those outlets, we have garage sales -

Hon Peter Foss: There has been a 40 per cent drop because of the change to the pawnbrokers legislation; how long it will last, I do not know, but it certainly has had an immediate effect.

Hon B.K. DONALDSON: I am sceptical about some of these garage sales, and I think trading still goes on in some of the bars and backrooms around the place.

Hon Peter Foss: That is why I said I was sceptical about how long it will last.

Hon B.K. DONALDSON: People are starting to move around different areas. It is interesting that a chemist shop at Belridge employs a security guard in the evenings because it has been robbed a couple of times. After the security guard was employed, the chemist shop was raided at 10 o'clock the next morning. That person could not win.

If some areas of the law are tightened up, people look to others to support, in some cases, their drug habit. Some people think the world owes them a living, rather than their owing the community, and some people have suffered a change in their economic circumstances. These are some of the reasons for the increase in home burglaries by

people who are looking for an easy dollar. From what I have read, although I do not know what the statistics show, some of those invasions into the home where assaults have occurred seem to have been the result of people chasing money, rather than goods. Banks, chemists and self-service petrol stations have tightened their security, so people look to other avenues to obtain easy money. Unfortunately some people are now looking at home invasion even more than they were before.

Undoubtedly we will see more of these types of aggravated assaults occurring in the future. It is important to ensure the community knows that there are severe penalties for such crimes, and in my view those penalties should be applied. Generally the wider community will be very supportive of what this Bill proposes. All people in society are concerned with the general trend in burglary and home invasion. The victims are sometimes overlooked in these cases. Some people have worked very hard to buy a motor vehicle and they sometimes see that hard work wrapped around a pole. It is disappointing that some in our society have moved in a negative direction. This Bill is not the total answer to this issue; we all know that. However, it is our duty to put into place provisions to remove a certain hard-core element from the community, many of whom will be very hard to rehabilitate.

HON MARK NEVILL (Mining and Pastoral) [9.55 pm]: I support this Bill with no great enthusiasm. It is a measure of our despair more than anything else. We have failed to make any headway into the increasing crime rate. It is quite clear from the figures that burglary has increased significantly over the past three years. To some degree it reminds me of the repeat offenders legislation to which I was very strongly opposed from the minute it arrived in Caucus until it passed through this Parliament. It was bad legislation. We must be in a state of despair when we try to address some of the problems in the community. It is not all that difficult to solve some problems of youth crime if people can be dealt with in small groups. However, trying to get the right people involved in rehabilitation and re-education is very difficult. We have very good programs, but an inadequate number of people to administer them.

This Bill reflects our failure to make any improvements in the area of home intrusion and burglary. It will result in more people being in gaol and in the need for more prisons. That carries with it the political problem of where those prisons will be built and the cost of running those institutions. It is a solution that feeds on itself, and I do not believe it solves the issue. It was admitted that the federal budget will have no effect on unemployment. Unemployment is still projected to be over 8 per cent and we all know that among youth, the rate is at least three times that figure. Unemployment brings with it despair and the taking of drugs. I hazard a guess that many burglaries relate to people seeking money for drugs. Those people come from a broad cross-section of the community.

The State Government and the Federal Government are probably digging a deeper hole for themselves in that the budget is projecting lower growth than we have had over the past four years. We will not have some of the existing jobs. The Federal Government does not seem to have a commitment to industry or manufacturing policy. It believes it should be left to the marketplace. I do not share that faith. I do not see much change in the area of unemployment. There is a real risk that it could blow out. The prognosis is not a good one.

My house has been burgled twice since I was married 25 years ago. It took me quite a few weeks to realise the house had been burgled because I thought I had actually lost the stuff that was missing. I have lost quite a bit of gear, but I have never had that personal feeling of invasion that people talk about. I cannot identify with that.

Hon Peter Foss: I have been burgled three times.

Hon MARK NEVILL: That has not happened to me, but maybe I am fortunate to live in a suburb full of silvertails and perhaps burglary is not as common there. We must adhere to some fairly basic principles. When I was a kid the local sergeant knew every kid in the district. I can remember getting a kick in the backside when I was throwing some tiles off a boatshed roof alongside a river near Bicton when I was young.

Hon Peter Foss: He would be gaoled now!

Hon MARK NEVILL: To add to the indignity, when I got home my old man was waiting behind the door with a strap to give me another caning. In those days the police knew most of the families in the district. We must get a lot more people into the Police Service. We need more police and we need to fund them. They must get out of their squad cars, go into the community and get to know people. They must remain in the same communities for between three and five years so they know the people with whom they are dealing. I was in Fremantle last weekend and it was pleasing to see a number of police officers on the beat. In my view that is the only way to go. Police officers must be made responsible for certain areas. In that way, the police know the offenders.

Hon Peter Foss: Operation Delta does that.

Hon MARK NEVILL: That is pleasing. We must also do a lot of work with dysfunctional families, particularly Aboriginal families. I might have mentioned in some previous comments that the Government is wasting its time tackling problems with Aboriginal children when they are teenagers because patterns are set by then and the damage

is probably done. We must look at early assistance to Aboriginal families from prenatal, to postnatal through to year 7. The home maker programs have been scrapped as they went out of fashion, but I thought they were useful.

We know that Aborigines form almost half the prison population but only about 2 per cent of the general population. Much more could be done in that area to ensure that we stop this absolute collapse and dysfunction of Aboriginal families. This Bill is an admission of our failure and despair. I do not know that it will solve the problem or that it will deter a youth looking for his next fix. People do not burgle places thinking they will be caught.

I do not understand some parts of the Bill, and perhaps the Minister can clarify some matters. Clause 5, which deals with burglary, says that a person who enters or is in the place of another person, without that person's consent, with intent to commit an offence in that place is guilty of a crime and is liable, if the offence is committed in circumstances of aggravation, to imprisonment for 20 years. My reading is that the place need not be a home.

Hon Peter Foss: Not in circumstance of aggravation, no.

Hon MARK NEVILL: It could be a factory.

Hon Peter Foss: Circumstances of aggravation apply to all premises. Paragraph (b) relates to home burglary.

Hon MARK NEVILL: Circumstances of aggravation is defined in clause 4. It can be immediately before or after the commission of the offence, and when the offender is armed with a dangerous or offensive weapon or instrument, or is in the company of another person. My reading of that provision suggests that a person in, say, a factory could get 20 years' imprisonment -

Hon Peter Foss: Maximum.

Hon MARK NEVILL: - for the commission of an offence, whereas it is a lesser penalty in a place of habitation.

Hon Peter Foss: No. Circumstance of aggravation apply in homes as well. The regime is this: Burglary, home burglary, then aggravated burglary. Aggravated burglary includes home burglary.

Hon MARK NEVILL: It seems that clause 5(1)(b) refers to a place ordinarily used for human habitation. I presume that paragraph (a) is defined as a place inhabited or uninhabited. It seems strange to have a heavier penalty for an uninhabited place.

Hon Peter Foss: No. It does not exclude homes. Paragraph (a) refers to aggravation leading to a further penalty. We are saying that if a home is inhabited -

Hon MARK NEVILL: That could just be in the company of another person.

Hon Peter Foss: The reason is that when there is more than one person, it is reasonable that people are in pairs looking for the possibility of meeting a person. Acting in concert is more dangerous because of the capacity to overpower people. All those raise the possibility of violence to the person.

Hon MARK NEVILL: The Attorney General has explained that satisfactorily to me. Clause 5(2) indicates that a person who commits an offence in the place of another person without the other person's consent is guilty of a crime, and it then lists the penalty. That could cause some pretty serious problems with matrimonial disputes and the separation of a husband and wife. One party could return for a normal visit and problems could develop. One party could say that the person was there without consent. The family law area raises possibilities.

Hon Peter Foss: That has been the case since 1991, though.

Hon MARK NEVILL: I read the second reading speech. I thought that this was an area that could cause problems.

Hon Peter Foss: It has happened between 1991 and 1996; it has been the case since then.

Hon MARK NEVILL: Have there been any problems?

Hon Peter Foss: I am not aware of any charges of burglary. If you hit your wife after forcing yourself into the house, it would be aggravated burglary.

Hon MARK NEVILL: I agree with that. They could visit and potential exists for arguments to develop. The Bill refers to repeat offenders. On the second offence, a person faces 12 months in prison, but I cannot see the third offence.

Hon Peter Foss: That is defined also in clause 4(3).

Hon MARK NEVILL: I read that.

Hon Peter Foss: One must have committed an offence and then be convicted. That person must then commit another offence after the conviction. One must be convicted again and then commit the third offence. One must be convicted twice. In other words, one has chances. Not many people go out and commit three offences.

Hon MARK NEVILL: I could not see three.

Hon Peter Foss: It is the third one by which a person is caught.

Hon MARK NEVILL: It seems to be the practice that matters are cleared up in the second reading debate rather than the Committee stage. I have raised my questions regarding the Bill, which I support with some reluctance.

HON J.A. COWDELL (South West) [10.09 pm] I support the Government in this measure. I must but agree with the statements made by the Attorney General in his second reading speech about the gravity of the offence of home invasion and the need to respond to community concern about recent trends. The Attorney General said the Government shares the community's view - it is also the Opposition's view - of the prevalence of home invasion and offences and acknowledges the devastating effect which such offences can have on the lives of victims. He pointed to police statistics and surveys of crime victimisation which show that home burglary is all too common. I note the recent press publicity which identifies Perth as the home burglary capital of the Commonwealth. I understand the Attorney General disputes those statistics.

Hon Peter Foss: I pointed out that later statistics indicated a better trend. I do not say it is enough to indicate there will be a continuing trend.

Hon J.A. COWDELL: Therefore, the Attorney General is saying there is an improvement, although Perth holds the record at the moment.

Hon Peter Foss: We can see a reduction in the statistics. I would like to see a continuing reduction in the statistics so we can call it a trend.

Hon J.A. COWDELL: It may well be -

Hon Peter Foss: An aberration.

Hon J.A. COWDELL: Indeed, and it could be similar to the road traffic statistics.

The Attorney General referred to the recently published findings of a study of community perceptions on the risk of crime victimisation. It confirms that people in Western Australia, like those in other States, are fearful of being a victim of home invasion. Those statistics establish in the mind of the public a fear that there is more likelihood of their home being invaded and their becoming a victim than is actually the case. This Government and Governments in other States have responded to a genuine increase in home invasion and the perception of fear. With respect to these responses there has been a growing cynicism by the public to the degree that the public now tends not to believe either side of politics as they participate in a bidding war over penalties.

Hon Peter Foss: We are not in a bidding war.

Hon J.A. COWDELL: No, we have not got into a bidding war. The Opposition supports the legislation in the same way as the Government has come to support some initiatives proposed by the Opposition. In this regard, the Opposition is not proposing amendments to try to appear tougher than the Government. It would be unfortunate if we became involved in a situation which took place in New South Wales in the lead up to the last election in that State. There was a genuine bidding war. The Minister for Police in the current Administration in New South Wales has taken a more sensible view, post election. All the bids in that State have not been implemented. Many of them have been forgotten and, although we have not reached the same degree of frenzy in this State, I hope they are viewed more soberly, perhaps with the benefit of a parliamentary committee, after the next election. Nevertheless, the Opposition concurs with the Attorney General and the Government in recognising the popular concern and the genuine basis of that concern.

The next Bill listed on the Notice Paper deals with the rights of individuals to protect their property by using force. The Attorney General stated in his second reading speech that the aim of this Bill is to deter burglars and incapacitate those who commit such offences by providing tougher penalties. He outlined the return to a differentiation between a dwelling house and other premises, which appears to have existed prior to 1991, and the need to restore to 20 years, on the basis of the recommendations of the Murray report, the penalties which had decreased to 14 years. It would be an exceedingly optimistic Administration, Opposition or member of this Parliament who would believe that this Bill would have a significant impact in either deterring burglars or incapacitating those who commit such offences.

Hon Peter Foss: All I said was to incapacitate and deter.

Hon J.A. COWDELL: Yes, for a particular period. It is obvious that this is more of a symbolic piece of legislation and we should look beyond deterrents. By looking at deterrents it is obvious that other measures will be needed; for example, the effectiveness of the Neighbourhood Watch program. I commend any revamping of that program.

Hon Peter Foss: There is.

Hon J.A. COWDELL: I understand there will be additional funding for particular initiatives and a move to reinvolve the public in making sure that these offences do not occur in the first place. The revamping of the Neighbourhood Watch programs is an important initiative. Encouraging the public to become involved to a greater degree is important.

An opportunity may also exist for municipalities to participate to a greater degree. I know that local authorities have been involved in community policing. However, many of the local authorities consider the state initiatives to be too limited. This issue has been canvassed to such an extent that in some areas an American style system is advocated. In America, there is the local sheriff's office, but in this State it would involve the local council ranger. The rangers could be the local law enforcement agency in addition to the state and Federal Police. I am not convinced that local government should adopt that role at this stage. Obviously, some local authorities are looking to that solution as a deterrent. They have been motivated by the limitations and constraints which have been put on the Police Service of Western Australia in providing an adequate presence on the ground.

I notice the degree to which crime and burglary has been prevented in light industrial areas with industry watch and a number of programs being implemented by local municipalities. Some municipalities are proposing regular patrols through suburban areas, given that the State seems incapable of providing that sort of service and presence. The Government was involved to some degree in a bidding war prior to the last election with the number of police officers. Of course, one of the most significant attacks made on the previous Labor Administration was in the provision of adequate police services and numbers. This Government came to office on a promise of providing 800 additional police officers. That was converted to an additional 216 police officers in its first two years. Then we had a hurry-up as the election approached and we saw the conversion of police officers from desk jobs to a more proactive role, and the number of conversions from behind the counter to the streets was counted towards the 800 additional officers and so on. There was some considerable fudging there.

Hon Derrick Tomlinson: There has been a consistent intake of 30 new recruits a month since July 1994.

Hon Kim Chance: Net or gross? That would be the gross intake.

Hon J.A. COWDELL: I can rely only on the figures provided by the Minister for Police in answer to my questions in this Chamber, and those were the statistics to which I was referring.

Hon Bob Thomas: It does not mention attrition either.

Hon J.A. COWDELL: No, it does not. This is only a limited device in deterring burglary and home invasion. We need a greater presence on the ground, particularly state police numbers, and more innovative programs that involve local government. That is not just having local government go off on its own bat, as was exemplified by the proposal of the previous mayor of Mandurah to employ an additional 50 rangers who would patrol the municipality and perform all sorts of quasi-policing functions. The other area that has been referred to - this gets away slightly from deterrents, but is within the realm of prevention - is programs within the community which would see fewer people driven to the crimes of burglary and home invasion.

In his speech last night Hon Jim Scott referred to the real problems of conservative Governments cutting back and destroying the social welfare safety net, and, in so doing, ensuring that we have more crimes of this nature. At the same time as purporting to solve the problem by tougher penalties, conservative social policies were adding fuel to the fire. That is a real problem that we face. We have seen those fires stoked again with limitations on the job search allowance, qualifying periods and so on adding to the problem.

The current Government came to power with an impressive set of promises about prevention and deterrence in ways other than penalty, although there were promises on penalties. A range of promises included the use of more Aboriginal citizens in the Police Force and the appointment of police officers to high schools. Those programs have not been implemented. They would add far more to solving the problem than what was referred to by previous speakers as this bandaid solution. We are all aware of those sorts of solutions. In the heady days when the bloody code applied to 237 crimes, it was no more effective in preventing those 237 classes of crime than when we reduced it to a penalty of five, 10 or 20 years' imprisonment. We need not go too far along that track in the belief that punishment is a genuine solution to the problems we seek to solve. The solution is in the areas of prevention with increased policing resources, ameliorating social conditions which facilitate these offences and in providing employment and worthwhile education opportunities which will also contribute to solving the problem. The Opposition agrees with the need to indicate the gravity of the situation in the way that Parliament views and responds

to community concern and acts with this mainly symbolic measure. However, I look to the Government to provide other real measures to complement this measure. The Opposition supports this measure, but we look forward to its being complemented in more creative ways than we have seen to date. I hope that the Government will look to those more creative ways.

In the run up to this state election, I look at the solutions proposed by the member for Geraldton with youth curfews, and those canvassed extensively by the member for Mandurah which include the option of capital punishment for children. The member for Mandurah conducted a survey that went to every house in Mandurah. One of the options on the survey, was capital punishment not just for adults, but also for children. Another option was public birching for girls below the age of 16. The survey did what it was meant to do; that is, capture the headlines in the local paper. That is worse than the bidding war embarked on in New South Wales in that these are far more nonsensical proposals. They are not real proposals because the Government has the majority in both Houses; it could reintroduce corporal punishment in the Singapore sense, and reintroduce capital punishment, or it could hold a referendum - not that we need one, because the opinion polls adequately indicate public sentiment on this issue. Nevertheless these devices are used as political stunts. The Opposition does not view this proposal as a political stunt. It supports it, given the level of community concern. However, we would look towards more creative solutions, not solutions of the nature advocated by the members for Geraldton and Mandurah. I support the Bill.

[Resolved, that the House continue to sit beyond 11.00 pm.]

HON KIM CHANCE (Agricultural) [10.32 pm]: In view of the hour, I will limit the extent of my comments and try very hard not to cover ground that has already been covered by members on both sides of the House.

Hon Peter Foss: Will you put a bet on it?

Hon KIM CHANCE: No.

I very much appreciated the speech by Hon Nick Griffiths. I particularly share and endorse his view that this matter should be approached in a bipartisan manner. From the comments made, particularly by members of the Opposition, it is clear that there are differences both across the Chamber and on each side of the Chamber. There is probably as wide a range of opinion on the question of crime and punishment between individual parties as there is across party lines. The need for and the endorsement of a bipartisan approach on this issue is best exemplified by the common view that the personal space of private individuals should not be invaded, and that if this can assist to any extent it requires our support. Unity comes from the desired result, not from the nature of the Bill. That is why so many speakers on the opposition side, in the broadest sense - because I want to include Hon Jim Scott, the Greens member - have concentrated on the comparison of the effect of this Bill with what could be achieved by concentration on the causes of crime. It is entirely legitimate that we have gone through that process, because every time we seek to increase penalties we do so because we want a result - in this case, safer home environments and a reduction in crime which has such a personal effect. If we increase penalties in an attempt to achieve that, it is legitimate to look at the alternatives, and that has been done.

I share the fundamental view which has driven the case put by Hon Tom Helm and Hon Jim Scott. When delivering his speech yesterday, Hon Jim Scott was probably fairly angry and that perhaps elicited the response by the Government which was not entirely warranted. When one reads Hon Jim Scott's speech it is difficult to see why he deserved some of the comments made by way of interjection. I think he was angry for the same reasons I get angry about our system of justice and the way we have implemented and administered that system. This is not a criticism of the present Government, although it must take its share of the blame. I can be equally scathing about the actions of Labor Governments, both in Western Australia in the past and, in particular, in New South Wales at present.

We have ignored gross injustices in our system; yet we expected the poorest and weakest in society to be law abiding when we are not ourselves law abiding in sometimes spectacular ways. I bring to the attention of the House one example of a gross imbalance. In Western Australia - I believe, all over Australia - the crime of theft as a servant is an extremely serious crime. If an employee embezzles \$2 000 or \$3 000 from his employer, the employee faces a penalty which is out of all balance with any other form of theft which might yield the same amount. The justification is that a servant is placed in a position of trust. Therefore, as well as stealing money, the servant will have breached the trust of the employer and must deserve a more serious penalty. I have no problem with the logic of that argument. However, when one looks at the mirror image of theft as a servant, the question of injustice becomes clear. Although theft from an employer is a serious crime and carries a heavy penalty, what do we do about an employer who steals from an employee? Sadly, the answer cannot be put in a parliamentary way. The penalty is next to nothing. When an employer steals from an employee, there is virtually no penalty.

Hon Peter Foss: Are you talking metaphorically or actually?

Hon KIM CHANCE: Actually. To give an example, when an employer is accused by an employee of underpaying the employee to the extent of \$50 a week - that is, \$2 500 a year; a similar scale of offence in the other example - unless the employee is a member of a union which can take on the case and use means which we might hear otherwise described by members opposite as thuggery - the person must make an approach to the Department of Productivity and Labour Relations, and it could be six months before the employee receives a reply.

Hon Alannah MacTiernan has given us examples of matters which will never be investigated. Theft from an employee by an employer is regarded as a crime not even worth investigating, yet a theft of the same scale put in reverse is regarded as a serious crime. People encounter situations such as this all the time; they also read newspapers. They read about businessmen, leading Western Australian businessmen in some cases, boasting that, despite their huge incomes, they pay less than 2 per cent of income tax. That is theft.

How much sympathy would a young man from a family who has experienced a threat by his employer have for someone whose Porche was stolen? That theft is a serious crime and the owner might have worked hard for that Porche. However, one of the things that young man will think when he hears about the Porche being stolen is that the owner probably stole the Porche anyway by fiddling his income tax or making money in some other unreasonable way, such as by underpaying his employees. This is to some extent a class matter. Unless society can show its young people that there is honour and integrity in the justice system and unless stealing as an employee carries the same weight as the offence of stealing as an employer, it will be difficult to convince young people that our laws are worth following. That problem is intrinsic in society and it is one that we as legislators and as businesspeople in another facet of our lives have not addressed very well.

Hon B.M. Scott: If they pinch your Holden, will they suggest that you are overpaid and a thief? It is all relative.

Hon KIM CHANCE: That is an interesting point; I will get to that when I talk about our personal response to crime.

I am concerned about another matter. Comment has been made recently in the Press about gangs. What does a gang constitute? According to some people a gang constitutes any group of young people numbering more than two who wear their baseball caps backwards. I have heard much negative comment about kids who wear their baseball caps backwards. I know many fine young Australians who go around in groups wearing their baseball caps backwards. This brings me to the proposed New South Wales legislation. I am appalled and ashamed that that proposal was put forward by a Labor Government. I am appalled that any Labor Government would say that groups of young people are not free to gather together. Young people enjoy each other's company. Why in God's name should they not be allowed to get together in a group? The suggestion that because they wear their caps backwards or have formed into a gang they are threatening to society is appalling. If that is a threat to society, is the Weld Club membership a threat to society? I am damned sure there are more criminals in the Weld Club than there are among a few kids on a Northbridge street with their caps on backwards.

Hon Peter Foss: It is a different place from the Weld Club.

Hon KIM CHANCE: It is a different class of crime.

Hon Peter Foss: Not at all. You're thinking of the young presidents organisation.

Hon KIM CHANCE: From this attitude has come the kind of suggestion to which Hon John Cowdell recently referred from the member for Geraldton and the member for Mandurah. If I am appalled that a Labor Government has proposed anti-assembly legislation for young people in New South Wales, I am equally appalled at the suggestion that was made in the first place for a curfew on young people in Geraldton, meaning that young people could not even go to the pictures and walk home in any form of group because they would be breaching the law. I will not even comment on the suggestions of the member for Mandurah because then I would be as angry as Hon Jim Scott was last night. The same kind of proposal has been floated by the member for Geraldton. I suggest that if the Government wants to continue having bipartisan support on Criminal Code amendments, it pull these backbenchers into line. That is not to say that they cannot say these things in public - obviously I would not want to restrict any member's right of free speech - but it should clearly and unequivocally dissociate the Government from madcap schemes such as those proposed by the members for Geraldton and Mandurah. These are not matters that will improve the quality of life for Western Australians. What is quality of life about? It is not about owning Porches; it is about being able to walk on the streets, free of harassment from either criminals or law enforcement officers. Members should think back to when they were 15 or 16. At that age I insisted on my right to go wherever I wanted to, at any time of the day or night.

Hon Peter Foss: I was very obedient to my parents.

Hon KIM CHANCE: I am sure the Attorney General was. I also insist on the right of my two teenage children to go wherever they want to at night because that is something to do with quality of life. If they feel safe and free to

do those things, and they have my trust that they will not breach the laws of the land - they have never disappointed me - that goes to quality of life. If I feel that I must keep my 14 year old son locked up in a house after 10 o'clock at night, I am not living in the kind of country I want to live in anymore. If he wants to walk home from a party at midnight, he should be free to do that. I know that he is under no threat; he knows that he is under no threat. Why in God's name should he not be able to do that? He is no threat to anybody.

Hon P.R. Lightfoot: Because you could not do it in Geraldton at the moment. He is entitled to do what you say; I agree with you.

Hon KIM CHANCE: That is an interesting point. It brings me back to the issue. I spend a lot of time in Geraldton. My office is there; I know Geraldton reasonably well. I have seen it in the early mornings; I have seen it on Friday nights; I have seen it throughout the day; I have been through the trading areas; and I have been where people live, through working class, middle class and upper class suburbs. I am not a local, but I know the town well. I also know the town of Merredin well. It is the town I live in and I am very happy to live there. The perceptions of crime - they are referred to in the Minister's second reading speech - make a fascinating study between those two towns. One of the things I do in those towns is doorknock. When I doorknock in Geraldton I generally do it during the day and often during the week when the only resident in the house is a female on her own. It is a situation that must be approached with some sensitivity. In Geraldton when one knocks on a door one is lucky if the main door opens. The locked security door remains closed and locked. Frequently one must speak not only through the security door, but through the main wooden door. It is difficult to communicate with people. I believe that Geraldton people have been misled about the potential criminality in their environment.

In the same weekend I can doorknock in Merredin. Generally I do that during the summer months. It is common in Merredin to walk up to a house and find the front door open. Someone from the bowels of the house will yell out, "Yeah, come in." Is this because there is less crime in Merredin than in Geraldton? No, the reverse is the case: Per capita there is more crime in Merredin than in Geraldton. Some of the crime is quite serious.

Hon Peter Foss: They keep inviting people in.

Hon KIM CHANCE: Merredin is located on the Great Eastern Highway, which is very busy. We import some crime and there are many serious drug offences. In fact, there is quite a lot of crime in Merredin, but no-one gives a damn about it.

Hon Peter Foss: One of the reasons crime has gone up is that, unlike Sydney and other places, we still have not become totally security conscious.

Hon KIM CHANCE: I am not suggesting that being security conscious is necessarily a good thing.

Hon Peter Foss: No, but it sometimes stops burglary.

Hon KIM CHANCE: But given the comparison between Geraldton and Merredin, I am far happier to live in Merredin, which might have a high background level of crime, but no-one worries about it.

The costs we have imposed on ourselves as a society are driven as much by the fear of crime and the self-imposed imprisonment that people have organised to protect themselves from a threat which exists but which is not dominant. Why impose a cost on ourselves to avoid exposure to a negligible risk? Of course, there is a risk, but do we organise security protection when we cross a road, where there is much greater risk?

I am not in any sense belittling the real dangers that exist in societies and I am certainly not belittling the quite reasonable desire for people to improve their personal security. All I am asking is that we do not talk it up in this awful bidding war. I am not suggesting that that is happening here; nonetheless, it is gnawing on our consciences as legislators. We know that we have created a monster from our own concern after reading the polls. Then we started driving the polls. In New South Wales, at least, the parties started trying to out bid each other to see which could be the most reactionary in its response to a perception that we created ourselves - that is, the politicians, the media, the business community and anyone else one might like to name.

I was listening to the "Drive Time" program on ABC radio on Friday night last week as I was returning home. I heard a man who I believe was retired Superintendent Moran, who, when he was in the Police Force, organised the Operation Sweep program. He now heads a community action group dealing with crime and he is an advocate of higher penalties. He quoted crime statistics from the British Home Office going back to the 1830s - a considerable history. He claimed that as a result of the higher penalties in the 1830s the incidence of indictable crimes was lower by a factor of 2 000 to 1 than it is now. That was the basis of his argument: That higher penalties mean lower crime rates. There was no recognition of the fact that we have more indictable offences now, that we have an effective Police Force now compared with 1830, or that there is a greater awareness of and ability to report crimes. It was simply an argument that fewer indictable crimes was a result of higher penalties.

Hon Nick Griffiths referred to the failure of the Government's law and order policy, and he supported that claim by quoting from Budget Paper No 6 - Police Service. If we have failed, either singularly as a Government or jointly as legislators - and I believe that we have - it is because we have missed the point about crime. We have failed because we have not wanted to address the real issues. I hesitate to say it, but it could be argued that the reason we took that track is that there were no votes in containing crime but there were votes in looking as though we were interested in it. The Attorney General, by interjection yesterday, said that it was all very well to address the causes of crime but it might be 20 years before we reaped rewards. It is fair to say that, but I think the rewards can be reaped far earlier than that.

Hon Nick Griffiths also pointed out that a police survey showed that more than 19 per cent, almost a fifth, of our citizens feel unsafe all the time. Only a handful more - just 20 per cent - always feel safe. So, 80 per cent of our community either feel unsafe all the time, during the day or during the night. That is a dreadful reflection on our society. We are one of the most fortunate nations on earth in that there is no reason for crime in Australia. I have already referred to the extent to which we have created concern about crime. However, I remember being particularly struck by a statement made by a commentator during the riots in Los Angeles about four or five years ago coinciding with the trial of police officers charged over the assault on Rodney King. The commentator said that what we had just seen in Los Angeles was the result of the non-existent social welfare policy in the United States. That was a powerful statement; certainly, it stuck with me. That commentator - I do not remember who it was - very accurately pointed to one of the principal causes of crime; that is, poverty and hopelessness. It is a feeling that society does not include me, therefore I will not be bound by the rules of society. That is the fundamental cause of crime.

Members can look outside the United States to Britain and see the problem it has with youth violence. That situation was related to gang violence and I imagine that it still is. I am leaving aside the soccer hooligans and concentrating on the *Clockwork Orange*-type skinheads. When looking at their background one inevitably finds that they are third generation unemployed. If we were to remove that group from Britain's social structure, there would not be much of a social problem. There might still be the odd Brixton, which was as much political as it was economic, but the mindless violence on British streets - the crimes that shock the British people because they are so foreign to their nature - is driven by a group of people in their third generation of unemployment.

Hon B.M. Scott: They are probably fatherless.

Hon KIM CHANCE: That statistic was not included, and if it were I would challenge it. The causes of crime are intrinsic within our society; we are responsible for them. Increasing the penalties for home invasion by a few years - say, eight years to 14 years - or whatever we may be doing with this Bill, will not stop people invading homes. We all know that; there is no debate about it. It might keep them out of home invasion for a bit longer, or it might turn them out of prison as better and more qualified home invaders.

Hon Peter Foss: It also recognises that this is a serious offence.

Hon KIM CHANCE: Indeed it is a serious offence.

Hon Peter Foss: It is the same with all penalties; the maximum penalty is an indication to the courts of the relative seriousness of the offence.

Hon KIM CHANCE: Indeed, and in this debate I am not being critical of the Government. All of us have failed in our responsibility to recognise what is driving crime and why we have crime when there is no need for it in our society. We have individual freedom and earning capacity. We can promise young people hope. We have almost no ethnic poverty traps. Although we well recognise the difficulties faced by Aboriginal people, they are a small group, even in Western Australia. The problems of societies in which crime has become endemic simply do not exist, or, if they do exist, are a small quantum in Australia. We can address the problem if we keep our eyes on the main game. We must not aim to lock up our children after 10.00 pm but aim to make our streets safe so that our 20 year old daughter can go for a walk at midnight, if that is what she wants to do, and she can do it safely without being harassed by anybody. Although I did not agree with everything done by a group of reformers, I like its slogan, which is "Take back the night". Taking back the night and making it as accessible to law-abiding people as it is to law breakers is a great aim. It is not one we can deliver now, but let us drive towards it and not lock up our children at 10.00 pm. Once we accept that that is the only option, we condemn ourselves to travelling the same road as other societies where repression has been tried and failed as a means of addressing crime. We do not need to be repressive; we are too fortunate to require that.

The causes of crime can be identified with things like long term unemployment, as I have said, but principally with an unequal society, one which is not welcoming of all of its inhabitants. I endorse some of the comments of Hon Jim Scott. The Los Angeles syndrome which generates violence out of repression of its citizens and the failure to help its citizens who need help should not be compared with what this Government is doing. No scale of comparison

could point to that, but it is the direction in which Western Australia and Australia is heading. Welfare is more difficult to access and is less than it should be in some circumstances. In industrial relations policies the claimed effect might be that, with good economic conditions, wages and living conditions might improve - at least that is the claim by the Government. We all know that the deregulation of the labour market in any downward sliding conditions results in the reduction of wages and conditions. There is no evidence at all that unemployment will be seriously addressed by the so-called reforms. We are heading towards the free market in the industrial and welfare areas. While we still have the choices, let us not necessarily limit our actions in industrial and welfare areas simply on this basis. Every time we take a step down that road we must remember in which direction we are heading and at the very least monitor each step of the way. We cannot afford to ignore the warning from Los Angeles four years ago. The one thing that the people in Los Angeles never thought could happen did happen in the City of Los Angeles in arguably the most democratic and wealthy nation on earth, and a good part of the city went up in flames.

HON JOHN HALDEN (South Metropolitan - Leader of the Opposition) [11.05 pm]: I was asked a moment ago outside the Chamber, why do such a number of members want to speak on the Bill when we all agree with it? I could not quite understand it. I waived my opportunity until about 8 o'clock this evening. I can only remember one other similar Bill with which we all agreed and yet on which most of us spoke. We all had niggling doubts about it at the end of the day. Of course, it was the Crime (Serious and Repeat Offenders) Sentencing Bill.

We all understand that the crimes identified in this Bill that will have attached to them more serious penalties we do not want to be perpetrated in the community. The Attorney General said by way of interjection that Parliament is saying to the judiciary that by increasing these penalties the crimes should be treated more seriously. I do not think anyone doubts that. However, if we are honest with ourselves, not too many of us - I would challenge any moron who would put his or her hand up to identify himself or herself - really think this is a solution to the problem. The great tragedy is that for a long time and for predominantly political reasons we have gone into this debate concentrating on being tough on penalties because it is seen as a way to garner votes. I will not go through the arguments, but we have recently seen it with certain New South Wales legislation. My views about that legislation do not differ from a number that have been proffered. At the end of the day no votes are left in this issue. The community does not believe that the Government or the Opposition can seriously redress the problem. We have basically failed. I am not addressing these remarks to anybody in particular. For the Attorney General's sake and his sometimes renowned sensitivity, it does not mean that he has failed.

Hon Peter Foss: I am not sensitive; I am thick skinned.

Hon JOHN HALDEN: We will be arguing in a minute about his sensitivity. No-one suggests that the issue has resulted from the failure of any individual. We have got ourselves back into a cycle where the way to deal with the problem is to increase penalties. We all know it will not be the effect. As I said earlier, there is nothing wrong about the desirability of pointing out that the Parliament is expressing the community's concern about this matter and that the courts must view it in that way. The Minister in his second reading speech said that the aim of the Bill is to deter burglars and incapacitate those who commit such offences by providing much tougher penalties. We will not deter burglary by tougher penalties. They did not do it in the United Kingdom in the 1700s and 1800s by having the death penalty for 200 offences. When people were hungry, wanted money or saw an opportunity to improve their lot, they broke the law. Nothing has changed. Although that is a very simplistic analogy, I defy those opposite or behind me to suggest that anything has changed.

We will not get into a bidding war on this issue. The Opposition saw the importance of this matter and proffered a policy very similar to this. However, there are matters that must never be forgotten in this debate. One of those is that this is not the panacea to the crime problem. This is a reaction to crime. We could be accused of dealing with the back end of the problem.

Hon Peter Foss: Very definitely. I have not suggested otherwise.

Hon JOHN HALDEN: I am glad we agree. If the Attorney General had suggested otherwise, I would have pointed that out. However, it seems that in the last five or six years, to make this non-political, we have spent enormous amounts of time debating law and order and justice matters in this place. I do not recall the last time we debated a Bill dealing with this problem from the front end.

Hon Peter Foss: Probably because it does not take Bills. The mistake is to think that legislation will solve the problem.

Hon JOHN HALDEN: I understand that. I do not even recall the last time either side discussed it by way of ministerial statement, by way of urgency motion -

Hon Peter Foss: I deal with it during question times.

Hon JOHN HALDEN: The Attorney may have with one of those lectures without notice. However, it is not something to which we have directed a great deal of attention. It is not something we read about in the Press a great deal. It suggests to me that the focus has moved. If the focus has moved, there are consequences. We already have a prison system which incarcerates a third of 2 per cent of our population at least. That is an enormous inequity. When did we debate what we will do at the front end? I hear a lot of criticism about the money thrown at the front end.

Hon Peter Foss: I have spent most of my time since becoming Attorney General discussing that very point.

Hon JOHN HALDEN: The Attorney may well have. I am sure that a miraculous solution will be given to us!

Hon Peter Foss: Unfortunately not!

Hon JOHN HALDEN: The problem must be addressed. I am not suggesting that this Government and its predecessors have not spent enormous time on the problem. I am not suggesting it is an easy problem to solve. However, it is one that should be far more strenuously discussed and understood than is currently the case. The argument about Aborigines and incarceration is too often open to the cheap shots and cheap political stunts by both sides. We do not address it properly. I do not know the answers. However, unless we stop incarcerating a significant number of a minority race in our community, sooner or later we will have an enormous problem with that section of our society. It is incumbent on us to continue to have that debate and for that debate to be a far more substantial exercise than is sometimes experienced in Parliaments or in the Press. Often we look at issues such as are in this Bill that are put forward by members of Parliament. One of them, the Geraldton issue, has been referred to tonight. All of that is, as a bit of this is, the easy way out. It is easy to talk about making sure kids are home by 10.00 pm, that we will increase the maximum penalty and that we will introduce a three strikes and he is out law.

Hon Peter Foss: If the community agrees that kids should be home by 10 o'clock, the agreement of the community to work together on a problem may solve the problem.

Hon Kim Chance: What about the kids who are allowed out after 10? Haven't they got a say in this?

Hon Peter Foss: Yes, but that is something that has to be worked out by the community and the family. The difference is whether you get together as a community to work it out.

Hon Kim Chance: If it was proposed in my community, I would fight it tooth and nail because I would not want my children constrained by that.

Hon JOHN HALDEN: It is hard to expect that a significant majority of the community or the total community would accept it. That is what is needed. Otherwise those who break the law become the folk heroes. The law will create a subculture so that breaking the law gives a person status in that subculture.

Hon Peter Foss: When I was a kid it was not considered as a right for kids to stay out until all hours.

Hon Kim Chance: We are talking about walking home from the movies.

Hon Peter Foss: When I was at college -

The PRESIDENT: Order! The Minister will have his opportunity at a later time.

Hon JOHN HALDEN: I am sorry that I interrupted Hon Kim Chance and the Attorney General in their discussion. Often in arriving at the cheap solution, we can create status within a subculture when all we are doing is trying to enforce laws that are not terribly important and are no more than knee-jerk reactions. If those things can be implemented, as the Attorney General said, by local laws through local government, we need to have a long hard look at the Local Government Act because there will be enormous problems. I am not suggesting that this Bill is concerned with only trivial matters - it is not. However, we have to consider the consequences of what we are doing. Burglary is a particularly common crime. Burglary is probably the most common crime of multiple crimes committed by an individual, and penalties will be increased substantially. The State already needs another gaol. When will the Government build the next one after that? Do we want to build a gaol every three or four years? Do we want to be like the United States of America, where two million adults are incarcerated? Eventually we will not be able to afford that situation. I do not want to trivialise this matter. I accept that we are increasing penalties in response to community needs. However, the other side of that is the financial cost, which is enormous.

Hon Peter Foss: There is also a cost of crime, which is probably as big as our state Budget.

Hon JOHN HALDEN: I will not suggest that that is not the case and I will address that matter. However, capital works injections of between \$50m and \$80m a year to build new prisons and recurrent costs in the vicinity of an additional \$10m to \$20m a year are enormous.

Hon Peter Foss: I have made that point.

Hon JOHN HALDEN: I am not suggesting the Attorney General has not. There comes a point when the State, as a financial institution, can no longer tolerate that. The United States experience has resulted in legislation of this kind including enormous penalties for offences. In that country two million people are incarcerated. A prison term of eight years, six months translates into 11 months incarceration because the United States system cannot give the offender a long enough term in prison without the prison system exploding, resulting in a need for additional prisons. None of us wants the situation to reach that point in this State. However, it is a real situation in the United States. It has been suggested in some US states that the growth industry in the early 1990s was the construction of prisons.

Hon Peter Foss: Very true. Then there is the alternative - the Oregon system - where people have to vote taxes for the length of time people spend in gaol.

Hon JOHN HALDEN: It is an interesting concept. Unfortunately, we have an ever increasing spiral. At the other end, as the Attorney General said, there is the ever increasing financial and social cost of crime, which should not be disregarded. At the end of the day we need to look at the front end and not the back end if we are to come up with solutions. The back end will certainly not provide the solutions.

Hon Peter Foss: We have never suggested it would.

Hon JOHN HALDEN: I am not saying the Government has suggested it. If it had, I would be involved in a much more heated exchange with the Attorney General. The inevitable consequence of what we are all doing is more people in gaol. In essence, gaols are universities of crime. The younger people are, and the longer they are incarcerated, the more likely they are to become and remain criminals. It is an enormously vicious circle.

This Government's policy needs to be directed at the front end and not the back end. The solution is only temporary; that is, incarceration to get people out of society for some time. In some instances it is warranted and is in the interests of the State and the individual involved. I do not advocate that people should never go to gaol. There is a place for incarceration in our system. I do not like it, but I understand the necessity for it. Members need to look at the criteria at the front end which are necessary to ensure that few people as possible become involved in the cycle of criminality. I am sure members have raised this in the debate and I will not go over the criteria again. If members do not know what they are they risk a class division. The class division is changing and there is now more potential for the manifestation of the problem - that is, the crime, whether it be assault, or burglary - to be predicated between the young and the old than between a lot of other groups. This will become more evident in the future. We need to address these issues.

Significant potential exists for racial tensions to become exceptionally difficult to manage, particularly if the front end issues are not addressed and people are not given some worth and hope. The Attorney General implied that if we continue in the belief that we can repress violent criminal behaviour by legislation, we are wrong. I am sure members agree with him. However, we must consider this sort of legislation in its totality, and not in isolation. It is too simple to look at it from the perspective of the Criminal Code or how the courts are working. It is far more important to look at the whole issue to find a solution to prevent people becoming involved in crime and, if they do get into that cycle, how to get them out and keep them out.

All of this is difficult when the values of society are changing enormously. There is no doubt that in our society the concept of community diminishes by the day and the value of individualism is promoted by the day. The consequences are inevitable. For example, those people who cannot succeed legitimately will find a way to succeed illegitimately. At the end of the day, whether by legitimate or illegitimate means, success is success. Often people are measured by how many dollars they have or how new and how big the Porsche is, not on how they came about getting the money for that asset.

I am sure the Attorney General agrees with some of my comments. It is a difficult issue. The legislation must be supported for the very reasons I outlined. This legislation is not a panacea. I do not know whether it was meant to be. It is a far more complex issue than some of the radio presenters in this State would have people believe. The sooner we get away from the nonsense that one of them peddles, the better off we will be.

Hon E.J. Charlton: He has given us a break for a couple of weeks.

Hon JOHN HALDEN: Thank goodness.

Hon Peter Foss: He is getting married.

Hon E.J. Charlton: I hope he gets married again in another couple of weeks.

Hon JOHN HALDEN: I will not go into that. I could make a few comments, but they certainly would not relate to the Bill.

Hon Peter Foss: You would be in good company.

Hon JOHN HALDEN: I commenced my contribution to this debate by saying that all members feel uncomfortable with some aspects of this legislation. It is not a process for a solution; it is a statement of our concern. Members in this and the other place have been down the path of passing similar legislation which has not been terribly successful. This Bill probably will not be terribly successful either, but it sends out key signals which are important. We should not deny that, but there is a difference between signals and what should be done in a policy sense in this very difficult area.

I am aware of the hour and I will not protract this debate longer than is necessary. I am sure all members feel terribly uneasy about this kind of legislation. Members have probably felt a little inept, if not impotent, with the lack of success of similar legislation. The Opposition supports this Bill.

HON DERRICK TOMLINSON (East Metropolitan) [11.30 pm]: I too am conscious of the hour. I have sat patiently listening to the debate and increasingly have been provoked to speak. I did think of having a cold shower, but it would be best to get what I have to say my chest. I recall as an adolescent at school - my hand outstretched and receiving a stroke of the cane - as I stood wincing, having the teacher look at me and say, "Now, young Tomlinson, do you know why you got that?" I said, "Well, Sir, because I committed such and such an offence." He then said, "In that case Tomlinson, put out your other hand." He then gave me a second stroke of the cane. He said, "Now, Tomlinson, do you know why you got that?" I said, "No, Sir." He said, "Because you got caught." That was a salutary lesson for me. I had two alternatives to avoid punishment in future: One was not to commit the crime; the other was not to get caught. Therefore, I had to become either a non-offender or more cunning. However, the deterrent that was being handed out to me was the fact that I got caught. It seems that the greatest deterrent against crime is the probability of being caught. We can have all the punishment in the world, it can be severe as one likes, but unless we catch the offender, the punishment has no meaning. I refer to the performance indicators in the 1995 annual report of the Western Australian Police Service. In a reference to crime operations the reports states -

A total of 232,449 offences were reported or became known to the police in the 1994-95 fiscal year. This compares with 209,907 in 1993-94 and 220,920 in 1992-93.

Although there was some reduction in offences between 1992-93 and 1993-94, in the following year the figure increased to 232 449. Over a period of three years there was an increasing incidence of offences. I will compare that with what the report has to say about clearance rates. In 1994-95, there were 63 415 clearances - or resolutions of the crime - compared with 232 449 offences. That is a clearance rate of all crimes reported or known to the police in Western Australia in 1994-95 of about 27 per cent. In other words, in 73 per cent of cases, the offenders were not caught, let alone penalised. In the previous year, 1993-94, the clearance rate was 57 638, with an offence rate of 209 907; that is a clearance rate of 27 per cent. In the previous year, 1992-93, the clearance rate was 58 519 which equates to 27 per cent of the reported offences or offences known to the police. One-quarter or thereabouts of offenders was caught. Where is the deterrent in that? If one knows the probability is that three times out of four one will not be caught, one will take the chance. It is about the same chance the Burswood Casino has of winning every time one puts a dollar in the slot. The casino has a built in win rate of 68 per cent. What fool would not build a casino?

This clearance rate becomes more depressing when we look at the types of offences. The clearance rates for all offences against persons in 1994-95 was 82 per cent; that is a good clearance rate. In that year 100 per cent of murders were solved; 87 per cent of attempted murders; 100 per cent of manslaughter cases; 96 per cent of indecent assault; 96 per cent of aggravated sexual penetration; 95 per cent of sexual penetration; 75 per cent of deprivation of liberty; 84 per cent of serious assault; 82 per cent of common assault; 97 per cent of assault on a public officer; and 99 per cent of assault on police officers. That is commendable. However, as offensive as they are - if I can use an almost tautologous phrase - those offences represent in statistical terms the smallest portion of crime.

If we turn to the crimes against property, which are the crimes directly pertinent to the matters addressed in the Bill before us, we see the clearance rate for all offences against property is 19.46 per cent; for burglary, 11.61 per cent; stealing, 20.56 per cent; arson, 30.52 per cent; damage, 16 per cent; graffiti, 21 per cent; stealing a motor vehicle, 16 per cent; and attempted stealing of a motor vehicle, 9 per cent. The police report reveals the fallacy of the arguments we heard tonight about the effect of this Bill as a deterrent against crime or burglary. The clearance rate for burglary in 1994-95 was 11.61 per cent; in 1993-94, 11.87 per cent; and in 1992-93, 11.32 per cent. It is consistent; nine times out of 10 the offender will not be caught, regardless of whether that offender suffers a penalty of one degree of severity or other. If nine times out of 10 one can get away with a crime, the penalty against the crime is a marginal discouragement. The deterrence is the probability of being caught. In answer to those members who

tonight have been arguing about deterrents, I suggest that that issue will not be addressed by increasing the penalty or changing the nature of the crime; it will be addressed when the clearance rates for burglary reflect the clearance rate for offences against persons; that is, 82 per cent. When the probability of being caught rises from 10 per cent to 90 per cent, I suspect some change will take place in the attitude of potential offenders.

I also make the observation that I have listened to this debate with some sense of *deja vu*. Members have risen and said that they support this Bill with some reservation. Their reservation is consistently that, although they see the value in increasing the penalty, they are pessimistic that the increased penalty will bring about any change in criminal behaviour or the incidence of burglary in our community. My sense of *deja vu* is consistent with something Hon John Halden said in his speech shortly after Christmas in 1992 during a special sitting of the House called to pass the Crime (Serious and Repeat Offenders) Sentencing Bill. That Bill was intended to deter young people from stealing cars and committing the rampage that had led to the deaths of several people, but in particular Margaret and Shane Blurton at Christmas of that year. The debate was that members saw the value of this in terms of a statement to the community of the Government's intention to respond positively and strongly to these young offenders and to let them know it meant business, but at the same time each of the speakers said they believed it would have very little effect. Four years down the track exactly the same comments are being made about this legislation. Four years after the passage of the Crime (Serious and Repeat Offenders) Sentencing Bill, the incidence of those types of crimes has not changed despite the fact that the 1992 legislation was introduced for the purpose of reducing that incidence. It has not changed at all.

I support the legislation, but I support it for one reason only; that is, it is a statement to the community that this Government is responsive to its demands for a punishment to fit the crime. The punishment fits the crime but I am very pessimistic about it as a deterrent because until there is an effective program to catch offenders, there will be no real deterrent. The deterrent is not the penalty, but the probability of being caught.

HON PETER FOSS (East Metropolitan - Attorney General) [11.44 pm]: The first thing that can be said as a truism is that there always has been and always will be crime. Any Government that thinks it will stamp out crime has a very strange idea of history. Within a society one can have some effect on the type and incidence of crimes. When I first became Attorney General, I asked that I not be the lead Minister for crime prevention for the very good reason that I do not believe crime can be prevented from my end of the justice system or even from my end of government. It sends a wrong message to society if the Attorney General is the lead Minister for crime prevention because it seems to indicate that changing laws will change the incidence of crime. That is not the case. The only thing the Attorney General can do to change the incidence of crime is to legislate for more crimes so that people can commit more offences. That increases the crime rate. Alternatively, he can abolish the whole lot and, *ipso facto*, there are no crimes because there are no offences. From my end of the system there is limited capacity to do anything. As Minister for Justice there is greater capacity, but it is still small. It is trying to wag the dog from the very tip of its tail. As Minister for Justice and Attorney General I have a strong interest in preventing crime, because those who offend and are caught often end up within the system for which I am responsible. From that point of view I have a strong interest in ensuring that if crime is to be prevented, it be prevented as early as possible and preferably before offenders enter the justice system.

Many people have said in this debate that if the Government is to have a major influence on the rate of crime, it must address the causes of crime. I entirely agree with that. That is the point I have been making ever since I have been in government, and it is a point I have tried to make publicly. We must address the causes of crime. It does not mean that the Government should ignore crime and concentrate only on the causes. However, if it is to have a major influence on the incidence of crime it must address the causes. I made it clear during the debate that this Bill does not address the causes of crime. It does not pretend to address the causes of crime. It deals with the penalty to be imposed upon people found guilty of crime. It assumes a crime has occurred and that a person has been caught and convicted. The question dealt with is the penalty that should be imposed.

Hon Tom Helm: Should that penalty be a deterrent?

Hon PETER FOSS: That is another point. This Bill purely and simply deals with the court's action when a person before it has been convicted of these crimes. First, it restores a situation that existed prior to 1991; that is, the law made a distinction between that person who broke, entered and committed a crime in somebody's home, and all other persons who broke, entered and committed a crime in any other place. For centuries the breaking and entering of a home, particularly during the hours of darkness, was seen as a more serious offence than breaking and entering anywhere else. It was a logical distinction which we, as a Legislature, allowed to pass in 1991. I remember raising the point, but I do not believe we all paid sufficient attention to it at that time.

Hon Derrick Tomlinson: I did. I remember it well.

Hon PETER FOSS: I remember it well, too. We as a Legislature passed that law and removed that distinction. Prior to 1991, burglary carried a maximum penalty of 20 years' imprisonment, as opposed to 14 years' imprisonment for breaking and entering. This Bill only partially restores the situation because it provides a penalty of 18 years' imprisonment, as opposed to 20 years' imprisonment. The maximum penalty of 20 years' imprisonment is reserved for circumstances of aggravation, which can take place either in the home or elsewhere. The circumstances of aggravation referred to in the Bill are those which are likely to lead to a person being overpowered or some personal injury being caused. Whether the person is caught or sets out on that endeavour in such a way as though another person were there, that will be the likely result. That is the first part of this Bill.

The second part of the Bill imposes a minimum penalty; it is a radical measure. It is not a major minimum penalty. It provides that after someone has appeared and had two chances - it is not just a third offence - has committed an offence, been caught and punished, got out of gaol and committed another offence, been caught and punished and got out of gaol and committed another offence, he will be sentenced to 12 months' imprisonment or detention. Under the present rules one would be eligible for remission and parole.

My first reaction to the suggestion of this legislation was that it was fairly unnecessary in the case of adults. I felt that surely on the third time before the court the judge would impose a penalty of imprisonment. I checked the statistics and to my surprise that was not the case.

Hon N.D. Griffiths: It used to be.

Hon PETER FOSS: That is correct. To my amazement I found a case where even up to a twelfth time before the court the offender was given a community release order. I was surprised to find that on the third time before the court substantial numbers of people were not being imprisoned. I think we need to say to the courts that that is not correct. A mild term of imprisonment is being contemplated in this Bill. Twelve months for a person, particularly an adult who is before the courts for the third time, is not unreasonable. Often in these circumstances someone may be up on 12 or 30 offences on each occasion.

Hon N.D. Griffiths interjected.

Hon PETER FOSS: We are talking about a third time before the courts where in each case the warning given by the court has been disregarded. Frankly, I have no problem with 12 months' imprisonment as a sentence for the third time up. It seems to me to be not an unreasonable minimum. I do not believe that a person will receive a rough deal third time up if he is sentenced to 12 months. With this sort of offence I am surprised that we need to impose a minimum sentence. However, the statistics indicate plainly that is the case. It is a role of Parliament to indicate to the judiciary what is an appropriate penalty, and that is what we are doing.

I do not see this Bill in the same category as the serious and repeat offenders legislation, because that went much further. It not only put someone away for 18 months but virtually threw away the key thereafter. Twelve months was the first occasion to try to get out. That was not a minimum sentence. Part of the objection to that was that it broke all the general rules of the judicial system. It was not that we had a law and the law was then applied; we had a law and we then imposed almost an administrative system to prevent a person being released. This Bill will purely and simply perform the usual function of a vehicle by which Parliament gives the rules to be applied by the courts. I think the rules are eminently reasonable.

In considering this legislation we purposely looked at what we thought was a measured response. I notice Hon Nick Griffiths accused us of copying the Opposition's policy. Interestingly, I made the same statement when the Opposition issued its policy. If he compares the two policies he will see that this legislation is far more limited. That was purposely done. I am not saying that this is the last time we will look at this, but we must be measured in our response.

I thought the Opposition's policy would be difficult to administer because it sprayed so widely and would set up a regime whereby it would be difficult to prosecute simply because it subdivided offences into so many separate offences. It would become a prosecutor's nightmare. We are not here to discuss our or the Opposition's policy; we are discussing this Bill. Unless it is a Dutch auction and we are going downwards, this Bill is a statement of policy of sentencing with which not only I as a lawyer have no difficulty, but also I believe the community has no difficulty. After discussions with some members of the judiciary I believe they have no difficulty with it.

Hon N.D. Griffiths: I do not think they should be brought into this in that way.

Hon PETER FOSS: No, but the member should understand that I do not believe this is an assault on the discretion of the judiciary. I believe it is an appropriate way of setting policy for sentencing.

Hon N.D. Griffiths: I trust you will also agree that we are not engaged in a bidding war but a bipartisan effort to meet community concern.

Hon PETER FOSS: I refer to the causes of crime, which matter has really engaged the majority of debate. I think Hon Sam Piantadosi was the only person who spoke solely on the policy of the Bill rather than some of the external situations. Causes of crime must be addressed. What are they? Most of them go back into a very early part of a person's existence. Truancy is one of the best litmus tests of the possibility of someone eventually becoming involved at least in juvenile crime and possibly adult crime. Even then that is not the earliest stage at which detection can be done of when people are likely to be involved in crime. Kindergarten teachers will tell us who are the likely candidates for crime at the age of five. Other people will tell us before people are born what is their likelihood.

We know that Aboriginal people have a high possibility of ending up involved in crime, not because they have a tendency towards crime but because of the circumstances in which they live. Many of the things that lead to crime are circumstantial - the way in which people are brought up. Before people are born we know what their circumstances are. Unless we address those circumstances we are not addressing the causes of crime. Crime has always existed and always will exist. Society will not be perfect and some people will always live in circumstances which will render them more likely to commit crime than their fellows.

We talk about education as one of the characteristics relevant to crime statistics. Once we have taught the basic cognitive processes to a child who then reaches a certain absolute standard of education he can still go to crime because of his relative lack of education. It is the relativity of education that can lead to the problem; the fact that one is behind other people. It does not matter whether we live in a society with a low standard of education or a high standard of education; what can cause the problem is being behind other people, because it alienates us from the system. That is what starts people moving away from the system into antisocial behaviour and eventually crime.

Hon Kim Chance: It is one of the elements, albeit an important one.

Hon PETER FOSS: I am saying that Australia has one of the highest standards of education in the world. A person seen as deprived under our system, who has missed out on much education, would be seen in India, for example, as incredibly well educated. Yet, that deprived status in our society can lead to crime. A person may be literate and numerate, and still be behind in the system. That person can be pushed out and be seen as alienated by the system. However, the same person could go to India, and because he is literate and numerate, it would stand that person in good stead. It is not just absolute education, but one's relative position in society that causes the problem. It is only one small element. We know the gross elements, but occasionally people appear to have everything -

Hon Kim Chance: Again, you are only talking about blue collar crime.

Hon PETER FOSS: Very much so, but occasionally people who appear to have everything commit a crime. Then we say that it is because those people have everything; it is because they are spoiled - but we do not know. We are not talking about animals or machines; we are talking about people. For all sorts of reasons people do all sorts of things. They have aberrant behaviour which is criminal because we have declared it to be criminal, but there can also be aberrant behaviour which is not criminal because it has not been made criminal. People behave differently. We will never stop individuals from becoming criminals. However, we can address those elements in our society which almost inevitably mean that a person has a high percentage chance of ending up a criminal.

Aborigines are a classic example. When I was Minister for Health I tried very hard to deal with some of the issues that led to the cyclical health problems of Aborigines. They are alcohol, broken homes, lack of education and housing, and lack of the background that drives people to a higher standard of education. When I became the Minister for Justice I discovered cyclical Aboriginal offending. The causes were the same as in the health area. One of the problems in the health areas was that the father of the family kept ending up in gaol. One of the problems in justice is the poor standard of health. I had a slight feeling of *deja vu*, because it struck me that there were not a number of problems, but one problem which we must address. We already have the Justice Coordinating Council. Our major problem is cyclical re-offending by Aborigines. We are working on it. We have pushed the problem down, back into certain areas. It was always the view of the Justice Coordinating Council to address that as a single problem. We are going all out to address that problem.

People in Health, Education, Aboriginal Affairs, Recreation, Training, and Housing, must get together and come up with a plan. One great problem has been that we fix up the housing, but we do not teach people how to live in that housing; or if we do not fix up the sewerage system, the houses are destroyed. We say that Aboriginal people are given a house but they just destroy it. Of course they will destroy it if we do not do all the other things at the same time. One idea that flowed from the Aboriginal task force was that if we planned to do something, everyone should do something at the same time. I do not know when we will achieve a result; certainly not tomorrow. It might be possibly in 15 to 20 years - long after I have ceased to be the Minister for anything.

Many of the problems today probably began 15 to 20 years ago. Today we are reaping the fruits of what we planted 15 to 20 years ago. Notwithstanding which Government in future it might benefit, I am determined that we will tackle

the long term problems. We will not receive any credit in the public arena; we will not receive any credit in an election, but we are determined to do it. We have no illusions about it being simple, or about our finding a solution - even if we do find a solution tomorrow - let alone thinking that it will work tomorrow. We will never find a total solution. I do not believe we will get it to work for another 15 to 20 years, but if we do not start we will not finish. Important things are being done, and Good Start is a classic example. Relative education is important.

I was in Brazil recently for a short time, where people use vegetative propagation for trees. Genetically every tree cutting is the same, and genetically they should all achieve the same result in the same environment. People in that country take cuttings and stick them in pots, and then watch them sprout. After 60 days they review the cuttings and find some are small, some medium and some large. How can that happen when the plants are clones? It happens because it may have taken some time before some cuttings were planted; some may have been drier or come from a stronger part of the tree. Environmental factors come into play before the cuttings are potted. Sixty days later one can see marked differences in material that is genetically identical. They planted the big ones immediately, the middle ones 30 days later and the little ones 60 days later. By that time they are all the same size. They are always planting cuttings of identical size with the same capacity to survive.

I suppose in short that is what the Good Start program is about. It is trying to identify at an early age who has come in as a little plant or as a big plant, and to provide equal opportunity. By doing so we will not have the sorts of problem in education where someone always feels he or she is left behind. When people have that feeling they start to truant; when they truant they get further behind. Therefore the disadvantages they suffer from lack of knowledge become more ingrained. After truancy, those people are brought back into the school and they disrupt the class. Eventually the school chucks them out, and they start to offend. One can see it. It is the clearest indicator of all that truancing equals being caught by the juvenile justice system, and those people have a good chance of ending up in the adult justice system. We must find what can be done for people at that stage when they become a nuisance. The normal reaction by society is to ask what can be done with the pests in the classroom. The easiest solution is to get them out because they interfere with other students. Why should 30 students who are behaving put up with the one offender? It is a reasonable point, but we must do something about the one student who is not behaving. The earlier we tackle the problem the less aggravating it will be, but we must tackle it in a different way -

The DEPUTY PRESIDENT (Hon Barry House): Order! Like several speakers before him, the Minister is straying a fair way from the content of the Bill, which is specifically about home invasion. The Minister's comments should be more relevant.

Hon PETER FOSS: I am replying to the matters raised by other speakers. I would have been happy to see those speakers limited in what they said, but having been allowed to say what they did, it is relevant for me to reply. It would be difficult if I could not reply to the preceding debate.

Hon Tom Helm: We would not have gone through that if you had not prompted us to do so.

Hon PETER FOSS: Many speakers asked what are we doing. I can refer to Camp Kurli Murri because earlier speakers referred to it. When we announced the closure of the camp, we acknowledged a need for measures at the front end to try to divert people from going to detention. That was the intention of Camp Kurli Murri. It was an up-front diversionary method to say, "Sure, once people get into that system it is hard to get them out, but before they get in, if we do some intensive work on them, we can divert them from going in." It had limited up-front rules, on purpose, and it was successful; and we expect more success from those people whom we are trying to divert up-front. The fact that we were successful with 28 out of 29 indicates that it was good and worthwhile. The big problem we had there was the same problem we have in country health: How do we get the specialists there to do that work? We found also that fewer people are going into the juvenile justice system who can maintain it fully.

We are now doing work on the Bibbulmun track, where we have got mobile camps and are using young adults, and we are finding that a real benefit. It is worth reading Judge Newman's report, and I recommend that people do so. We are getting each of the elements that we need. There is punishment and there needs to be punishment. That is what this Bill is about. We are entitled to have punishment. There also needs to be some form of restitution. The interesting thing we have found is that not only have the young offenders provided the public with something of value that it would not otherwise have had, and that has been welcomed by the public; but also there has been some rehabilitation. The people involved work longer hours than they are required to work, and they are learning skills. They cannot wait to bring back their families to see what they have achieved on that track. The reaction from the people involved in what they have created, often for the first time in their lives, has been very positive.

The final thing that Judge Newman recommended is a program to bring people back into the community. We have learnt a lot from Camp Kurli Murri. I know it cost a lot of money, but the human benefit has been 28 people who have not reoffended. People who offend usually do not one or two break-ins but a rash of them. We can probably multiply that 28 by 10 or 20 houses that have not been broken into. I urge members again to read Judge Newman's

report. Hon Cheryl Davenport attended the workshop that he conducted. A lot of benefit will come from that camp. We have set up some specific programs, and I will not go into the detail now because it would not be appropriate, but I can assure members that some very positive things have come out of this, and although none of them will be a total solution, we are working towards a solution.

Hon Tom Helm: Where can we get the evidence?

Hon PETER FOSS: The report is available; it has been tabled.

The other problem has been the morale of the police in dealing with burglary. There is no doubt that the police say, "What is the point of going out and detecting and apprehending these people? As soon as we take them to the court, they are out again." There has been a problem. I do not think that is entirely the reason for the low clearance rate, but it certainly does not help the police if they do not believe that the appropriate penalties are being imposed. I believe this Bill will be an encouragement to the police, because they will know that if they apprehend a person for the third time, which means there will be a bit of encouragement in getting the first two apprehensions, a penalty will be imposed which they believe is commensurate with the work they have had to put in to try to stop that crime. This Bill will be a greater incentive for the police to clear these crimes than existed previously. I agree with Hon Derrick Tomlinson that the deterrent to crime is not the penalty that is imposed but the possibility of that penalty being imposed, because most of these people do not think they will be caught.

We are also looking at the types of programs that we impose. We have found that criminals fall into roughly three groups: 60 per cent suffer from some cognitive problem that is often caused by the sorts of deprivations that we have been talking about, and if they are trained to think properly and are given skills, they are less likely to reoffend; 30 per cent are totally confused, and no matter how much education we give them, they will never be less confused because they have fundamental problems and are dysfunctional; and 10 per cent are smart but a bit off - they have a tendency to be dishonest. If we spend all of our training on the 60 per cent, the result will be that we address their problems; the 30 per cent we will never be able to make much difference to; and if we train the 10 per cent who are clever but dishonest, we will only make them better educated crooks, so there is a real negative in training them. We must ensure that the training programs address the individual. Admittedly, the individuals fall into categories, but the training program must be tailored to address the problems of the individual rather than the problems of the prison community generally.

It will be very difficult to make a difference to some people. If we are trying to stop people from being addicted to alcohol, it will be difficult. If their problem is their family situation - and we had some examples from Hon Tom Stephens - some of those things will be difficult to address. We will not be able to solve the problems of some people; all we can hope to do is have some effect on their rate of offending.

We have looked at crime prevention at three levels. The first level is to try to stop crime before it happens; that is, to address the problems in society. The second level is to physically stop it from happening by the presence of the police, by people putting in security devices, and by community policing. This is where the Delta program is so important, because one of the things that it will do is give individual police officers an area of responsibility. That will include things such as making sure that Neighbourhood Watch works and that community policing works. They will be judged on their performance in that area. They will have a responsibility to keep up the enthusiasm of Neighbourhood Watch, because Neighbourhood Watch works very well while the enthusiasm is there, but when that drops off, so too does its effectiveness. That matter is being addressed. The third level is that once people come into the justice system, we must try to train them in such a way that they do not come back in again.

I turn now to some of the points raised by individual members. The reason that I felt moved to interject during Hon Jim Scott's address and no-one else's was that I felt it was, unlike all the other speeches, a negative speech, full of broad generalisations which were untrue. I tried to give some indications of why they were untrue with regard to the programs that I mentioned. This debate will not be helped by broad generalisations and accusations. It is silly to just stand and say that this Government has done all these things. The fact is society has always had criminals and always will have criminals. It will always have inequalities. We must try to do as much as we can to address those fundamental problems, and to just get up and slang off as if this Government were the cause of crime in Western Australia is not a very good contribution to the debate. I congratulate all the other members, who adopted a far more bipartisan and positive attitude. I thought Hon Jim Scott's suggestion that the police were involved in the crime that he described purely because they turned up looking a bit suspicious and were wearing ripple sole shoes was really a bit much.

Hon Tom Helm referred to the Bibbulmun track. I have given some ideas of how work camps on the track can be positive. Hon Tom Stephens mentioned the underlying causes of crime, I think quite rightly. He wanted to know what happened with victims. We have the juvenile justice teams. The theory behind them is that it is important to bring the offender face to face with the victim so that the victim can have the personal satisfaction of telling the offender

exactly what he feels about the crime. It has an important cathartic effect for the victim to tell the offender what he did to him and how he feels about that. It is also to get the offenders to recognise that they have hurt somebody. Too many of them think it is like watching television. People turn on television and see a crime committed, and turn it off again. What effect does it have on them? None. People do not believe that by turning on the television and causing the image to appear they have done anything to anybody. Many criminals seem to think that carrying out a crime is just like turning on the television: They walk out the door and that is the end of it.

When I was young I had a good friend over the road who had a tendency to bite. He could get instant results by biting. When he bit me I would cry and run off. My mother got hold of that boy and said that if he bit her son once more, she would bite him. He suddenly thought that that might hurt, and that was the last time he bit anybody. That is partly what the juvenile justice team is about. It is to try to bring to the criminals a realisation that when they do it to somebody else, it hurts them. Often the only way they can see that is by having the victims tell them what it was like.

Hon Tom Stephens is concerned about people going into Aboriginal homes unwelcome and committing offences. I am not aware of prosecutions for that occurring. The capacity for that to occur has existed since we have had criminal law in Western Australia. If the person opened the door and went in, that would be breaking and entering. If a person went in under a customary understanding, it would be difficult to prove that he was there without consent. It would require a complaint to be made that he was there without consent and for the offence to take place.

Hon Sam Piantadosi made an important point: Parents do have responsibilities. He talked about people providing reasons and not excuses. When we talk about the reasons for crime, we should not excuse it. We cannot say that we know why a person commits crime and, therefore, do not do anything about it. On that point I was at variance with Hon Jim Scott, who seemed to suggest that being without money was a reason to commit crime. Many people are without money for a long time and do not commit crimes. It may be a reason, but it is not an excuse.

Hon N.D. Griffiths: People choose.

Hon PETER FOSS: That is right. There is a difference between reasons and excuses. Hon Sam Piantadosi says there must be appropriate penalties for those people. So what if only 11 per cent of the people get caught? That is all the more reason for the penalties. That 11 per cent is the tip of the iceberg, and they should be punished.

Hon Bruce Donaldson again emphasised the parents' responsibility. Not just parents, but all people must take responsibility. Crime is the responsibility of all of us. When people think that only Governments and policemen can deal with it, the sort of community Hon Kim Chance spoke about disappears. One of the reasons he prefers that community is that people are not isolated in their fortresses; they are a community. That is why it does not cause fear. Fear is an important result of this. It is appropriate that the police should show that statistic, because in many ways it is the most important. One of the reasons for not having a bidding war in this matter is that it could increase that fear. That would be worse in some ways than not having the fear.

For 26 years I lived in my house without any security system. I used to go out and leave the doors open. I was never robbed. I became a Minister and the security service looked at my house and said that I had terrible security and should put bars on my windows and locks on my doors. That security was installed, but I said that I would not have one of those wretched alarms. I was burgled three times. I now have an alarm and I am pleased to say that things have been pretty good since its installation.

Hon John Halden: You haven't been home for years. That's the saving grace.

Hon E.J. Charlton: And we're not going to get home tonight either, I can tell you!

Hon PETER FOSS: If everybody else is allowed to take the Bill seriously, so will I. That is a threat.

Hon E.J. Charlton: We've all been on the edge of our seats for an hour, Attorney General!

Hon PETER FOSS: Hon Mark Nevill said that he had no enthusiasm for the Bill, even though he supported it. He said that it failed to make headway into the crime rate. This legislation will make a difference, particularly because of the reaction of the police. It is intended to be an appropriate punishment. It is entirely appropriate in that context. It will not address the cause of crime.

An important point I make in response to the comments of Hon Kim Chance is that crime is not just a problem of the deprived, although it has a greater incidence among the deprived. That is why we must deal with its causes. We must not kid ourselves that we will remove it through creating an ideal world.

I turn to the points raised by Hon John Halden. The reasons for punishments have varied over the years. In medieval times it was a form of expiation. They used to have horrible punishments such as hanging, drawing and quartering.

It was the pain that went with it, and not just that the person was killed, that was important, along with the indignities that were done to the body afterwards. Obviously that would not have a big effect on the person, who at that stage was already deceased, but it was felt that it was a way in which the public could even up the ledger. It used to be considered wrong to imprison people because it was seen to be a rather long, drawn out and vicious way of dealing with people. It was considered better to deal with them by whipping, branding or hanging them. That was seen to be more civilised than locking them up for a long time. It is a matter of how society regards punishment. There must be an element of straight out punishment; that is, society having its way by indicating to people what follows on from committing a crime.

Hon Derrick Tomlinson referred to clearance rates. Those rates have improved overall in the past six months and I hope that will turn into a trend. Changes have been made, not just to the pawnbrokers law, which I believe will come back in effect because another way around it will be found eventually. I believe that improvements will be achieved in the clearance rates with changes that have been made in the Police Force. Operation Delta is far more likely to yield the sorts of results that I hope we will get from the police. I thank members for their bipartisan and useful debate and I commend the Bill to the House.

Question put and passed.

Bill read a second time.

House adjourned at 12.29 am (Thursday).

QUESTIONS WITHOUT NOTICE**HOSPITALS - OSBORNE PARK***Outsourcing Services, Tenderers***727. Hon JOHN HALDEN to the Attorney General representing the Minister for Health:**

In relation to the outsourcing of services at the Osborne Park Hospital -

- (1) What are the names of the companies which have tendered for these services?
- (2) Can the Minister confirm that representatives of some of the tendering companies recently met with the Osborne Park Hospital supervisors?
- (3) If yes, which companies?
- (4) Were all the tendering companies invited to the discussions; and, if not, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The tender process has not yet been finalised and it would therefore be inappropriate at this stage to divulge the names of the tenderers. Once the tender is finalised the health service will announce details in accordance with State Supply Commission policy 1.3.
- (2) A group of tendering companies did meet with staff representatives prior to meeting with the evaluation committee and expert referees on Thursday, 8 August, to provide a presentation on their tender offers.
- (3) It is inappropriate to divulge the names of the tenderers for the reasons given in (1).
- (4) Only the most competitive tenderers were invited to present their offers.

GERALDTON - CURFEW PROPOSAL**728. Hon TOM STEPHENS to the Attorney General:**

- (1) Is the Attorney General seriously considering the proposal by the member for Geraldton to impose a curfew in Geraldton, following an attack on a cafe in the city's west end district?
- (2) Is the Attorney General aware that the curfew proposal has been rejected by the owner of the cafe as a bandaaid solution, and by the police as unnecessary?
- (3) Will the Attorney General present the State Government with a more substantive response to the problem, including additional facilities for the youth in Geraldton, in an effort to provide alternatives for young people in order to keep them off the streets and out of trouble?

Hon PETER FOSS replied:

- (1)-(3) The matter has not been referred to me. I believe that the suggestion was made that a local law would be the appropriate way to enforce it, in which case it would be the local government council which would deal with it - and in the event of any problems it would be the Minister for Local Government. Youth recreational facilities do not fall within my portfolio. However, I can assure the member that occasionally I have the opportunity to discuss these matters through the Justice Coordinating Council. I can also assure the member that Geraldton is an area that is coming in for serious consideration by the Justice Coordinating Council for long term prevention of crime solutions. By long term solutions, I mean those that address the social issues as opposed to those that deal with crime once it has occurred. This matter will come up for debate some time today so I will not deal with it now. It is appropriate to consider the long, medium and short term remedies for any problem such as this. It is no comfort to someone who has had his front window bashed in to say that proper social measures will mean that in 20 years crime will be reduced. Therefore, we must address the immediate problem as well as the long term problem. I hope the member will support the measures -

Hon Tom Helm: What about the curfew?

Hon PETER FOSS: I have not dealt with that; it has not been considered. I hope that the member would support the concept that as well as dealing with the causes of crime, and with all the other matters, we also deal with the plight

of the victims and try to relieve the happening of crime, even if we cannot at that stage deal with the underlying causes.

GOVERNMENT PURCHASE ORDERS - PRIVATE CONSULTANTS, AUTHORITY TO USE

729. Hon TOM STEPHENS to the Minister representing the Minister for Public Sector Management:

I refer to the lack of accountability in the Government's privatisation and contracting out policy -

- (1) Is it true that private contractors in certain government departments and agencies have been given authority to use government purchase orders to acquire services, goods or equipment?
- (2) Has the Government sought or obtained the views of the Auditor General on this process?
- (3) Is this just another case of standards slipping under the Government's desire to contract out services?

Hon MAX EVANS replied:

I thank the member for some notice of this question. I am advised by the Premier -

- (1)-(3) Since its introduction by the Burke Government in 1985 the Financial Administration and Audit Act has provided for the definition of "officer" to include consultants working on behalf of public sector agencies. The FAAA expressly contemplates in the definition of "certifying officer" and "officer" in section 3 that private sector consultants may in appropriate circumstances be required to assist agencies in meeting their financial and operational obligations. This has in some cases included, for example, the use of private accounting firms by small agencies without their own in-house resources to maintain their financial records which may have included among other things certifying or incurring expenditure for government purchase orders. This, however, is the exception rather than the rule. In most cases, including where facilities managers are used by the Department of Contracting and Management Services private consultants do not have authority to use government purchase orders.

In circumstances where a consultant is appointed as certifying officer by the accountable officer of the authority or department the consultant would be required to comply with the FAAA and Treasurer's Instructions to the same extent as a public sector employee.

I am not aware of any consultation with the Auditor General in relation to this practice. However, as the member will no doubt be aware, the Auditor General has full access to agencies' financial and operational records and can review the practice at his discretion.

GREENHOUSE RESPONSE COMMISSION - APPOINTMENT PROMISE

730. Hon J.A. SCOTT to the Minister for the Environment:

- (1) Is the Minister aware that the coalition promised to establish a greenhouse response commission to report on all steps that need to be taken to minimise effects of climate change and that this commission would report within three years?
- (2) Why has the Government failed to honour this commitment to the people of Western Australia?
- (3) Have greenhouse emissions increased significantly in the term of the present Government and is it expected that this trend will continue or decrease in the next four years?
- (4) Has the Minister decided to ignore the effects of greenhouse gas on our climate and economy; and, if so, why?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The coalition's pre-election policy said that a greenhouse response commission would be appointed, whose task will be to report to the Government on the steps that need to be taken to minimise the effects of climate change, should it occur, and that the commission would be required to report within three years of its appointment.
- (2) Events have superseded this and the matter is now being addressed on a national level. The Government has undertaken the following activities regarding greenhouse climatic change -

participated in the national greenhouse response strategy review including successfully negotiating the inclusion of the resources processing sector;

published the "Revised Greenhouse Strategy for Western Australia 1994" with a public comment period;

ensured that government agencies and the private sector have been briefed on international and national issues and trends regarding greenhouse and climate change.

The Government's view is that greenhouse and climate change are international issues to which Australia nationally has certain responsibilities. It would disadvantage Western Australia's special circumstances if greenhouse and climate change responses were on a sector jurisdictional basis.

The Government has concentrated on ensuring Western Australia's position has been properly put in the national and international forums first. We will decide on the exact nature of the mechanism to implement a state strategy in this term of government. This will most probably include a greenhouse response commission or similar.

- (3) No specific data is available for Western Australia, but national data indicates that greenhouse gas emissions have increased since February 1993. It is expected that this trend will continue in response to the energy expended to develop and export Western Australia's natural resources. Means of abating greenhouse gas emissions in the most efficient way are being constantly explored. Adding value to raw materials by beneficiation by using low carbon intensity fuels is one approach.
- (4) No. I need to repeat this because it takes a while to get through to the member. The method of calculating greenhouse gas emissions is of great advantage to people who are highly industrialised and have highly inefficient industries. If we have a lot of industry which is expending a lot of greenhouse gas, and if it is inefficient the opportunities to improve the position are great. On the other hand, places like Western Australia, which have little in the way of industry and are producers of low greenhouse gas fuels, such as natural gas, are at a disadvantage. This is one of the matters that Western Australia is arguing. I have had a discussion in another debate with Hon Kim Chance over this. One of the difficulties we have with the State by State calculation is that - if it were applied as such - it would be a restrictive practice to prevent new and efficient industries setting up in Western Australia to take over from, say, old and inefficient industries in Victoria and New South Wales. I am sure all members would be against that. The Government has proposed new and efficient industries for the north west, such as direct reduced iron ore, which use natural gas, for instance. The effect of that on an international basis will be that less greenhouse gas will result from the production of that steel.

The PRESIDENT: Order! I want the Minister to bring his answer to a close. He is giving the House a lecture on something that the member did not ask.

Hon PETER FOSS: He did; he asked whether I was ignoring the effects on climate and the economy. I am dealing with the economy.

The PRESIDENT: Order! The Minister must get to the answer quickly. Standing orders state that the answer must be brief.

Hon PETER FOSS: If we do not jealously guard the way these calculations are made, it will be bad both for the climate of the world and for the economy of Western Australia: It will work unfairly for Western Australia and unreasonably for the environment of the world.

JUSTICE, MINISTRY OF - JUVENILES, RESTITUTION PAYMENTS

731. Hon MURIEL PATTERSON to the Attorney General:

- (1) What restitution has been made by juveniles during the past 12 month period?
- (2) If restitution has been made, in what form has that been?
- (3) If it has not been made, why not?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1)-(2) The juvenile justice teams may negotiate restitution or reparation by monetary payments or community work. Additionally, the court may order a juvenile to make restitution or compensation. It is not possible to provide a total dollar value for restitution; however, for the first year of operation in 1995-96 a total of 251 young people paid monetary restitution through the juvenile justice teams and a total of 461 young people undertook unpaid community work. This information is not available for the Children's Court.

- (3) Not applicable.

HOSPITALS - OSBORNE PARK

Outsourcing Services; Staffing Levels

732. Hon JOHN HALDEN to the Attorney General representing the Minister for Health:

I refer to the outsourcing of services at the Osborne Park Hospital.

- (1) What are the current staffing levels in the services of catering, cleaning, gardening, and engineering?
- (2) What mechanisms are in place to ensure these staff are employed with the successful contractors?
- (3) Will these workers receive the same pay and enjoy current working conditions with the successful contractor?
- (4) If not, what arrangements are in place for redeployment to staff in the public sector?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The total of 85.7 FTEs comprises the following: Catering, 42.5 FTEs; cleaning and orderlies and linen, 27.6 FTEs; gardening, 2.6 FTEs; and engineering, 13 FTEs.
- (2) The tender documents require that tenderers indicate their intention to make offers of employment to OPH staff. The tender documents also indicate the mechanisms for offers of employment of staff which are governed by the Public Sector Management Act.
- (3) These matters are subject to negotiation between the successful contractor and staff.
- (4) For staff who opt to stay within the Western Australian government sector the relevant and prevailing legislation in relation to redeployment and redundancy will be offered.

PLANNING, MINISTRY FOR - PEEL REGION STRUCTURE PLAN, PUBLIC CONSULTATION

733. Hon J.A. COWDELL to the Attorney General representing the Minister for Planning:

- (1) Was the Peel regional plan released on 23 July this year, and was the public invited to comment on this plan?
- (2) Are local workshops on this regional plan being conducted by the Ministry for Planning?
- (3) Can the Minister confirm that these workshops are not open to members of the public and that attendance is by invitation only?
- (4) If yes to part (3), does the Minister support this approach to public consultation?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) The Inner Peel region structure plan was released on 23 July this year and the public were invited to comment.
- (2) Public consultation for this proposed plan is occurring in a number of ways: Public displays at the Pinjarra public library and Mandurah Forum Shopping Centre; public workshops in which members of the public are asked to look at particular aspects of the proposed structure plan and provide approval and/or alternatives; and public meetings at which ministry officers explain the extent of the structure plan and its proposals and invite comments from members of the public attending.
- (3) Attendance at the public workshops is limited by the nature of the workshop to about 40 people. Members of the public who lodge submissions or who have attended public displays are asked whether they would like to attend a workshop and, if so, are then invited to do so. The attendance at workshops ensures that their views are able to be considered. As attendance relies on members of the public nominating themselves for attendance, it is difficult to agree that attendance is by invitation only.

- (4) The level of public consultation the Ministry for Planning and the Western Australian Planning Commission use is a tribute to my colleague the Minister for Planning and indicates his determination that the broadest possible consultation with members of the public occurs on planning matters. I have his word for it.

WATER CORPORATION - FREEHILL HOLLINGDALE AND PAGE ENGAGEMENT

734. Hon JOHN HALDEN to the Minister representing the Minister for Water Resources:

- (1) Given the Minister's answer to question without notice 726 asked yesterday, why did the Water Corporation engage Freehill Hollingdale and Page to prepare and file documents relating to a matter in the Australian Industrial Relations Commission relating to a classification appeal?
- (2) Did the Water Corporation inquire of the Department of Productivity and Labour Relations as to whether DOPLAR could provide assistance in the preparation and conduct of the matter?
- (3) If so, what was that advice of DOPLAR?
- (4) Did the Water Corporation inquire of Crown Law as to whether Crown Law could provide assistance in the preparation and conduct of the matter?
- (5) If so, what was the advice of Crown Law?
- (6) Prior to the Water Corporation engaging the law firm Freehill Hollingdale and Page to prepare and file documents and to appear in the above matter, did the corporation obtain -
 - (a) the hourly rate that would be charged by the firm;
 - (b) the hourly rate that would be charged by other legal practices for a similar service; and
 - (c) a quotation from Freehill Hollingdale and Page and other legal services?
- (7) What is the cost of using Freehill Hollingdale and Page for the preparation and filing in this matter?
- (8) What is the cost of the use of a partner in the firm of Freehill Hollingdale and Page, Mr Toni Luvec, for the appearance over two and a half days in the Australian Industrial Relations Commission in this matter?
- (9) What would the cost have been if the Water Corporation had used its own employees to do the preparation and appearance in this matter?
- (10) What would the cost have been if the Water Corporation had used DOPLAR to do the preparation and appearance in this matter?
- (11) What would the cost have been if the Water Corporation had used Crown Law to do the preparation and appearance in this matter?

Hon MAX EVANS replied:

I thank the member for some notice of this question. The Minister for Water Resources has provided the following reply:

- (1) Water Corporation human resources personnel attended a conference on this issue with the commissioner, who issued a number of procedural directions not previously encountered by any Water Corporation staff. Legal input was therefore required.
- (2) DOPLAR advised the Water Corporation in February 1996 that it was not available for assistance on matters other than government policy and standards.
- (3) Not applicable.
- (4) No, Crown Law advised that it was unable to act for the corporation because the corporation was no longer under the shield of the Crown.
- (5) Not applicable.
- (6)
 - (a) The hourly rate charged by Freehill Hollingdale and Page was known;
 - (b) no, not for this case; however, hourly rates by other firms are available to the Water Corporation; and
 - (c) no.

- (7) An amount of \$38 640.89.
- (8) The case is unfinished; therefore, the final invoice has not been issued.
- (9) This is unable to be determined as the Water Corporation does not have the specialist skills internally.
- (10) DOPLAR is not able to provide this service to the Water Corporation. If it were, costs unknown would be to government - not to the Water Corporation.
- (11) Not applicable.

WESTERN POWER - ALBANY OFFICE, RESTRUCTURING

735. Hon BOB THOMAS to the Leader of the House representing the Minister for Energy:

- (1) Has Albany's Western Power office been supplied with a sign which states "Customers, please note that this is an operations depot only" and then displays a toll-free number for account inquiries?
- (2) Who made the decision to restructure the Albany office in this manner?
- (3) When does this restructuring take place?
- (4) How many jobs will be lost to Albany?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

- (1) No. There is no intention to put a sign at the Albany office. However, similar signs are to be installed at other depots.
- (2) Not applicable.
- (3) The restructuring of Western Power operations is a continuing process.
- (4) None at this time. As previously stated, ongoing changes are taking place and some voluntary relocations and voluntary redundancies may occur.

LAKE CLIFTON - STROMATOLITES, CONSERVATION PLANS

736. Hon J.A. SCOTT to the Minister for the Environment:

- (1) Is the Minister aware that the coalition promised to strengthen any parliamentary protections that might be currently afforded to stromatolites?
- (2) Will the Minister explain what action he has taken to honour this promise?
- (3) What monitoring is being done to ensure that water quality and other environmental qualities are being maintained at Lake Clifton, and how often does this occur?
- (4) Does the Minister have a contingency plan if monitoring shows degradation of the stromatolites' environmental conditions?

Hon PETER FOSS replied:

- (1) Yes.
- (2) Stromatolites are known to exist in three areas: Hamelin Pool at Shark Bay, Lake Clifton in the Yalgorup National Park and Lake Thetis near Cervantes. Related sediment mat features occur elsewhere, for example, at Lake Richmond and at Government House Lake, Rottnest Island. A number of research projects have been carried out by various research institutions on the three principal areas at various times. Hamelin Pool is a marine nature reserve managed by the Department of Conservation and Land Management. A draft management plan has been prepared for the Shark Bay marine reserves, including Hamelin Pool. Release of a final plan is imminent. The Western Australian Planning Commission is finalising a review of the 1988 Shark Bay Region Plan to provide for appropriate management and use of land surrounding the area. A boardwalk has been constructed to allow tourists to view the stromatolites without causing physical damage.

Lake Clifton is included within the Yalgorup National Park. The stromatolites at Lake Clifton are more correctly called thrombolites. A management plan for the Yalgorup National Park was released in 1995. The management plan provided policies and strategies for the conservation of the thrombolites, with

particular focus on reducing potential impacts from surrounding land development and the increase in visitor numbers to the park. Consistent with the recommendations of the management plan, CALM has now finalised construction of a boardwalk to allow viewing of the thrombolites without damage occurring. In November 1995, the Environmental Protection Authority in its bulletin No 788 determined criteria of environmental acceptability for land use proposals within the catchment of Lake Clifton. The EPA bulletin provides a detailed analysis of land use in the catchment and potential impacts on thrombolites, provides details of scientific studies into the hydrology of the lake, and makes recommendations for future conditions to be applied to developments in the catchment. The EPA has, subsequent to bulletin No 788, also released bulletins in respect of particular rural subdivisions in the Lake Clifton catchment, making recommendations to me as to the environmental acceptability of those proposals.

Lake Thetis is a reserve for recreation which is vested in the Shire of Dandaragan. CALM is negotiating with the shire to have the land vested in the National Parks and Nature Conservation Authority, as proposed in the draft Nambung National Park Management Plan, which I released in 1995. It should also be noted that the government legislation to replace the Wildlife Conservation Act, intended to be introduced in 1997, will specifically provide for the protection of stromatolites.

- (3) In addition to studies outlined in reports referred to in my answer to part (2) of the member's question, a project funded through the National Landcare Program has been implemented to monitor both surface and ground water quality entering Lake Clifton. The most significant threat to the thrombolites of Lake Clifton is from contamination with nutrients and other pollutants from ground water entering the lake. The National Landcare Program funded project will provide planners with information to make informed decisions on the suitability of developments within the catchment.
- (4) If monitoring shows any degradation of the thrombolites or of the quality of ground water entering Lake Clifton, the Government will take any necessary action to halt or modify the activity attributed to causing the degradation.

WESTERN POWER - ALBANY OFFICE, CUSTOMER SERVICES FUNCTIONS

737. **Hon BOB THOMAS to the Leader of the House representing the Minister for Energy:**

Further to question without notice 676 -

- (1) Is it correct that all Western Power branch staff at Albany have the generic classification "customer services officer"?
- (2) Which specific customer services functions will continue to be delivered through the Albany office?
- (3) Are the functions of the customer services officers, customer services finance and administration and customer services officers to be transferred to Picton or the metropolitan area on a -
 - (a) temporary basis;
 - (b) permanent basis?

Hon N.F. MOORE replied:

I thank the member for some notice of this question.

I am advised by the Minister for Energy in the following terms -

- (1) No.
- (2) All staff at Albany depot carry out customer services functions. I understand that the member has made arrangements to meet with the Manager, South Country next Tuesday and I am sure at that time he will be able to give a more detailed response to these questions.
- (3) Functions may be rearranged in accordance with Western Power requirements. Change is continuous.

FIRE BRIGADES - KELLERBERRIN FIRE STATION REPLACEMENT

738. **Hon KIM CHANCE to the Attorney General representing the Minister for Police:**

I refer the Minister to the line items dealing with allocations for the replacement of the Kellerberrin fire station, found in both budget paper No 3 and the 1996-97 non-residential building program. Each of these line items indicates that an estimated sum of \$90 000 was spent in the year 1995-96. Can the Minister advise the House if this expenditure was incurred and, if so, how was it incurred?

Hon PETER FOSS replied:

I thank the member for some notice of this question. The sum referred to was a forward estimate of expenditure at the time and has not been incurred. The project has now commenced and is expected to be completed in the 1996-97 financial year.

FIRE BRIGADES - KELLERBERRIN FIRE STATION REPLACEMENT

739. Hon KIM CHANCE to the Attorney General representing the Minister for Emergency Services:

In answer to my question relating to funding for the Kellerberrin fire station, the Attorney replied that agreement on the selected option of the station replacement had been reached in writing by both parties.

- (1) Is it correct that the form of agreement contained in the letter dated 19 August and signed by the secretary of the Kellerberrin Fire Brigade contains three clear conditions?
- (2) Does the Attorney's answer, which conveys that agreement has been reached, denote assent to those three conditions?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) Yes.
- (2) No. It has been agreed that a proposed station, described as option 3, will be built.

Hon Kim Chance: So there is no agreement.

Hon PETER FOSS: No, it has been agreed.

Hon Kim Chance: No it has not.

Hon PETER FOSS: Does the member want the answer?

The PRESIDENT: Order! The member cannot ask the question and give the answer.

Hon PETER FOSS: I am giving the answer.

Following a meeting in Kellerberrin on 19 September, the Western Australian Fire Brigades Board confirmed by letter on 21 September that the total cost of \$160 000 for the new station comprises a \$145 000 contribution from the WAFBB and a \$15 000 contribution from the shire. Design and documentation is proceeding in consultation with the local brigade. Any savings resulting from design changes will be available for reallocation to other areas of this project.

EDUCATION DEPARTMENT - CLEANING SERVICES CONTRACTS

Complaints

740. Hon JOHN HALDEN to the Leader of the House representing the Minister for Education:

- (1) Is the Minister still receiving complaints regarding the poor quality of school cleaning following the reduction in cleaning hours which was brought about with the introduction of contract cleaning?
- (2) If so, what action has the Minister taken to resolve the problems of unacceptable cleaning standards in schools?

Hon N.F. MOORE replied:

I thank the member for some notice of this question. The Education Department has advised the Minister for Education in the following terms -

- (1) Yes. Complaints about day labour and contract school cleaning are referred to the Education Department for prompt and appropriate action.
- (2) Cleaning standards in all schools are monitored closely by the property services section of the Education Department. Day labour and contract cleaned schools are subject to a thorough cleaning inspection process to ensure that cleaning quality is maintained. Where cleaning faults are identified, the Education Department's cleaners or the contractor, as the case may be, are expected to remedy them.

In contract cleaned schools, the cleaning services contract specifies strict cleaning standards. Where contractors fail to maintain these standards and are clearly in breach of their contractual obligations, the contract may be terminated. In the event of such a default, the company would not be eligible for any further contracts for a period of two years. To assist in the maintenance of cleaning standards, the department and the Master Cleaners Guild of WA are developing a self-regulation process for contractors to assist in assuring that a quality service is provided.

POLICE SERVICES - BRUNSWICK STATION, FUTURE

741. Hon JOHN HALDEN to the Attorney General representing the Minister for Police:

- (1) Can the Minister confirm that the Brunswick Police Station will be downgraded?
- (2) If yes, does this downgrade mean that there will be no permanent police presence in Brunswick Junction?
- (3) If yes, what police services will still be available at the Brunswick Police Station?

Hon PETER FOSS replied:

- (1)-(3) I thank the member for some notice of this question. The new Australind Police Station is nearing completion and when fully operational Brunswick will fall into the Australind subdistrict. A proposal to provide a police service to Brunswick from Australind is being considered, but no final decision has been made. Discussions on this issue are scheduled to take place in the near future with the responsible regional officer. The coalition policy in respect of the closure of police stations is quite clear. Unless an alternative arrangement that is acceptable to the community is found, the police station will not be closed. Before any final decisions are made in respect of Brunswick, the matter will need to be put to the local community and at that time local community requirements will be taken into account.

HOSPITALS - BUNBURY NEW PUBLIC

Services

742. Hon DOUG WENN to the Attorney General representing the Minister for Health:

- (1) Can the Minister provide the House with a definitive list of the services that will be provided to public patients at the planned new public hospital in Bunbury?
- (2) Of these services, which will be publicly owned?

Hon PETER FOSS replied:

I thank the member for some notice of this question.

- (1) Emergency Department
Intensive/Coronary Care Unit
Obstetric Unit and Level 2 Nursery
Designated Day Surgical/Procedure Area
Surgical/Medical Units
Theatre Suite
Restorative Unit (10 beds)
Oncology Service (outpatients)
Psychiatric unit (inpatients)
Psychiatric Day Centre
Renal Services (outpatients)
Palliative Care (inpatients)
Mortuary
Outpatients clinics conducted by visiting specialists
- (2) Emergency Department
Intensive/Coronary Care Unit
Obstetric Unit and Level 2 Nursery
Designated Day Surgical/Procedure Area
Surgical/Medical Units
Theatre Suite
Restorative Unit (10 beds)
Psychiatric Unit (inpatients 15 beds)
Psychiatric Day Centre
Mortuary
Outpatients clinics conducted by visiting specialists.