Legislative Assembly

Wednesday, 13 November 1991

THE SPEAKER (Mr Michael Barnett) took the Chair at 11.00 am, and read prayers.

PETITION - NORTH FREMANTLE AND FREMANTLE HARBOUR

Caltex Oil Extensions, Port Options Study, Stirling Highway Expansion, Swan Portland Cement - Opposition and Assessments

MR C.J. BARNETT (Cottesloe) [11.07 am]: I have a petition couched in the following terms -

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned citizens of Western Australia respectfully request that the State Government

1 Refuse the Caltex oil extensions in North Fremantle and provide a detailed study of the proper placement for oil storage and distribution for the Perth Metropolitan area.

2 Commission part Two of the Port Options Study as requested by Part One, with full public participation in evaluation of alternatives.

3 Oppose the expansion of Stirling Highway in North Fremantle to six lanes and oppose the one way split.

4 Require a formal environmental assessment of all stages of the proposed Swan Portland Cement cement terminal at Rous Head, North Quay, Fremantle Harbour.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 5 253 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 139.]

BILLS (7) - INTRODUCTION AND FIRST READING

1. Land Tax Relief Bill
2. Western Australian Treasury Corporation Amendment Bill

Bills introduced, on motions by Dr Lawrence (Treasurer), and read a first time.

3. State Government Insurance Commission Amendment Bill
4. State Government Insurance Office Bill
5. Acts Amendment (Government Insurance) Bill

Bills introduced, on motions by Dr Gallop (Minister for Microeconomic Reform), and read a first time.

6. West Australian (Foreign Ownership Register) Bill

Bill introduced, on motion by Mr House, and read a first time.

7. Equal Opportunity Amendment Bill

Bill introduced, on motion by Mr D.L. Smith (Minister for Justice), and read a first time.

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (NMRB) BILL

Second Reading

Debate resumed from 5 November.

MR MacKINNON (Jandakot - Leader of the Opposition) [11.19 am]: This Bill is designed to facilitate an agreement reached on 2 April 1990 for the ANZ Banking Group Ltd and the National Mutual Royal Bank Ltd to merge. It was a takeover by the ANZ of the NMRB. That agreement was effectively approved by the Federal Treasurer, and subsequently by the Reserve Bank, but with the proviso that the licence of the NMRB must be surrendered on 15 November this year. The fact that we are dealing with this Bill only two days ahead of the need for its passage through the Parliament is an indication of the inability of this Government to address even the most simple legislation. The merger could have been achieved without legislation but extensive paperwork would have been required to cover all the changed arrangements for individual depositors, liabilities and the like. The alternative was an all-encompassing Bill to be passed in each State and Territory where the bank operates. It operates in Western Australia at one location. That would enable the transfer to occur under the umbrella of the legislation and agreement to be reached between the bank and the States about the amount of stamp duty that would have been paid had the legislation not been passed. Similar legislation has been presented and approved in other States and Territories. The Opposition sees it as being a sensible way to overcome this problem. This legislation highlights, as my colleague the member for Geraldton said the other day, the sort of paper work necessary were a small business in this sort of circumstance. It would not have the luxury of a Bill to overcome the necessary and bureaucratic transactions required in such circumstances. It highlights the need for the regulations involved to be reviewed and streamlined to facilitate business activity. The Opposition supports this Bill to facilitate the merger in line with the agreement arrived at between the parties on 2 April 1990.

MR DONOVAN (Morley) [11.22 am]: I do not intend to oppose this Bill although I am tempted to do so. However, that would be grossly unfair without giving the Government notice of that intent. I will draw members' attention to some of the features of the Bill, and more particularly the explanations for it contained in the Treasurer's second reading speech. First, I would need to be a corporate lawyer to understand most of this Bill, so I will not even pretend to understand it. That is why I will address my main comments to the Treasurer's second reading speech. I understand the difficulties a bank may have in the corporate world of takeovers. I also understand, and am much more sympathetic to, the difficulties that may be faced by depositors in such a situation, particularly depositors with banks.

The SPEAKER: Order! It may just be that the conversations occurring in the Chamber are immediately adjacent to me, but in any event they are far too loud.

Mr DONOVAN: I am sensitive to the interests of depositors and other interest groups, particularly those associated with the National Mutual group, which is being taken over. I understand that the bank involved must implement its takeover by 15 November. I have no problem with that. I do have a problem with the fact that one of the criticisms often made of Labor Governments in this country - one of the saddest criticisms I believe - is that they appear to their traditional support base to be more concerned about legislating for corporate interests than with addressing themselves to the needs of their grass roots people. This Bill highlights that problem. It will probably go through this place without any public debate; in fact, I am sure it will.

Mr Cowan: What do you think we are doing now?

Mr DONOVAN: I said "public debate". As a result, the traditional supporters, if you like, of Labor Governments will never know that this has happened. It is a bit over the top that the parties involved in the corporate world of takeovers find it necessary, in order to clean up their housekeeping, to call upon State Parliaments to do their work for them. I find it more than a little offensive that the bank should take the view, and presumably the Government agrees with it, that, and I quote from the Treasurer's second reading speech -

> The merger could be effected without legislation by means of separate transactions between the banks and their customers. However, this would involve, for example, authorities from each customer to transfer accounts from one bank to the other and fresh security options for some customers' mortgages.

I find two things about that statement offensive: First, that the customers are clearly not being considered at all. I do not know how many Western Australian customers that entails. It may only be a handful, and I realise that this relates to a national situation. An assumption is being made that customers will be quite happy to transfer and do not need to be consulted about that. To say of those customers that to obtain signatures would be extremely onerous and the procedure would also be tedious for the customers is in my view paternalistic in the extreme. This is not the appropriate way for a corporate citizen to approach its responsibilities to its customers. I do not believe a State Government, or a State Parliament, should be seen to be supporting this approach to business. The second thing I find offensive is that rather than do that work, which would have to be done by a small business - another company would have to do this itself in the usual way however onerous that may be -

Mr Bloffwitch: It is sometimes very onerous.

Mr DONOVAN: Exactly. However, a bank can come into places like this, here and in Victoria, and say, "We have a problem. We have implemented this takeover and need to coordinate the links nationally to effect it. We need to take care of the housekeeping work to be done. It is a bit onerous for us. We would like you to do it." That is an offensive way for a corporate citizen to utilise - or, if you like exploit - the legislative processes available in this country. I can assure you, Mr Speaker, that its customers do not have the same facility. I am certainly sympathetic to the arguments that we have heard lately supporting microeconomic reform and restructuring leading to efficiencies in the private sector as much as in the public sector. I can understand the Treasurer's concern about promoting efficiency and streamlining regulatory systems for Australian business thereby saving considerable time, administration costs, etc. However, I emphasis again that whilst that is an objective to be pursued in the private sector, as it is being pursued in the public sector, it is an absolutely inappropriate course to take to meet an obligation; that is, to come to the Parliaments of this country saying, "Would you do this for us because we do not have the time?" That is simply not on!

It is that approach to business in this country that has disillusioned so many of the traditional supporters of the Labor movement with Labor Governments. I want these views on the record. I also want them to be heard. I know they are shared by a large number of people in the work force. I will not oppose the Bill as that would be quite unreasonable without giving decent notice to the Government of my intention to do so. However, I bring to the attention of this House for its serious consideration the fact that this is not the way to approach responsible corporate citizenship in this country. This Bill involves a facility which will be made available to banks but which is not available to any other citizen or most small businesses. I ask members to bear that in mind when and if future legislation of this kind is considered in this place.

MR COWAN (Merredin - Leader of the National Party) [11.30 am]: I listened with some interest to the comments made by the member for Morley about the Australia and New Zealand Banking Group Limited (NMRB) Bill because I believe, contrary to the point of view he expressed, that the more often the Government can facilitate matters such as this and make it easier for the bodies concerned, the more appropriate that would be, because then at long last the Government would at least be living up to its promise to fast track those operations which it can assist. The member for Morley made the point that there is no doubt that a large banking operation such as the ANZ Banking Group Ltd has a degree of clout and muscle which it can exercise if it wants to. He expressed some reservations about whether the Government is reacting because of the exercise of the muscle that the bank might have or whether it is exercising its responsibilities because that is just plain commonsense. That is a matter for judgment. It is my judgment that the Government is exercising commonsense in approaching the matter in this way. There is no doubt that this legislation will give the ANZ Bank a privilege which is not normally granted to individuals within the community. However, I do not think we can compare what banks are required to do under the rules that are set by the Reserve Bank with what individuals may be required to do in relation to business they may transact in the purchase of property or other assets, and matters of that nature.

I turn now to the question of stamp duty. The Treasurer made it clear in the second reading speech that there would be a payment to the State in lieu of stamp duty. I do not have any objection to that, but some accountability must be associated with that payment. I would like

to know precisely what that payment will be. It must be recorded somewhere. It is not recorded in the legislation. Will it be recorded in the Appropriations as part of revenue?

Dr Lawrence: Yes. I can undertake to give you the details.

Mr COWAN: I thank the Treasurer for being prepared to give me the details.

Dr Lawrence: I mean the Parliament.

Mr COWAN: That is even better, because it would not be adequate if this information were buried in the Appropriation documents next year as part of revenue from stamp duty. It must be made clear what will be the payment by the ANZ Bank in lieu of stamp duty.

Dr Lawrence: We are not giving the ANZ Bank any variation in the rate of stamp duty that is payable. It is basically what it would have paid had we not brought in this legislation.

Mr COWAN: I am becoming even more encouraged, because that is the point that must be made.

Dr Lawrence: The company has agreed that it should be liable for stamp duty, and it will pay that stamp duty at the rate that it would have been liable for had this legislation not been introduced.

Mr COWAN: I want to ensure that, because the Government, by this legislation, will release the bank from its obligation to pay stamp duty, there will be no reduction in the rate of stamp duty payable by the ANZ Bank to the State. I was looking for some confirmation of that fact so that that information could be on public record and available for examination by anyone who wished to do so. I am satisfied that that assurance has been given.

It is an invariable practice of this Parliament that legislation is brought into this place within the last two weeks of a session. This Government is turning that practice into an art form. The Notice Paper indicates that we are still receiving new legislation when we already have a somewhat untidy Notice Paper, and it is not appropriate for this place to have the addition of that new legislation, most of which, one would expect, would have to be dealt with in a rush. While the National Party supports the desire of the Government to facilitate the transfer of the National Mutual Royal Savings Bank Ltd and its assets to the ANZ Bank, and while we support the way in which the Government has facilitated that transfer, having received the assurance that the Government will collect for the State a payment that would be the equivalent of stamp duty, which gives us some satisfaction, we will never be satisfied with or give our full approval to Government action that brings into this place legislation of this nature at such short notice and then expects us to give it a stamp of approval. That process becomes very much a rubber stamp and is one that this place should attempt to avoid as much as it possibly can.

DR ALEXANDER (Perth) [11.36 am]: I want to add a few brief comments to the Australia and New Zealand Banking Group Limited (NMRB) Bill to follow up some points made by the member for Morley. I do not oppose this Bill, but we must be careful when we are dealing with banks. Banks, after all, are among the most powerful financial institutions in the country, and various inquiries undertaken and observations made recently suggest that customers are on the receiving end of fairly rough treatment. Members of the National Party continually bring to our attention - quite validly - the fact that farmers are among the customers who have seen huge increases in interest rates. While that is not necessarily relevant to this Bill, what is relevant is the way in which banks take their customers for granted and often seem to push them around. I ask whether this merger will be in any sense beneficial to Western Australians. The head office of the ANZ Bank is located in Melbourne. I suspect that this merger will, like many before it, continue to see the centralisation of banking operations in Melbourne at the expense of regional branches in Perth and, no doubt, in many country centres. This process of centralisation is not new. It has been going on for many years. However, legislation of this sort may inadvertently - and I am sure almost will - encourage the further centralisation of banking operations outside Western Australia.

These questions are not central to the Bill, but they are, no doubt, by-products of legislation of this sort which puts a legal stamp from the Western Australian Parliament on a merger which has been initiated in the private sector. The Parliament should take account of that, rather than simply say, "Well, it is appropriate for the Parliament to put its rubber stamp on a

banking operation". As the member for Morley suggested, the customers of the ANZ Banking Group Ltd have not been asked about this proposed arrangement, and I would be very surprised if the customers did not want to ask questions before the Parliament simply rubber stamped this arrangement and thereby bypassed the bank's having normal recourse to its customers. I am a customer of the National Australia Bank Ltd, and I know how difficult it is sometimes to get reasonable answers from a bank which has its headquarters elsewhere. None of the banks in Western Australia, apart from the R & I Bank Ltd, has its headquarters in Western Australia. While the ANZ Bank may be an efficient banking operation, it often forgets the interests of its customers in its push to efficiency. What is efficient from an operational point of view may not necessarily be in the interests of providing good customer service. The Parliament has a duty to scrutinise this sort of corporate activity to a greater extent than it does when it simply accepts legislation which is for the convenience of the bank but is not necessarily in the best interests of its customers.

DR LAWRENCE (Glendalough - Treasurer) [11.40 am]: I thank members of the formal Opposition for their support of this Bill, and I take note of the comments of the Leader of the Opposition. I find the comments by the member for Morley and the member for Perth a little difficult to follow because they are actually the antithesis of what is provided for in this Bill. Had we not, as a Parliament, agreed to undertake this -

Mr Kierath: I take it the Treasurer does not thank the informal Opposition?

Dr LAWRENCE: Whatever the member likes. Part of this exercise was undertaken precisely to assist the people we represent and will continue to represent; people who are not necessarily sophisticated about banking and finance matters who want to maintain control of their accounts. Those are the people who might well have been lost track of in a more clumsy procedure. Those are the people who might not have responded to letters from the bank. Their accounts may have fallen into disarray, and it is precisely to assist them that this legislation is brought forward. The bank must still pay the appropriate stamp duty. This action is being taken to assist the staff who are not fat cats and the customers who deserve our consideration. I do not find the remarks of those members pertinent to the Bill. This Bill has been put together after very careful consideration. It has many precedents and, as the Leader of the National Party said, there may be other occasions when this Parliament can facilitate improvements in business practices and things of that kind in the interests of the shareholders and the depositors of these two organisations.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Dr Alexander) in the Chair; Dr Lawrence (Treasurer) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Commencement -

Mr COWAN: I know that this legislation is going forward with considerable haste and speed, but can the Treasurer give an indication of the date on which this Bill is most likely to come into effect?

Dr LAWRENCE: I think it has already been indicated that the date is 15 November.

Mr Cowan: It has not been indicated to me.

Dr LAWRENCE: I apologise for that, but it is indicated in the second reading speech. As members will know, I was away for one of the sitting weeks in which I had hoped to introduce this Bill. That was four weeks ago. That is the reason for the delay, not any dilatoriness in the preparation of the Bill. The date hoped for is 15 November, and that is why we are very keen to progress this Bill through the Chamber. I appreciate the member's concern but these were matters beyond my control.

Clause put and passed.

Clause 3: Definitions -

Mr COWAN: A list of excluded assets has been included under the definitions, and they are

quite extensive. Can the Treasurer elaborate on why some of these investments and assets have been excluded from the actual transfer of assets directly through this legislation? Will normal stamp duty be paid when those excluded assets are transferred?

Dr Lawrence: Because they have not been transferred to the ANZ.

Mr COWAN: They are kept within the NMRB?

Dr Lawrence: Or some body which emerges from that. That is my understanding.

Mr COWAN: There will be no transfer at a later stage?

Dr LAWRENCE: I cannot confirm that 100 per cent, but that is my understanding, from the briefing I had. The excluded assets are primarily real estate, shareholdings in subsidiaries, and other holdings of shares in non-banking assets. Obviously the banking business was transferred, but that was not part of the sale.

Clause put and passed.

Clauses 4 to 30 put and passed.

Schedule put and passed.

Preamble put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Dr Lawrence (Treasurer), and transmitted to the Council.

RETIREMENT VILLAGES BILL

Second Reading

Debate resumed from 7 November.

MR NICHOLLS (Mandurah) [11.50 am]: This legislation has taken quite some time to come before the House, and when I speak with individuals or groups in the community it is interesting to note the perception that has been created, either purposely or possibly indirectly, by statements in the Press from both Government representatives and, I believe, the Minister for Consumer Affairs in the past. However, legislation is very important to the establishment of a strong and vibrant retirement village industry in Western Australia. Housing for the aged, whether it be retirement villages, hostels or nursing homes, is a major concern to me and I believe to many Western Australians, and indeed Australians, considering the ageing population of our nation.

I want to inform the House of some projections as to the number of aged people who will be living in our State in future and for whom our State will be catering. During the Minister's second reading speech she said that currently 225 000 Western Australians, or 13.5 per cent of the State's population, are over the age of 60. I believe that figure is correct. However, the Minister went on to say that within 40 years that figure will rise to some 23 per cent, and that in less than 80 years the number of people over 60 will more than double. While I do not dispute those figures I believe we will see a doubling of the 1991 base figure of 225 000 in 20 years, not 80 years. In fact, and again this corresponds with the Minister's statement, in 40 years' time some 768 000 people over the age of 60 will live in Western Australia.

I definitely have no conflict with the concept of trying to help senior citizens stay in their own homes longer and trying to provide services to allow them to make that choice of their own free will, thereby trying not only to reduce the financial impact, on both the State and Federal Governments, but also to allow them to maintain the lifestyle they would prefer. However, in trying to pursue this objective we might provide, and in some cases create, an unreal expectation of the lifestyle that people can attain while staying in their own homes, particularly if they are aged and single and rely on services to be delivered by both Government and non-Government organisations. Because of that unreal expectation, in

many cases people who are around 60 years of age have not considered moving to a retirement village as a retirement accommodation option. I believe a great majority of Western Australians will start to pursue this type of accommodation in the coming decade and the decades beyond, so we must have in place good legislation which not only provides guidelines but also allows the industry to prosper. We do not need over-regulation which constrains or impinges on the industry and thus provides nothing more than a barrier to retirement housing development.

I want also to inform the House of the projections for people aged over 80 years, because the provision of retirement village accommodation is necessary not only for people who have just retired but also for people throughout their retirement years, which can average between 20 and 35 years. That is something most people in our community, particularly younger people, do not appreciate and probably have not even thought about. That figure represents about 30 per cent of a person's life which perhaps would be spent in a retirement village or other aged care or aged accommodation facility. Therefore, we must ensure not only that people have security of tenure and peace of mind, but also that the industry is vibrant and responsible and that we do not end up with an ongoing set of conflicts which cause people needless misery.

In 1991 there are approximately 11 500 people in Western Australia aged 80 years or over. In 20 years' time, in 2011, it is projected that that number will be 26 300, and in 2031 the projected figure is 59 500. I introduce these figures into the debate to try to give members some appreciation of the magnitude of the percentage of people who will be seeking this type of accommodation. I am aware that in the Rockingham electorate, Mr Speaker, some people are adamant that aged accommodation facilities should be provided - not only retirement villages but also facilities such as hostels and nursing homes. People should have the opportunity to be housed in an aged care facility without having to leave the area they know and break contact with family and the network of friends they have built up over the years. That is a very important factor in ensuring that a person's lifestyle is enhanced rather than being demolished upon retirement. Very often we hear the story of the bush character who has lived in the bush all his life and who, because his family believes he is in need of care, comes to live in the city. A number of songs, and probably some poems as well, have been written about this. The moral of the story is that it is like uprooting a tree and trying to transplant it on a sand dune. It is very important that we all appreciate not only what we are trying to achieve by this legislation, but also the impact we could have on the retirement village industry in the future.

I have some more figures on the growth in the ageing population. In respect of gender, I am led to believe that women over the age of 60 outnumber men, and that this is not an unusual trend. The statistics I have, which I believe were taken from the 1986 census, indicate that there are approximately 101 000 women and 80 000 men over 60 years. We should appreciate that while many people in society proffer the view that there is no difference between genders and that we are all equal, many females in society, as they get older, definitely start to feel somewhat insecure if they do not have friends or some contact with other people. Therefore, a great number of widows living in accommodation alone - that is, in their own homes - will be attracted to retirement village-style accommodation, not only because of the lifestyle but also because of a perceived increase in security that that type of accommodation can provide. As we start to analyse the growth in aged population we also must analyse the role that the Government should play via this type of legislation.

[Leave granted for speech to be continued.]

Debate thus adjourned.

[Continued on p 6675.]

MINES REGULATION AMENDMENT BILL

Second Reading

MR COURT (Nedlands) [12.02 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to amend the Mines Regulation Act 1946 to enable underground mines to introduce continuous operations without the need to seek special exemptions which can be granted under the existing legislation.

When the Mines Regulation Act was first debated in this House back in 1946 it included limits on working hours and prohibited Sunday work, with exemptions being possible for certain continuous process operations. The legislation then recognised that certain duties would also have to be performed on a Sunday. Mining conditions at the time were greatly different from today, with horses still being used in some mines and the work being physically very demanding for all concerned. Today, continuous mining operations are the norm throughout the rest of Australia, and in Western Australia many new operations have been established in recent years with the current Government's granting exemptions to allow continuous mining to occur. These operations simply would not have been viable if the exemptions were not granted. The physical conditions have changed dramatically in underground mines. Ventilation systems are vastly improved, equipment is quieter and diesel powered machinery handles the bulk of the physical work. Underground mines now have a high level of capital equipment and it is most economical to have them operating seven days a week.

The Premier has given her undertaking to the mining industry that her Government will introduce these changes to the law and the Minister for Mines has publicly expressed his support for the changes. The Government, however, appears paralysed in relation to introducing the changes itself because of internal political problems and, in particular, the activities of the hierarchy of the Australian Workers Union who were able to have a motion passed at the recent Australian Labor Party State Conference giving it the final say in approving changes to this legislation.

There is a growing desire by members of the mining work force to be able to negotiate more flexibility in their work conditions, including hours, and days of work, which will be possible under these amendments. The present fiascos surrounding the changes to work practices at the Kambalda underground mines would be unnecessary if both the Government and the AWU hierarchy showed some commonsense in this matter. It is most disturbing that internal Labor Party politicking is costing 150 Western Mining Corporation workers their jobs. It is time the Government and the AWU hierarchy entered the real world of the depression they have created and, instead of flexing their industrial muscles in this climate, faced the reality of 11.6 per cent unemployment in Western Australia.

During the long running negotiations for the changes in work practices the Government has allowed political allegiances with the AWU officials to interfere with making some commonsense decisions to provide job security for the work force at Kambalda. The Government has taken sides on award negotiations when it should be concentrating only on changes to the mines regulations. This legislation makes it possible for changes in the work practices which are agreed to by the great majority of the work force in the mining industry to be implemented. I commend the Bill to the House.

Debate adjourned, on motion by Mr Bridge (Minister for Agriculture).

LOCAL GOVERNMENT AMENDMENT BILL

Second Reading

MR WIESE (Wagin) [12.08 pm]: I move -

That the Bill be now read a second time.

It is unfortunate that the necessity to move an amendment to the Local Government Act arises at a time when a new Local Government Act is in the final stages of being drafted and will be presented to the Parliament in the autumn session next year. However, the fact is that at least 57 councils in this State are under threat of compulsory ward boundary changes by the Minister if they do not accede to his decree that they shall make ward boundary changes in line with his politically driven wishes. Some of the councils have already bowed to ministerial pressure and threats. Some have implemented ward boundary changes which were not wanted by the council or the affected ratepayers, because they were unwilling to allow the Minister to impose his own boundary changes. Other councils have been made to increase the number of councillors at the Minister's insistence, despite the fact that both the Minister and the council acknowledge there are already sufficient councillors representing the electors in that local government authority. That imposes significant extra cost on both council and ratepayers, wholly and solely to satisfy the Minister's political agenda. Other

councils again have completely abandoned ward boundaries in order to meet the Minister's edict. The result will be a great loss of contact between the ratepayers and electors and the councillors of the local government authority. Individual councillors will no longer be responsible to a particular area and a particular group of electors and ratepayers, and, in my opinion, will lose a great deal of accountability. The balance of the 57 councils are currently negotiating with the Minister or steadfastly refusing to accede to his wishes. All this is happening while the new Local Government Act - which is largely directed towards giving local government greater autonomy and more power to make its own decisions without the need for ministerial intervention and direction - is being finalised.

When the Minister first announced his intention to impose his party's political agenda regarding ward boundaries onto local government authorities, most authorities made proposals which endeavoured to meet the Minister's request while still taking account of factors such as distance, length of roads and the value of rates in each ward. In most cases the Minister rejected these council proposals and proceeded to impose his will. Councils sought assistance and advice as to how they could counter the Minister's attempt to impose his will, only to find that ultimately the Minister had total power under the current Local Government Act to do whatever he wished with ward boundaries. In the face of this fact many councils approached their political representatives for assistance, only to find that they also were unable to persuade the Minister to alter his approach. As a result, despite the fact that the new local government Act is nearing competition and local councils will soon have more autonomy to decide their own destiny, the National Party now seeks to amend the current Local Government Act in an attempt to constrain the Minister's powers to change ward boundaries and the number of counsellors on local government authorities against their will and against the will of the electors and ratepayers of the council. An examination of the Local Government Act reveals that section 12(4A) makes an order, made under subsections (3)(a) and (4)(d), a regulation subject to section 42 of the Interpretation Act; therefore, this regulation is required to be laid before Parliament and subject to disallowance. This Bill seeks to expand that provision and makes orders in relation to ward boundaries subject to tabling and disallowance in the Parliament.

Clause 4 of this Bill makes an order made pursuant to sections 10(3) or 10(6) or the Local Government Act a regulation subject to section 42 of the Interpretation Act. Clause 5 proposes to repeal section 12(4A) of the Local Government Act, and replace it with an expanded new subsection 4A which adds orders made under subsections (1) and (3a) to orders made under subsections (3)(a) and (4)(d), which are already deemed to be regulations and are subject to section 42 of the Interpretation Act. Clause 6 proposes to amend section 18 of the Local Government Act by inserting a new subsection (3A), which makes an order, pursuant to subsections (1) or (3), a regulation subject to section 42 of the Interpretation Act.

The result of these amendments will be that any order made by the Minister in relation to changes to ward boundaries must be tabled in both Houses of Parliament, and will be subject to the scrutiny of members of Parliament. If it is found that the ward boundary changes are being imposed by the Minister against the wishes of the council, or against the wishes of the electors and ratepayers of the ward or the council, it will be possible for a member of Parliament to move for disallowance of that order. If either House of Parliament supports that motion, the order will be negated and the Minister's imposition of an unwanted and unsolicited ward boundary change will be overridden by the Parliament. However, if the ward boundary change was implemented with the full approval of the council, or if the boundary change implemented by the Minister is such that it is approved by members of Parliament, it will pass through Parliament unchanged.

This is a simple Bill which attempts to restore some commonsense and balance into the current debate over ward boundaries. It constrains the absolute power of the Minister to totally override local government authorities and to impose unwanted, unjustified and unfair ward boundary changes upon a council and its electors and ratepayers against their will. This Bill will restore a degree of autonomy to local government authorities, and by so doing will achieve one of the major aims of this Government, and one of the goals sought by local government for a long time. I commend the Bill to the House.

Debate adjourned, on motion by Mr Pearce (Leader of the House).

MOTION - SELECT COMMITTEE INTO FARMING ENTERPRISES AND RURAL SMALL BUSINESS

Appointment

Debate resumed from 29 May.

MR MINSON (Greenough - Deputy Leader of the Opposition) [12.16 pm]: I formally second the motion. In doing so I add my support to the member for Warren's motion for the establishment of a Select Committee to inquire into the costs faced by agricultural enterprises and rural small businesses. The motion, and the proposed Select Committee's terms of reference, appear on page 13 of today's Notice Paper; therefore, I shall not read out the motion.

I gathered in my time in farming that the price one receives for one's product is not necessarily the problem; rather, it is a matter of how much money is left over once all expenses are paid. Anyone who has run any kind of business or a household quickly realises that the important matter is not the income, but the cost of running that business or household - the important figure is the amount of income left over after the relevant expenses are paid.

Some farmers have directly imported machinery, such as self-propelled harvesters. These are large, prime cost items, and through direct import farmers have been known to save $30 000 or $40 000 on their purchase. In most cases these farmers have had to forego warranties on these machinery items, but they have made huge savings. A number of examples have been pointed out to me of late, although these have not always been from first hand sources - some examples have been second or third hand information. However, these indicate the difference in price between what Australian and overseas farmers and businessmen pay for operational items.

Sprays are another good example: The chemical Glean is used by many Western Australian farmers throughout the wheatbelt, and the price paid for this product overseas can be as low as $US160 a bottle. However, farmers in Australia have paid $560 for this product, which is approximately $US500. Therefore, a huge price range is evident. That is not a one-off situation as other items are $US200 or $US250 cheaper overseas compared with the Australian price. There are quite large cost variations in that spray alone. I have found variations in the price of fertiliser which are inexplicable. If the variations cannot be explained, they should at least be investigated so we can satisfy ourselves that Australian, and particularly Western Australian, farmers are paying a fair price for this commodity. I investigated one compound fertiliser which in Australia costs around $US320, and I found an identical product in Indonesia - admittedly not made by the same manufacturer - which could be sold to us f.o.b. in Indonesia for $US160.

I have already mentioned machinery prices and I understand that parts prices follow a similar price curve to machinery. Fuel costs are much lower around the world than they are in Australia, and when an industry is in trouble, as is the rural industry, and people have to face the enormous costs of living in country Western Australia, we must have a good close look at fuel costs. Farmers in the United States are paying about 15¢ a litre for fuel, and we are paying over twice that. Of course, when road taxes are added to the cost of fuel for the vehicles that we use on roads, the cost is much higher; some country areas pay up to 80¢ a litre for fuel.

Taxation rates can be regarded as a farm input because we all pay them. We must look at the impact of taxation rates, and reopen the debate on taxation zones in Australia. It is interesting that this country has acknowledged for many years that the costs of living north of the 26th parallel are much higher than those costs faced by the metropolitan and south west communities. Time has altered that, and my experience of travelling through the north west, and particularly in mining towns, indicates that costs in some of the those towns, particularly where the mining companies have a lot to do with those costs, are substantially lower than they would be in a supermarket 200 kilometres from Perth. Perhaps we should look at having taxation zones in Australia that are much closer to the metropolitan area than they are now.

I can go on with the list. Interest rates should be looked at as they apply to agriculture, and the methods of operation of some finance institutions, particularly finance companies, should

be looked at in the light that the commodity which they sell - money - is perhaps inappropriately priced when it is viewed as an input to agriculture.

I understand the Minister is concerned with the cost of the proposed committee. That will not be a problem. The committee will not have to travel outside Australia. Certainly if we had the time and an unlimited budget it would be nice to go on a tourist jaunt, but that is not necessary. By using the telephones and fax machines already available to us, and if the Minister for Agriculture were to make available the services of one of his research officers - and I know he has a number of good researchers available to him in the Department of Agriculture - we could gather all the information from overseas that we required in a very short space of time and with a very small capital outlay. Meeting facilities are available both in Parliament House and in the Legislative Assembly annexe. Members of Parliament have cars and the fuel to run them is financed through their electorate allowances. The only cost would be for accommodation as we briefly travel through the rural area of Western Australia. I am looking particularly at the agricultural belt and, to a certain extent, at the pastoral areas. One can get involved in tedious repetition so we need not cover every agricultural and pastoral area. However, by taking a representative cross-section of those areas and going to various wheatbelt and remote area towns we would identify those items that are contributing to the cost of rural business, agriculture, the pastoral industry and the high cost of living in country Western Australia. If the Minister wants to do more research on this matter the Opposition is more than happy to delay taking a vote until later this afternoon.

I have detected a preoccupation in country Western Australia with the prices that farmers receive for their produce. It is not necessarily the price that farmers receive that is the problem, but the cost of growing the product, and the difference between those two amounts. I have detected a preoccupation with trying to belt the United States and the European Community over the head. While I support that to a certain extent, and I agree that we must make our point of view known, I also acknowledge the economic giants we are trying to take on. I have not verified these figures, but I understand that the EC subsidises its agriculture output to the tune of $100 billion, and that Japan contributes $47 billion in aid to its agriculture industry. The United States' export enhancement scheme and other forms of assistance to agriculture contribute something like $45 billion. I do not think for a minute that we can expect to make a sizeable dent in that sort of aid package, particularly when we take into account the percentage of the gross national product of those countries that aid represents. Members would realise that we would not strike a sympathetic cord when we went overseas to try to make a noise about this subject. Please do not misunderstand: I am not saying that we should not go overseas and make a noise and make our point of view known; but we must be realistic in our expectations about the effect we will have when we make that noise. I once saw a film called *Man of La Mancha* in which Don Quixote ran around with a sword trying to fight very large windmills. For Australia to try to take on the economic giants of the world in the area of agricultural subsidies is like Don Quixote taking on those huge windmills with a sword. We will not achieve what we want to achieve.

Mr Pearce: I hate to criticise the member for Greenough, but in fact Don Quixote used to take them on with a lance; hence the term "tilt at windmills".

Mr MINSON: I stand corrected.

Mr Bloffwitch: It has the same effect.

Mr Pearce: One can get done with a lance more easily than with a sword.

Mr MINSON: Whatever the outcome, I do not think Don Quixote did all that well.

Mr Pearce: That is true.

Mr MINSON: No matter what lance we have, we will not do very well in that field of battle. I have heard that Select Committees are an excuse for a tourist jaunt and that they are sometimes put forward with political aims in mind. The motion for the establishment of this Select Committee is put forward with no such intention; we are deadly serious about it. We do not wish to cause political mischief or impose unnecessary cost on the community. The total financial outlay to run the committee would be a few thousand dollars at the most. I do not expect it to run beyond April next year. If the Government and Independent members of this House would be good enough to support the motion, the member for Warren, who will nominate as chairman, would no doubt indicate the date for tabling the committee's report.

In private conversation he has indicated that he does not expect the committee to run beyond April next year. The matter is urgent and we do not have time to waste.

I have heard much talk about input costs in Australian agriculture. Since I have been involved in agriculture - for as long as I can remember, and in a business sense since 1965 - I have heard how much it costs to operate a farm and rural business. It is now time we identified those costs in a logical manner, where those costs vary from what we would expect them to be, and made recommendations to the Parliament. That would be a valuable and useful outcome of the Select Committee. We have heard a great deal about the rural crisis - and indeed it is a crisis - and it is time we tried to quantify it and identify the facts and put emotion and rhetoric to one side. I urge the Minister and Independent members not to reject the motion out of hand, but to see the motion in the genuine way it is offered. Unless those costs are identified and made known to the Parliament we will be falling down on our job. I will be very disappointed if the motion to establish this Select Committee is not supported unanimously. The proposed Select Committee will be inexpensive and will probably be more effective than any other Select Committee established by Parliament this term. Whether the Government has a majority is not important because the motion is not motivated by politics; it is a matter of a Parliament doing its job. I cannot envisage that anyone will bring down a dissenting report because the committee's aim will be to simply identify the facts and report on them to this House. I ask every member to support the motion. If any member intends to vote against it I ask that member to reflect on my comments and the purpose of the motion before taking the rather extraordinary step of voting against it.

MR HOUSE (Stirling) [12.35 pm]: There is no doubt that the agricultural industry is in a state of crisis and that it faces considerable problems because of the imposts placed on it by a series of Government and industry protection decisions. They must be examined so that we can learn more about them if farmers are to survive and succeed in the twentieth century. I will address the individual points in the motion, one by one: State and Federal fuel taxes represent an enormous impost on farmers. Since the Federal Government came to office, fuel prices have increased by approximately 27¢ a litre, which has resulted in a fairly hefty inroad into the farmers' profit margins. Indeed, the State Government fuel tax has also eroded the farmers' terms of trade, not only because of the fuel they use, but also because of costs added to products transported to and from ports or capital cities. Payroll tax is another severe impost on farmers, particularly shearing contractors who must pass that cost on to farmers. I understand that payroll tax represents about 4¢ a sheep for the contractor. Payroll tax also affects many other products used in agriculture which the manufacturers must pass on to farmers.

For a long time farmers have been agitating about transport regulations and, particularly, the permit system which has been under review by the Minister for Transport. The permit system was first introduced when regulations were passed to require many goods to be transported by rail. Subsequently, if one wanted to move goods by road, one had to get a permit for which a charge was levied. To this Government's credit, over the past few years that situation has improved because the number of goods which were required to be moved by rail has decreased. The system has been freed up. However, the permit system tax measure which requires contractors and farmers to obtain permits when they want to move goods has not been freed up; it is just another tax measure. I know that the Minister for Transport has been considering the matter and he has established a committee to examine it. However, it is time the problem was solved. The quarantine and antidumping measures are a specific impost on farmers, particularly for imported food items, and scarifier and other machinery parts. The National Party has on the Notice Paper not only a motion about imports of food, but also two Bills which will help to deal with the problem specifically. If those amendments to the Health Act proposed by the National Party were passed by this Parliament a number of problems with imported foods would be solved. Similarly, the antidumping legislation proposed by the National Party would also have a significant impact on the trade slide and would assist to reduce the number of farmers in the horticultural industry who are going bankrupt.

I do not believe that we can go on importing products into this country on the premise that it will result in cheaper food for Australian consumers. First, that is a fallacy and, secondly, that sort of policy will decimate our own industry and, in decimating our own industry, we leave ourselves at the mercy of importers and of overseas countries. Once we have

decimated our own industry, those overseas countries will be in a position to increase the price of those goods and agriculture cannot be cranked up over night; it is not a stop start industry. One of the reasons that people, particularly politicians, have sought to stabilise the industry with marketing boards and commodity organisations is that the industry is aware that it goes into peaks and troughs; it knows and understands the vagaries of the world market. Through those organisations, it has tried to iron out the humps, and take the pain out of the very bottom of the troughs and the heat out of the top of the peaks. It is a very important principle, but it has been forgotten by many people as they have agitated for this so-called free market. My view is that there is no such thing; it is a lot of nonsense. Currently, the wool industry is being decimated because some idiots decided they wanted a free market. As I said, there is no such thing. Buyers have formed a cartel and got their heads together to decide what they would pay for the product. As a result, woolgrowers are going bankrupt. They cannot grow wool for $3 and less a kilogram in the bank. Those are the prices woolgrowers are getting now. A couple of weeks ago, growers were banking about $2 a kilo. The sooner we get back to a stabilised market and get the industry back on its feet, the better. It is no good talking; we must do something. The people who agitated for a free market should explain to me how it works. The week before last, the Japanese buying company, C. Itoh and Co, moved into the market for two days and forced the price of wool up by 100¢ a kilo. It then went on national radio in Australia and beat its breast about how great was the free market and how the Japanese were always being criticised, but now we should praise them! The company pulled out of the market the very next day and the price fell 150¢ a kilo. As a consequence, a few brokers in metropolitan Perth and other cities around Australia made an absolute killing on the so-called free market. However, not too many growers in Australia made money out of that. A few people had to put their heads together to rescue their mates who were going down the gurgler. If that is an example of a free market, I will campaign at any time for orderly and stabilised market and stabilised industry.

The mover of the motion specifically indicated that we should look at costs and charges imposed by Westrail, the State Energy Commission of Western Australia and the Water Authority. I congratulate the Minister for Fuel and Energy for expanding the K1 tariff from nine units to 20. That is positive and showed a lot of initiative. However, that could have been done as a consequence of the National Party's moving in another place to disallow regulations relating to all charges by SECWA. That would have meant that the Government's income from SECWA would dry up to nothing. I hope that did not affect the decision, but at least we now have a far more realistic figure. I wish that he had made the decision about this change effective immediately and not left it until March next year. That would have assisted agricultural and farming families and people who live in small towns a lot more quickly.

The up-front charge that SECWA applies to new businesses includes the payment of a bond equivalent to a figure SECWA estimates the first three months' charges will be. That is a severe impost on small business and one that it cannot afford at the moment. At a time when the Government is doing everything it can to encourage small business to get started in rural Western Australia, we could certainly do without that charge. The Government should examine closely whether it will instruct SECWA not to continue with that charge.

Mr Wiese: Most of them have to borrow the money to pay it.

Mr HOUSE: Yes, and they have to borrow the money to establish their businesses; therefore, it is an increased cost. Similarly, Water Authority cost increases for small business have been horrific over the last couple of years. The Premier gave an undertaking to the people of Western Australia that water charges would not increase by more than the rate of inflation. That undertaking did not apply to small business or to big business. It has been a very severe problem for small business. A shopkeeper from Kinninup in my electorate showed me accounts a few weeks ago which indicate that he has had to absorb increases of very close to 100 per cent in the last two years. Small business cannot afford that sort of impost.

Inspection charges for agricultural commodities also impact very severely on farmers and producers. We must look at this area closely so that they can be reduced to a minimum. I am not suggesting that we should do away with inspections. That is an important selling point of Australian agriculture. Through those we can demonstrate very clearly that we grow

products that are free of many of the herbicides and pesticides that are used in other countries and that our methods are very hygienic. That is a plus for Australian agricultural products and we should not do away with inspections. However, we should ensure that there is no duplication of Federal and State inspection charges in the meat industry. We need to keep those to a minimum.

The costs of the main agricultural products that we use, including fuel, fertilisers, chemicals, transport, labour and those sorts of things impact very heavily on rural producers. I will give a couple of specific examples to the Parliament of the decline in farmers' terms of trade because it is important that we understand that not only have prices of commodities fallen, but also the cost of inputs has increased dramatically. On 19 August 1991, the Australian Bureau of Agricultural and Resource Economics stated -

> ABARE's Executive Director, Dr Brian Fisher, said that because the increase in prices paid by farmers was a low 0.9 per cent in 1990-91, the fall in terms of trade principally reflected commodity price falls, especially for grains, sugar, sheep and wool. 'The prices received index fell 13.2 per cent in 1990-91 and the terms of trade in 1990-91 was below the historically low level of 1985-86', Dr Fisher noted.

That is a very interesting statement, but it does not tell the whole story: While the figure of 0.9 per cent is correct for this year, last year there was a 6.7 per cent increase and that was the lowest increase in imposts on farmers since 1969-70, 21 years ago. If we calculate that figure over 21 years we will find that the price farmers have had to pay for the products they use to produce their income has increased enormously. The prices paid and the prices received graph which accompanies the document to which I have referred clearly indicates that the prices received have declined dramatically over that 21 year period and the associated costs have increased. The margin within which farmers must work now is so small that most farmers cannot afford to have any fall in their income. One fears greatly for those farmers who are faced with a bad season this year because obviously their income will be reduced. Those members who are or have been involved in agriculture know about the peaks and troughs and, because of that, farmers are able to put a bit of fat away in the good times to ride out the troughs. If we had a drought in this State now there would not be too many farmers who would have any fat stored away. The simple explanation is that the cost of their input is so high and the price received for their product is so low that farmers have not been able to save any money in what I admit have been good seasons. The next time this State has a large scale drought it will be faced with an enormous problem; it is a problem to which I, as a practising farmer, am not looking forward. It is important that we establish not only what are those imposts, but also how they have been arrived at and whether they are fair and reasonable. As members of Parliament, it is important that we know exactly what impact Government charges have on the people we represent and what costs the statutory authorities, such as the Water Authority of Western Australia and the State Energy Commission of Western Australia, will impose on farmers. The Parliament will then be in a position to make a judgment on adjusting those charges. I know there are many charges we cannot adjust because they are imposed by the Federal Government - for example, the Federal fuel tax. However, if we can establish the facts we will be in a position to go to the Federal Government and argue the case on behalf of the people we represent.

MR DONOVAN (Morley) [12.54 pm]: It is an odd situation for a metropolitan member who is locked into an urban setting to be asked by both sides of the House to consider their respective points of view. It is odd, but it is also educative and it is certainly not a situation from which I would be willing to shrink. Members cannot be unimpressed by the comments of the mover of the motion and the Deputy Leader of the Opposition. They have made a genuine attempt to provide a means by which we can better understand the impost problems faced by farmers in our State. As the Deputy Leader of the Opposition put to me behind the Chair, what is left to farmers after they have met those costs is, in the end, the real issue.

I have no doubt that the intent behind the move to establish this Select Committee springs from a real concern about the problems faced on the farm and the expectation from farmers that the Government should be in an informed position to do something about it. My main comment about this motion arises out of the comments of the deputy leader of the National Party and, indeed, of the Deputy Leader of the Opposition; that is, we cannot dissociate these sorts of cost problems from the international economic marketplace in which our farmers are forced to operate and that includes the thorny issue of the foreign policy of the United States

of America. It galls me that at a time when farmers not only in this State, but in the entire country are under immense pressure, falling down on all fronts, they were asked to go quietly on the President of the United States during his planned visit to Australia later this year. His visit has now been cancelled. I wonder when we will stop going cap in hand to the United States on these sorts of issues and develop the national fortitude to tell the Americans that they had better start talking turkey about the conditions under which we let them use our territory for their American bases, given that they are conducting another kind of a war against our farmers.

Mr Blaikie: We need to understand that charity begins at home.

Mr DONOVAN: That is true. Notwithstanding my introductory comments it is difficult for me to support yet another inquiry into matters which are already a matter of record. Disagreement about whether the Government's response to the information on the public record is adequate, is one thing; however, I remain unconvinced of the need to establish yet another Select Committee to conduct another round of inquiries into those matters to furnish what I suspect will be the same set of information, perhaps updated a little. I put to the House that there is a need for action on this matter instead of another inquiry. As I understand the people in the bush - I accept as fair comment the criticism that I do not live there any more - they are not looking for another inquiry. I do not understand the more militant action of the Farmers Action Group as being consistent with a group of people who believe we should have another inquiry. Whether I approve of what that group is doing is beside the point, but I see its actions as telling this Government that it must stop talking about the problems and take some action. Parliament already has the capacity to examine the impact of Government imposts on the wider business community and, more specifically, on the farming sector.

Sitting suspended from 1.00 to 2.00 pm

Mr DONOVAN: The alternative to the committee proposed, with all of its intent, with regard to the costs outlined in the motion, might be for Ministers with responsibilities in those areas to report before the end of this session of the House on the impact on the rural sector of the imposts of their particular departments and authorities. That information for last year is available to those Ministers through their departments. Secondly, each Minister could be asked to act in those areas so that the farmer knows at the start of 1992 - rather than in April when it is proposed that the committee shall report - what reductions in imposts they can expect and, therefore, what they can factor into their own budgets. Thirdly, we perhaps tend, because of the conviction behind the motion, to forget that a rural task force was established which examined many of the specific agricultural issues, as well as the general business issues, that are at the heart of this motion. Some, but by no means all, of the recommendations of that task force were implemented. Therefore, another alternative might be to reactivate the rural task force - perhaps the Minister will address this - and ask it to report to the House by the end of this session and to implement more of those recommendations, as appropriate, before 1 January.

Members will recall also - certainly National Party members will recall - that the Select Committee appointed to inquire into Hardship in the Rural Sector reported to this House in 1984, which is a long time ago. That committee was chaired by the Deputy Premier.

Mr D.L. Smith interjected.

Mr DONOVAN: I understand that the committee had some good members, one of whom might have been the member who interjected. There seems no reason that the recommendations of that committee could not also be updated and, where appropriate, implemented. On the subject of committees that have already operated and reported, I understand that the National Farmers Federation has an agricultural inputs committee which already investigates many of the issues raised by the member for Warren in his motion. Perhaps it might be more appropriate to consider the up to date information from that committee. I know that other committees have inquired into this area, and I have mentioned at least three examples where the recommendations of those committees either have not been implemented or simply have not been updated. In addition, this House could make some input through the Ministers with responsibilities in those areas.

Finally, I refer to the guaranteed minimum price for wheat. Given that this House has

already responded to the problems in the wheatbelt - one must recognise the prompt and assertive response of the Premier when she introduced the minimum guaranteed price for wheat - perhaps a further consideration might be to continue that scheme for the 1992-93 season. I understand as well as a metropolitan member can - there are limitations to that - the objectives the member for Warren is trying to achieve, and many of those objectives arise from the need for information. The motion sets out as a primary objective of the proposed committee the acquisition of information, but much of that information is already available either to the Government directly through Ministers, particularly the Minister for Agriculture, or to this House through the reports of several committees that have already undertaken similar tasks.

I listened to the remarks of the Deputy Leader of the Opposition with some intent before I spoke. He forecast a committee that would travel to the wheatbelt areas for only minimum periods - as short as three days or thereabouts - and said that the rest of the work could be done from Perth. He said that a large part of the information sought in this motion could be gathered nationally and internationally with the assistance of a research officer and the cooperation of the Minister for Agriculture and his department. If that is true, I would have thought it negates to some extent the strength of the motion to establish a committee. A Select Committee of this House is not required to undertake that task; the goodwill of the Government and the principal Minister concerned would enable that task to be carried out.

Mr Minson: Select Committees take both oral and written evidence. I suggest that such a committee is an appropriate vehicle by which to gather evidence and consider it. If I do something alone you only get my point of view, but in a committee, evidence is considered by a number of people. A Select Committee has certain resources available to it which are not available to me as a member of Parliament. You said that we needed action and not words and I agree with you. I do not wish to waste time, so let us get the thing on the road and find out what the costs really are. We cannot take action unless we know what we are trying to take action against.

Mr DONOVAN: I understand the comments made by the Deputy Leader of the Opposition. However, he said in his speech that much of the information he was seeking was objective, so it is not so much a matter of taking evidence as it is of getting objective information about the problem he seeks to address. In addition to the information already provided through committees, and the information this House can reasonably expect Ministers to provide, another option is for a Minister and the Government to get the required information for us. That does not necessarily mean that the only other way to get information is through a Select Committee. I agree that a Select Committee is resourced. I put to the Deputy Leader of the Opposition, and to the House, that the Government, and certainly the Minister for Agriculture, could probably claim greater resources for information gathering and assessment than could a Select Committee of this place.

Mr Minson: I am trying to do the Minister's job for him.

Mr DONOVAN: That is one point of view. Finally, the Deputy Leader of the Opposition quite seriously said to the House that it should not reject this motion out of hand because it is a genuine one. I do not intend, and doubt that anybody else intends, to reject the motion out of hand. Its sincerity is well recognised. The question is whether the job has already been done in part and whether what remains to be done can be done more efficiently and expeditiously using means available to us other than appointing a Select Committee, given the urgency of the situation, the time it would take a Select Committee to complete its inquiries, the facilities available to the Minister and the Government generally that this House can call upon, and the information already provided by previous committees of this House and the other place. I suggest we would serve the rural community better by adopting a more urgent approach to the problem by utilising what is already available to us rather than setting up another committee which it is my hunch would be perceived by the farming community as another diversion and another attempt to simply hive off a difficult problem to a committee. On that basis I will not be supporting the motion to establish that committee.

MR BRIDGE (Kimberley - Minister for Agriculture) [2.14 pm]: I do not take exception to the options put forward in this motion to be considered by the Parliament. The proposition seeks to convey certain concerns to this House and is therefore worthy of serious and genuine consideration by the Parliament. Two things about this motion lead me to believe the

Government is justified in opposing it. First, we are going through a period during which one of the most important things the Government can do for industry is respond speedily when providing support. Invariably financial resources are necessary to do that. The amounts involved are in most cases not substantial. Financial packages are necessary in many areas to sustain the ability of an industry to continue and to support it. I have come to the view progressively in recent months that we must be careful with these sorts of costs. No matter how genuine the member for Warren and the Deputy Leader of the Opposition are in their determination to convince the Government and this Parliament that the appointment of this committee would not involve a large expenditure, I do not think expenditure could be easily contained. I believe that once one moved into this area the need to canvass other areas of the State would turn it into a costly exercise. My opinion is that the funds so allocated would be far better spent picking up other measures which from time to time come to the Government for support and response.

Last evening a delegation of people from the south west approached me. Members of that delegation told me how they were raising funds for a strategy they wished to adopt. The representatives said they wished the Government to supplement those endeavours. I see that as an effective way for the Government to assist people. Limited resources are available, so it is vital that from now on costs are controlled. Costs would be a matter of concern if this committee were appointed. I am far from convinced that its appointment would result in a low cost endeavour. In fact, I believe such a committee would cost a large amount of money. I approach Cabinet on a regular basis to fight for money for agricultural purposes and additional funds for industry. It is a difficult task. Therefore, we must be careful not to commit the Government to additional costs when those funds could be better put into areas suggested by industry as worthy of support. Over the past 12 months or so I have gone to considerable lengths to keep members of this Parliament up to date on measures upon which this Government has embarked related to my portfolio. About a year and a half ago when the Government was required to respond to the economic downturn it set the rural task force in place. That task force was criticised during its early stages but after some time there was a general acknowledgment of its role by all members of this Parliament. The task force has put forward interesting recommendations to Government which in many instances have been responded to. The task force is continuing its work. I believe it is a better forum in which to canvass these sorts of issues than a Select Committee, because problems can be worked through with the industry as a whole. The membership of the task force includes people from the farming sector and small business. Rural representatives are best equipped to comment on issues that impact adversely upon country people.

What we must do - and I am sure the member for Warren will agree - is come up with solutions. In that context, I do not believe that the Government has not given the Opposition that opportunity. I have made a strong commitment, of which members opposite are aware, that my door will be open to the member for Warren and to other members of the Opposition so that they can highlight problems which, in their view, must be resolved. That forum has always been available, at no cost other than the utilisation of the resources within the Department of Agriculture and within my portfolios of Agriculture and Water Resources. The rural task force also provides an opportunity for members to deal with any outstanding problems. The departmental evaluation and assessment that is carried out from time to time also provides a clear opportunity for the industry to highlight areas of concern which the Government should take upon itself by responding to the problems. Many of the matters which could be canvassed by the proposed Select Committee are already in train. A framework is already in place and is capable of dealing with them. Therefore, I am not justified, as Minister for Agriculture, in supporting -

Mr McNee: Your whole Government is not justified.

Mr BRIDGE: That is a matter of opinion. I do not see any justification for me, as Minister for Agriculture, to support the establishment of a Select Committee over and above the framework which is already in place, and which will, no doubt, involve the imposition of costs. I believe that is the position which the industry would reasonably expect. I now want to highlight a few points which will support my view about the activities of the rural task force. Some of the measures that have been initiated by the Government -

Mr McNee: Some of the measures are ineffective, and you know it. Farmers are going broke faster than they have ever gone broke. You are talking nonsense, and you know it.

Mr BRIDGE: Was the $150 a tonne guaranteed minimum price for wheat ineffective?

Mr McNee: We don't need it. We did not ever need it. The price was $150 a tonne when you promised it.

Mr BRIDGE: Is the member saying we should not have promised it?

Mr McNee: No. I am saying that if you think that will solve the problem, that is not the answer.

Mr BRIDGE: Do I take it that if we had not committed that $150 a tonne guaranteed minimum price, the growers would have proceeded with the same degree of confidence?

Mr McNee: Do not talk nonsense. Get down to why they are going broke.

Mr BRIDGE: Let me highlight the importance of that decision. I ask the member to look at the total wheat scene in Australia and to think about how vital that decision will be for wheat growers. The fact is that because of that initiative, growers in Western Australia were prepared to commit themselves to plant a huge wheat crop.

Mr Minson: Will you do it again next year?

Mr BRIDGE: Let us talk about next year.

Mr McNee: Will you?

Mr BRIDGE: I said let us talk.

Mr Minson: Are you against doing it next year?

Mr BRIDGE: No. I said let us talk. If the member thinks he will get me to predict what will be the outcome of next year's considerations -

Mr Clarko: I was listening with interest. I thought you were making a lot of good sense about agriculture. However, it would be useful for the community to know whether you will do the same thing next year.

Mr BRIDGE: The industry would not expect such a decision from me at the moment, and the member knows that.

Are members opposite saying that the abandonment of the proposed 1¢ per tonne levy on grain and fertiliser was not important?

Mr McNee: It is good you mentioned that. You were going to send farmers broke. Why not talk about the proposed National Rail Corporation and the national motor vehicle registration scheme?

Mr BRIDGE: I understood from the industry that that decision was well received.

Mr Blaikie: It was illegally imposed, and you know it. You could not enforce it, and you were forced to abandon it.

Mr BRIDGE: Is the member saying that decision was not important to the industry?

Mr Blaikie: The levy should not have been imposed in the first place. It was a bit like land tax, where the Government imposed it, and then changed the rate and said it was providing benefits to people in respect of land tax!

Mr BRIDGE: It is interesting to hear the comments of members opposite. The dogs that lie on the bank of a riverbed know only too well that the two decisions to which I have referred were regarded by the industry in Western Australia as important decisions, yet here we have two members of the Opposition who ridicule those decisions.

Mr McNee: That is rubbish. The 1¢ per tonne levy was an absolute rort, and you know it.

Mr BRIDGE: Another matter that has been considered by the Government recently is State Energy Commission tariffs.

Mr Clarko: They are the highest in Australia.

Mr BRIDGE: They may be, but irrespective of whether they are, we are talking today about imposts upon Western Australian industry, and I am talking about the decisions that have already been made by the Government. The member for Marmion can say one of two things to me: That the measures we have taken are important, or that they are irrelevant. Which is it?

Mr Clarko: My colleagues think some of them are irrelevant.

Mr McNee: Why have you taken so long to bring in the package that should have been made available in February?

Mr BRIDGE: Let me explain the package. About a month ago, the Rural Adjustment and Finance Corporation package was considered by all State and Commonwealth Ministers for Agriculture. Some time in October - the date escapes me, but I think it was about 12 October - the package was agreed to by each of the Ministers, and the matter went to Federal Cabinet for approval and ratification, which took a further week. That would have taken us to the last week in October. We are now in the second week of November. About a week after that, I took the proposal to our Cabinet and had it approved. That package has now been ratified by the State, and was announced by the State Government about two weeks ago. It is not fair to say that we dragged our feet.

Mr McNee: You know jolly well you did. John Kerin criticised you for doing that, and so too did Simon Crean.

Mr BRIDGE: A number of matters highlighted by the Opposition are worthy of consideration; for example, the deputy leader of the National Party's continued concern about dumping practices in Australia. This must be addressed. We have highlighted this concern to the Commonwealth, and I believe there are grounds for everybody in this Parliament to continue to highlight the deficiencies in that system until such time as the Commonwealth has corrected some of the anomalies. That is a very significant feature of this motion which should be supported, and we will continue to highlight to the Commonwealth Government the very deep concerns Western Australia has about that.

However, if we turn to some of the measures which go directly to the heart of this motion - that is, the imposts which are effectively in place - it is less than fair to say that this State Government has not been doing anything. Within the bounds of our capacity to respond I believe we have done that and therefore it is not justifiable on our part to suddenly put in place another structure which will necessitate cost and additional delay in coming up with the sorts of answers which have been identified by both industry and Government. The Government, through the workings of the Rural Task Force and its own departmental people, is making every endeavour to target, and wherever necessary to quarantine, the likely increases in costs associated with the farming sector in Western Australia. Because of those factors this motion is not worthy of support. Finally, I have no particular disagreement with the sentiments of the motion.

Mr McNee: Then why don't you get on and do it? You know damned well you have done nothing.

Mr BRIDGE: I know the member for Moore is a past shire president and therefore has joined that ilk of people in our society who feel they have all knowledge and all wisdom.

Mr McNee: I do not, but I know your Government has done nothing. You hide behind the Rural Task Force, but how many of its recommendations have you carried out?

Mr BRIDGE: Most of them. I understand the thrust of the motion and I appreciate the genuine attempt by the member for Warren and the Opposition to bring this Select Committee into being. However, in light of the fact that we already have many successful structures in place it would not be appropriate for this Government to support it and as a result the Government will not support the motion.

MR BLAIKIE (Vasse) [2.32 pm]: I support the motion by the member for Warren for the appointment of a Select Committee into farming enterprises and rural small business. The motion encompasses a broad range of issues, yet we have just heard the Minister for Agriculture say that the Government will not support the appointment of a Select Committee. It was almost like a performance by the television characters Jim Hacker and Sir Humphrey Appleby. We can well imagine Jim Hacker going to Sir Humphrey after today's performance and saying, "There is the speech. What do you think of it?" Sir Humphrey would have said, "I think you might have saved the Government from great embarrassment." No doubt Jim Hacker, when he first looked at this motion, would have said to Sir Humphrey, "What a brilliant concept. There is something rotten with Government charges and services. The Government imposed a 33.3 per cent levy on the corporate takeoff for the Water Authority and the State Energy Commission. Those farmers in the bush are bleeding, but the

bloody Government is wrong. Sir Humphrey, I will take this charge and show Caucus, and put things right." Sir Humphrey would have said, "But Minister, do you realise that if you go down that path it could incur the wrath of your colleagues and they will probably vote you out of office, which could cause the Government to fail?" Sir Humphrey would then have said, "I recommend that you oppose the motion. If you use the most desirable terms so that no-one understands what you are talking about, at the end of the day your Government will be saved and your colleagues will support you."

That is the charade we have seen this afternoon, because the Minister for Agriculture knows that the problem being caused to the people in Western Australia's agricultural sector is directly related to Government taxes, charges and services. If a Select Committee of the Parliament were appointed to examine this matter it would cut across all party political boundaries and give an objective view of what has happened. One of the matters which it would investigate is a comparison of charges as they apply in other countries which are our trading competitors. For example, the price of petrol paid by an American farmer is 35¢ a litre, whereas an Australian farmer pays more than 64¢ a litre. I have converted those figures to Australian currency for the sake of comparison. The Australian farmer pays virtually double the price paid by an American farmer. That is the sort of thing which would come to light if a Select Committee were appointed. Although the Minister has a Rural Task Force we need an impartial group from the Parliament to make that assessment.

A Select Committee would have the opportunity to consider the impact on the rural community of the national transport agreement to which this Government is a signatory, and whether this State should have signed the agreement. That Select Committee might decide that Western Australia should have followed the path taken by the Northern Territory and not become a signatory to that agreement because of the impact it would have on rural areas. I could give numerous other examples of how people in the bush are bleeding to death. The total cost of such a Select Committee, including printing costs, would be $40 000 or $50 000, and it would make an overall assessment of taxes and charges on a non-political basis. For refusing that amount of money the Minister will certainly be the Jim Hacker of the day, and Sir Humphrey will be right. I warn the Minister that people in the bush will receive copies of these speeches and will not accept the decision of the Minister and the Government. I fully support the motion and commend the member for Warren for bringing it to the House.

MR OMODEI (Warren) [2.38 pm]: This is one of the most important motions I have had anything to do with in my almost three years as a member of Parliament, and I say that in all sincerity. The sorts of comments we have heard today from the Government side of the House are indicative of the namby-pamby way in which the Government has dealt with agriculture in this State. My motion sets out quite clearly that we want to inquire into and report on State and Federal fuel taxes, payroll tax, transport regulations, quarantine and anti-dumping measures, all water and energy charges, import and stamp duties and sales tax, air transport and inspection charges for agricultural commodities, and the assets test and higher education costs. However, most importantly, we want the Select Committee to recommend and report to the State and Federal Governments on ways to reduce the cost of production burden on Western Australian farmers. I say that in the full knowledge that a situation has emerged in my electorate during the last few weeks in which a processing factory was mooted for closure. I now refer to an article which highlights the situation. This is an article in the *Business Review Weekly*, a periodical of substantial valid comment, headed "Daring plan for Petersville", which reads -

> Pacific Dunlop's Philip Brass is taking radical action to make its $395-million acquisition perform. That means making savings in production - perhaps by moving some of it overseas - and distribution, and reviving flagging brands.

The article continues -

> The threatened closure of the Manjimup factory delivered a clear message: unless the Petersville factories can be made internationally competitive in the prices they pay for their produce, and in packaging processing management and labour costs, they will be closed.

The article then refers to the Petersville operation in detail. This indicates that currently we must reduce the costs of production in Western Australia. In moving this motion I indicated that one of the reasons I became a member of Parliament was that I witnessed farm costs

forcing farmers into bankruptcy; that is also the main reason for introducing this motion. The current farm subsidies package in the United States of America, as indicated by the member for Greenough, totals $47 billion; Japan has a similar package; and the European Economic Community has a package of approximately $100 billion. When the House considers that the Australian Government has arranged a $1.7 billion assistance package for the agricultural industry, it can be seen that Australia is well and truly behind the eight ball when competing internationally. The packages directed by these countries at wool and wheat markets are causing a corruption of the world market.

The only way in which Australia can become competitive internationally with its wool, wheat and horticultural products is to reduce the costs of production. That can be done only by identifying the costs, comparing them internationally and finding reasons for our higher costs of production. The cost of production in Australia is approximately 30 per cent higher than overseas. This applies to fuel, fertiliser, chemicals, transport and whatever aspect one considers. For example, if a 40-foot container leaves the Port of Los Angeles, a freight cost of $1 200 will be incurred; if a 20-foot container leaves an Australian port, a $3 600 freight cost is incurred. That is a clear indication of the kind of competition we are up against and the need for some serious action on these issues. If the State Government does not act on this situation, it will be burying its head in the sand.

Western Australia has a large horticulture industry which is working well and has a good export history. However, at the moment we are importing cardboard packaging from Indonesia and we are not utilising the local product. That represents a big part of the cost of our commodity. The member for Vasse referred to the total cost recovery of our public utilities, including the Western Australia Water Authority and the State Energy Commission. When comparing their situation with that of farmers, it is clear that farming operations are beyond the possibility of cost recovery.

My research indicates that the General Agreement on Tariffs and Trade round of talks - and this round has been ongoing since 1986 - contains a proposal for the EEC, the US and Japan to reduce their assistance packages by 30 per cent over the next 10 years. Even if that round of talks is successful the United States will maintain a $30 billion export enhancement program. On that basis Australia will still be operating in a corrupted international market.

The Minister referred to solutions. Many people throughout Western Australia, including farmers and small businessmen, are struggling to survive, and these people have very good ideas. Last week we discussed in this House a suggestion by Mr John Hawkins, a member of the Mullewa community, for payments to be made by the Australian Wheat Board for the money owed to the wheat pools. The member for Greenough took up this cause because it is a means by which money can be directed into the farming sector so that next year's crop is planted over a substantial area. In that case it will be possible to capitalise on today's market.

The Minister referred to the Rural Task Force, yet this motion was introduced on Wednesday, 29 May when the task force had been in vogue for two or three months. The task force made 60-odd recommendations. I have spoken to the members of that task force and they have said, using the rural vernacular, that "It is as useless as tits on a bull". That describes it perfectly. This Government has been tardy in its efforts to assist agriculture in this State. We are aware that our production costs are 30 per cent higher than those of our competitors. Until we discover the reasons for that situation we cannot be more competitive. The Minister told the House that many measures are in train - I have yet to see them. I have been a member of this House for almost three years and during the last 18 months we have seen agriculture in this State in dire straits. Some farmers have debts in excess of $500 000, and their future is bleak because of a lack of Government activity.

What hurts me most about the Minister's comments is that he suggests that this motion is not worthy of support. I reiterate, if this State and nation do not reduce farm costs of production so that we are more competitive internationally, agriculture across this nation will face severe decline, and possibly its demise. In my dealings with members opposite today I discovered that the Minister had no notes on this motion; it has been on the Notice Paper since May and the Minister should have prepared for it. If this is not a worthy motion, why has the Government not identified farm costs and suggested solutions to the problem? The Government has vacillated on this issue.

Mr Taylor: We have an outstanding Minister for Agriculture by any measure. He is highly respected throughout rural Western Australia.

Mr OMODEI: The Deputy Premier can say what he likes. When the Edgell-Birds Eye situation arose, I approached the Deputy Premier proffering an olive branch because of the uncomplimentary words we had exchanged in the past. I did that in an effort to get things done. I knew about the Arnotts issue when the Edgell-Birds Eye situation arose, yet in answer to questions I asked last week the Minister said that he had known about the situation for only a week.

Mr Taylor: I said that I heard rumours over a period of time. Check *Hansard.*

Mr OMODEI: All this Government does is hear rumours; what does it do about the issues? I am concerned about this situation. As with Arnotts and Edgell-Birds Eye, many manufacturers in this country are rationalising their operations because they are hurting as a result of the high costs of production.

I have said enough on this motion. It is a motion of great worth and I recommend that members support it for the benefit of farmers in Western Australia and rural small businesses who are hurting badly.

Division

Question put and a division taken with the following result -

Ayes (22)			
Mr Bloffwitch	Mr Grayden	Mr Minson	Dr Turnbull
Mr Bradshaw	Mr House	Mr Nicholls	Mr Watt
Mr Clarko	Mr Kierath	Mr Omodei	Mr Wiese
Dr Constable	Mr Lewis	Mr Shave	Mr Blaikie *(Teller)*
Mr Court	Mr MacKinnon	Mr Strickland	
Mrs Edwardes	Mr McNee	Mr Fred Tubby	

Noes (24)			
Dr Alexander	Dr Edwards	Mr Leahy	Mr P.J. Smith
Mrs Beggs	Dr Gallop	Mr Marlborough	Mr Taylor
Mr Bridge	Mr Grill	Mr McGinty	Mr Thomas
Mr Catania	Mrs Henderson	Mr Pearce	Dr Watson
Mr Cunningham	Mr Kobelke	Mr Read	Mr Wilson
Mr Donovan	Dr Lawrence	Mr D.L. Smith	Mrs Watkins *(Teller)*

Pairs

Mr Trenorden	Mr Gordon Hill
Mr C.J. Barnett	Mr Troy
Mr Cowan	Mr Ripper
Mr Ainsworth	Mr Graham

Question thus negatived.

LAND DRAINAGE REPEAL BILL

Second Reading

Debate resumed from 31 October 1990.

MR BRIDGE (Kimberley - Minister for Water Resources) [2.55 pm]: The Government does not support this Bill. If it were passed it would effectively bring to an end the Western Australian Water Authority's ability to provide a service in the country. That decision cannot be made at this time. If the community decides that the entire drainage system within the State should be abolished a great deal more consultation must take place before that occurs. That consultation must convince the Government that the Act should be repealed, despite what is seen to be the importance of retaining the Act in its current state. I am sure many members will recall that some time after I became Minister for Water Resources I was given the task of attempting to resolve the problems with the Busselton drainage scheme.

Complications were associated with that scheme prior to my becoming Minister for Water Resources and about which many members will have knowledge. That aside, I established an inquiry headed by Malcolm Lee, QC which led to a report being presented to the Government. As a result of that report public debate continued, and the decision was made by the National Party to introduce this Bill.

Mr House: This is the third time we have tried to get you to accept this Bill.

Mr BRIDGE: That is right; things have not changed.

Mr Fred Tubby: Lots of people are still paying drainage rates for other people.

Mr BRIDGE: That is right. It must be understood that although some people are entitled to be seriously considered because they believe they are disadvantaged under the Act, that is the reason I continue to establish inquiries into these matters. Apart from the initial investigation by Mr Lee, more recently other direct measures were taken by the Water Authority; and currently, at my request, the Soil and Land Conservation Council and the Water Resources Council are investigating matters of concern. That indicates that the Government understands that problems exist with the drainage system. Nonetheless, at this stage there is no way it is appropriate that the Land Drainage Act be abolished. That will involve a major decision and somewhere along the line we must understand the consequences of that action.

The greatest concern that I have is about what would flow from that decision to abandon services to a large area of the State, not just to those areas of the State that have genuine concerns as do the people of Busselton, but to those areas where the drainage system is a fundamental service to the community. Some areas rely heavily on drainage and it is an essential part of the continuity of their operations. A problem has been identified in certain parts of the State. However, getting rid of the whole drainage system will not solve our problem. Unfortunately, the problem goes a lot deeper than that. We must continue to grapple with it by carrying out investigations which will demonstrate to the Government the course of action it must take to arrive at a fair and equitable solution. Following that, we could then consider a measure of this kind. Short of that, there is no way that we can do anything other than leave the situation as it is and allow investigations to proceed. In my view, these organisations are targeting the anomalies that are prevalent in areas which were highlighted by the Leader of the National Party and I suggest that that continue. However, I ask him to consider the consequences which would flow from abandoning the drainage system as this Bill suggests.

I understand the argument that is being put forward on behalf of the people of Busselton because that system has major problems. I assure the House that the Government will continue to address those problems. However, many parts of this State rely heavily on the system and it is my view that it would be remiss of the Government to ignore those areas in its overall responsibility to deliver services. Because of that, the Government cannot support the Bill.

MR BLAIKIE (Vasse) [3.04 pm]: At the outset, I compliment the National Party for introducing this Land Drainage Repeal Bill. This is the second occasion on which a Bill on this subject has been before the House and the first occasion on which it has been debated. The genesis of widespread anxiety, concern, anger and frustration had its foundation in drainage rating in the Vasse electorate and in the Busselton drainage system in particular. It came to a head in 1983 when the Labor Party decided that it would allow a number of Bunbury drainage ratepayers not to pay their rates and that it would repeal a section of the Act by ministerial decree. That was nothing more than a blatant political act for blatant political advantage. Although we were aware of anomalies before, it highlighted further anomalies in adjoining districts. The matter came to a head in 1987 when the Minister of the day decided to increase the area of the Busselton drainage district and, for the first time, moved into areas of the Augusta-Margaret River Shire and imposed rates on a number of landowners in that shire whose land drained into the Busselton drainage system.

Mr MacKinnon: The Government is showing its interest in the people of the south west by the lack of attendance of its Ministers in the Chamber.

Mr BLAIKIE: Yes, not one Minister is on the ministerial benches at the moment taking part in this debate. So much for the Government's concern about this issue.

The people in the Augusta-Margaret River Shire were in a state of anarchy, virtually, because

the Government had imposed rates on people whose properties were 500 to 600 feet above sea level and for whom drainage had never been a problem. The water from those properties drained through the lowland areas. It is now history that this Minister for Water Resources went to the Augusta-Margaret River area and to Busselton and met those concerned people. I give him full credit for deciding that those people would no longer be charged for drainage. That was an important and responsible decision. However, it drew far greater attention to existing deficiencies in other areas. The Minister commissioned a report by now Mr Justice Malcolm Lee on drainage rates and drainage systems and services in Western Australia. He found many deficiencies in the drainage rating system and made a number of recommendations to correct inequalities. He also questioned whether some of the charges were within the law. That is basically where the matter rested. Following the Lee report, the people have been asking the Minister to address public meetings and explain the Government's policy. From that day to this the Minister has not attended a public meeting and has not been prepared to explain the Government's policy.

Mr Bridge: Don't you remember that wonderful public meeting that you arranged? Do I have to remind you of the day you led a large group of farmers to meet me and I told the group that the only time they would be looked after properly would be by the boy from the Kimberley? Even you clapped with them.

Mr BLAIKIE: I am pleased the Minister raised that matter because that meeting was held near the Busselton Shire Council offices. The Minister was on a preliminary visit to assess the situation. He was going to come back later following further assessment and taking advice. However, he has never been back and will not come back to a public meeting.

I will put the whole matter into perspective: It was part of the Liberal Party's election policy strategy - and is still part of its policy - that drainage rates would be abolished and the cost of drainage would be funded from the Consolidated Revenue Fund. It is another example of political parties having different views. The Leader of the National Party attended a meeting in Busselton prior to the 1989 election, when he and I were on the same platform. The Minister for Water Resources did not attend that meeting but was represented by the member for Mitchell. Following that meeting the Leader of the National Party was reported in the *Busselton Margaret Times* of 2 February 1989 as saying that if the National Party became a member of a coalition Government it would press for drainage districts to be abolished, as recommended in the Lee report. That would mean the Water Authority assuming responsibility for major drains and the local authority assuming responsibility for minor drains. The local authorities could then levy a rate across the board to cover the cost of maintenance work, or levy a direct charge on landowners. I do not support that view. The policy of the Liberal Party to abolish drainage rates and to fund the costs of drainage from the Consolidated Revenue Fund applies to all other States. In Kununurra the cost of moving water from one part of the road to another part in a drainage area, flood litigation area or whatever, is covered by the Consolidated Revenue Fund.

I am not prepared to accept the proposition that local government should be given the opportunity to impose levies and charges because I am concerned that its charges to property owners could be worse than those imposed by the State Government. A mechanism is needed whereby local authorities can be called on to assist in the maintenance of drainage systems, if they are prepared to do so, and then be appropriately funded by the Government. The current system does not apply in any other area of the State and neither should it apply to the Busselton drainage district. The Leader of the National Party has brought on this Bill for consideration and I hope it will be supported by the House. The Minister has said he will do nothing about it because he believes the matter is in hand at present. He has asked the Soil and Land Conservation Council and the Water Resources Council for an overview. I assure the Minister that the time has passed for asking for overviews of this matter. The Government must now make a decision on whether or not to impose the drainage rates.

Another element, of which the Minister is aware and to which he has made no reference, relates to the growing army of people who have religiously paid their rates year in and year out in spite of the controversy, and a further group of people who have paid no rates. Following the meeting held in Busselton in January 1989 a local newspaper reported that the officer in charge of the Busselton Police Station, Sandy Pense, had said he was wearing the cap of the local bailiff. He said he had received 53 summonses which he was required to issue to farmers. He further said that a total of 75 summonses had been issued against

farmers in the Busselton and Capel areas. The system is so bad that people are not paying their rates. I do not encourage people to break the law, but I understand and sympathise with their reasons for doing so. By the same token, other people have fulfilled their obligations within the law and have paid their rates. Nobody would be more aware than the Minister of the impasse that has been created. This matter must be resolved, and the bid to abolish drainage rates is very important. I again compliment the Leader of the National Party on bringing forward this legislation. I clearly indicate my support for the intention behind it. It is also my fervent desire that when a Liberal-National Party Government takes office not only will the rates be abolished, but also no further charges will be imposed.

Mr Bridge: Would you abandon drainage throughout the whole State?

Mr BLAIKIE: No. Drainage works and maintenance would continue - as it continues in every other part of the State where such work is necessary - and it would be paid for by taxpayers, as it is in other parts of the State.

Mr Bridge: This is a call for the Act to be repealed.

Mr BLAIKIE: Notwithstanding that, provision can be made for the work to be carried out and funded by the Consolidated Revenue Fund. It is simply not good enough for the Minister to indicate that if this Bill were passed, all drains in the State would fall into disrepair and flood damage would follow. That is nonsense. The political circumstances are that the Liberal Party has made a commitment to abolish drainage rates, and when in office it will do so. It is similar to the way in which the Labor Party made a decision that on gaining office it would restore the Perth to Fremantle railway service irrespective of the cost to the community. That was a political decision by the Labor Party; this proposal is a political decision by the Liberal Party and it will be implemented.

Mr Bridge: Are you saying that you would see the continuation of drainage services in the State, but the funding this service requires would come from CRF and, therefore, the Water Authority would not be required to impose charges? In other words, there would be no recovery of costs.

Mr BLAIKIE: Any charges recovered from the Water Authority would go to Treasury and the work would be funded from Treasury. It would have no funding base, in the same way that the Government's restoration of the Perth to Fremantle railway service had no funding base. The Government created the inequity and the problems that have arisen in this area. It must redress the situation and be fair to people in all areas of the State. I support the Bill.

MR LEWIS (Applecross) [3.18 pm]: The Opposition supports this Bill which was introduced by the Leader of the National Party. I draw the attention of the Minister to his comment that he supports the findings of the Lee inquiry and the strong recommendations in the 230 page report. That report was commissioned in 1986 and almost six years later no progress has been made on implementing any of the 17 recommendations contained in it. The Minister for Water Resources is very good at vacillating and doing nothing. This is a classic example of his dallying and not getting on with doing things that need to be done. Recommendation 3 of the Lee report is that "all drainage districts including drainage areas in the metropolitan area be abolished". Does the Minister understand that?

Mr Bridge: I certainly do.

Mr LEWIS: The first recommendation of the Lee report was that the existing system of drainage rating in country drainage districts be abolished. The report also states that the Water Authority should be responsible for operating major drains and structures in country drainage schemes and that the capital and operating costs thereof should be borne by the Water Authority. Mr Justice Lee examined thoroughly the drainage situation in Western Australia. He had a pretty open brief, with six terms of reference. One of his findings was that the rating procedures, particularly in the Busselton drainage district under the Drainage Act 1925, were not based on the criteria in the legislation. What have the Government and the Minister done for the last five and a half years? All the Government has done is put in place another committee to look into the matter. However, as the deputy leader of the National Party said, this is the third time this matter has been considered by the House. How many more times must this Parliament bring to the attention of the Government and the Minister the fact that something must be done about the inequality associated with drainage rates in Western Australia?

Mr Bridge: We do not need the Parliament to tell us.

Mr LEWIS: The Government thinks that it can set up a committee to look at this and a committee to look at that, and sing a couple of songs, and everything will be okay. Things are not okay. The people in the Busselton drainage district and in other drainage districts have had enough, because when the Government, on purely political grounds and for political advantage, abolished the Preston drainage district so that it could win the seats of Mitchell and Bunbury, it created an inequality within the south west drainage region.

Mr Bridge: When you made that comment, you highlighted the old theory: A rose by any other name would smell as sweet. You always have to go back to the Preston era because that is the political ball game that you like to resurrect.

Mr LEWIS: Members opposite made that decision. On what grounds was that decision made?

Mr Bridge: However that decision may have been made, a number of things were followed through as a result of the Lee report. You cannot say that nothing was done.

Mr LEWIS: When we rule the lines at the bottom of the page and look at the credits for the Government, it has zero credits in respect of the drainage situation in Western Australia. A full inquiry into the matter made 17 recommendations and findings. Not one recommendation has been carried out by the Government or by the Minister. That is an absolute demonstration of how moribund this Government is. It is dead in the water. It is not achieving anything, and it is going nowhere very fast. I would like to think that perhaps the Minister's advisers who are here today will get the message that they should get off their backsides and recommend to the Government that it do something about the inequality that exists in rating for the water drainage districts in this State.

MR BRADSHAW (Wellington) [3.23 pm]: I rise to support the Land Drainage Repeal Bill because I have drainage districts in my electorate and I know about the inequities that exist in the State with regard to drainage districts. It is unfair that just because people happen to own properties within a particular area around which someone has drawn a line, they have to pay drainage rates, when people who live in other parts of the State which do not have that magic line do not have to pay drainage rates, yet they still receive the benefits of drainage when they drive over roads and bridges in areas where there is drainage. Drainage rates are increasing rapidly. The Government keeps telling us that taxes and charges are being increased only by the rate of the consumer price index, but in some cases over the last 10 to 20 years, drainage rates have increased at a greater rate than the CPI. Some farmers are now paying more in drainage rates than they are paying in shire rates. Does the Minister think that is fair?

Mr Bridge: I am not defending our decisions. I am not saying that everything is fair and above board and rosy. I have never said that. I understand that problems are associated with the drainage system. There is no doubt that we have to overcome the problems. It is not an easy issue. It is highly complex.

Mr BRADSHAW: It is easy. Just abolish the charges.

Mr Bridge: Wait to see how easy that will be when you have to make that decision.

Mr BRADSHAW: The Lee report has been out for about three years.

Mr Bridge: In areas where we were able to act, we acted, and you know that.

Mr BRADSHAW: There was very little action. How many people were affected by it? If any more than a handful of people were affected, I would be surprised.

Mr Bridge: At the end of the day, Lee has his view, I have my view as the Minister, and Cabinet is entitled to its view.

Mr BRADSHAW: The trouble is that we do not like the Minister's view because it is not fair.

Mr Bridge: I thought you liked my view.

Mr BRADSHAW: Not on this occasion.

Mr Bridge: I did not understand until today that you had any difficulty with my view.

Mr BRADSHAW: The fact is that it is an iniquitous charge on those people who happen to live in drainage districts. It is time the Minister started to show a bit of gumption and looked after the people who are being affected unfairly. Some farmers are paying more in drainage rates than they are in shire rates, all to get the water taken away in a channel, which they generally have to maintain if it is on their own land. The other channels may be maintained by the Water Authority, but farmers must do a fair amount of work to ensure that water drains away from their property. Under those circumstances, it is important that the Government take a hard look at what are the costs to those people in drainage districts.

Prior to 1984, if a person owned several shops or dwellings on the one land title, he paid only one drainage rate. However, in 1984 the Minister at the time changed the situation so that a drainage rate was paid for each dwelling or shop on a land title. I remember the case of one landowner from Bunbury who owned some shops in Waroona. He had 13 shops on one title, and used to pay about $8 in drainage rates for the whole lot. However, the next year the drainage rate increased from $8 to $11, and he received 13 rate notices and had to pay 13 times $11.

Mr P.J. Smith: There was a revaluation then.

Mr BRADSHAW: No. The method of rating was changed so that instead of a person's paying one drainage rate for all the dwellings on his property, he had to pay a separate rate for each dwelling.

Mr P.J. Smith: I am talking about 1984.

Mr BRADSHAW: It was not a change in the valuation. It was purely a change in the system of rating. The Government broadened the revenue base, because if we multiply that for all the drainage districts in Western Australia, that would add up to quite an amount of additional revenue. At the same time, the Government increased the drainage rates by huge amounts of 40 per cent or more. There used to be a complex system of rating farms, where some properties had about six different valuations placed upon them. That was then changed to a twofold system of a direct and an indirect drainage charge, which was much simpler and easier to follow, except that at the same time the properties in the drainage districts were reassessed, and it was discovered that some people were not being charged drainage rates. Those people began to be charged and, amazingly, they did not want their land to be drained. Some of them had land on the sandy areas at Myalup which are fairly high and dry, and they would rather not have had their land drained, yet they are now charged drainage rates. That occurred in 1986 or 1987. The system of drainage districts and drainage charges is quite wrong. Another anomaly which came across my desk a few years ago concerned a farmer in Waroona who found that the drainage district followed a straight line until it came to the foothills of Waroona, when it did a dogleg around his property and then levelled off again. He approached me about it and I asked the Water Authority of Western Australia in Perth why that had occurred. I was told that the people at the Water Authority did not know but that it must have been done for a reason. I thought that was a pretty poor excuse for leaving it as it was, and it was very inequitable to that farmer.

Mr Bloffwitch: Is that the kind of response you had expected?

Mr BRADSHAW: No, I thought there would be a good reason for the drainage line forming a dogleg around that person's property. I support this legislation. It is about time the Minister for Water Resources started to act instead of sitting on his hands and forming another committee. The Lee report was quite smart in recommending that the drainage rates be abolished.

MR P.J. SMITH (Bunbury) [3.31 pm]: I wish to respond to some of the statements made by the member for Vasse. About a month ago, when I spoke to the Appropriation (Consolidated Revenue Fund) Bill in this place, I said that there were two sides to every story, and the member for Albany interjected and said there were three. One thing which amazes me in this place more so than out in the community is the way in which each side takes a position and, no matter what are the facts, continues to tell only its side of the story and ignores what I would call the facts, and sometimes ignores the truth. For the benefit of those members who represent the south west and who continually say that somehow or other Bunbury has been given a special deal on drainage rates, I will go over the history of the Bunbury drainage rate.

Mr Bloffwitch: Is it fair to charge just some people for something which everybody uses?

Mr P.J. SMITH: If someone is involved with it and it is benefiting him - for instance, a farmer whose land cannot operate without drainage - he should pay.

Mr Blaikie interjected.

Mr P.J. SMITH: I will speak about Bunbury. The member for Vasse can speak about Busselton, Capel and other areas later if he wishes. To my knowledge quite considerable concessions have already been made to people in those areas who, in my opinion, should not have been rated, and I know the Minister has given them concessions.

Originally the Bunbury area, and East Bunbury in particular, was on drainage rates and the amount of drainage rates being collected in Bunbury was well below what it was costing the then Court Government to collect them. There was a general campaign for the drainage rate to be dropped. That campaign was to no avail until cyclone Alby occurred, and the whole of East Bunbury was flooded. The local people blamed that flood on the fact that the new harbour had been built and floodwaters which came in from the sea could not disperse up the estuary. They said that because of those Government works they had been flooded. There was a campaign against drainage rates running up to the 1980 election, for which I was the Labor candidate. It was seen by the Court Government as a negative issue for it. At that stage Sir Charles Court moved to lift the drainage rate; so the Court Government lifted the drainage rates on the Bunbury City Council area, not the Labor Government. Government money was then spent on putting floodgates into the plug area, the channel which had been excavated, and since then they have operated very effectively. However, the Court Government then said, "We have put in the floodgates to stop this area flooding, so we will impose a flood levy on you" - not a drainage rate but a flood levy. It may have come under the heading of drainage rate because it was administered by the Water Authority of Western Australia, but it was always seen as a flood levy and explained as such. Again, there was some minimal charge - I guess it was about $9 or $10 a year - and it was an irritant. A line was drawn wherever the salt water had flooded into Bunbury, and those people who owned land in the affected area had to pay the flood levy. The Labor Party said that if it won Government it would lift this levy and would negotiate with the Bunbury City Council to see what it could do. In fact, the flood levy was lifted in 1984 or 1985. There were other complications, but the drainage of the Bunbury city area is now taken up by the Bunbury City Council. Therefore I say to those members opposite who oppose drainage rates that they might like to approach the local councils in their areas and suggest they take up the drainage and flood areas, as has happened in Bunbury.

Mr Lewis: That is what the Lee report recommends.

Mr P.J. SMITH: I understand that.

Mr Blaikie: Who do you think pays the drainage rates in the Busselton townsite areas? The Water Authority does not pay a cent.

Mr P.J. SMITH: The people who are levied pay.

Mr Blaikie: Yes.

Mr D.L. Smith: But who actually abolished the rates in Bunbury first? It was the Liberal Government, prior to the 1977 State election.

Mr P.J. SMITH: The people in the Bunbury City Council area pay their drainage rates or flood rates to the Bunbury City Council, which looks after all the drainage in the town. It is in the Lee report. Perhaps members should ask their local councils or even their local soil conservation groups to do the same. They might be able to devise a system whereby drainage rates can be abolished and taken over by another group so that people who are affected by floodwaters or drainage are the ones to pay the rates.

MR D.L. SMITH (Mitchell - Minister for Lands) [3.37 pm]: I want to place on record the history of the Preston drainage district and I hope that for once some members opposite will listen. The history of the Preston drainage district was that it had been around for a long time. It was primarily expanded after the 1960s flood when the Preston River overflowed its banks. Because the administration cost of collecting the drainage rate was a substantial part of the total amount collected the Liberal Government, in the course of the campaign for the 1977 State election, promised to abolish the Preston drainage rate, and did so. For some time

there was no drainage rate in that area; then, during cyclone Alby, the town end of the estuary flooded because the inner harbour had been constructed.

Mr Blaikie: When did cyclone Alby come through?

Mr P.J. Smith: In 1978.

Mr Blaikie: Make certain you have your date right, because it is not matching what you have already told us.

Mr D.L. SMITH: The reason for the flooding was that when the tidal surge occurred during the cyclone it immediately translated itself to a very great height at the town end of the estuary because the water was not able to dissipate as it used to through the entire length of the estuary as the new inner harbour had been constructed across it. As a result of that, the then State Liberal Government decided to construct a tidal surge barrier at the new cut into the town end of the estuary.

The drainage rate was not reintroduced to pay for any of the construction works on the Preston River but to pay for the construction work costs of the tidal surge barrier. The new State Government decided in 1983, as a result of the protests from East Bunbury, that as the State Government had been responsible for the construction of the inner harbour it should bear the total cost of the remedial work to prevent the inner town flooding from the sea and the estuary and not from the river. I repeat, the Preston drainage rate was abolished to conform with the Liberal Party's promise in 1977. The notion that it was a Labor Government which gave exemption from drainage rates because of the Preston River problem is wrong because it was the Liberal Party that did that. The Liberal Party reintroduced the drainage rate to pay for the flood control resulting from the inner harbour construction. The Labor Government decided to remove that because it was immoral that the local residents should be made to pay for flood relief controls which were made necessary by State Government work on the Bunbury inner harbour project.

When I was a backbencher I believed - as do some members opposite - that we needed to review the drainage rate issue. Drainage rates have been the subject of an enormous number of reviews, some by the previous Liberal Government and others when the new rating system was introduced after the Labor Government came into office and implemented the recommendations of the report done under the Liberal Government, which produced a number of anomalies and inequities as to the change in the responsibility for the payment of that rate. A number of anomalies still need to be addressed, but the key element in the Lee report, and the key prerequisite flowing from that, was that local government should pick up responsibility for middle sized drains, that individual farmers should pick up responsibility for drains on their properties, and that the State Government should remain responsible for the major drains. The Lee report has fallen down because local government has not been willing to pick up responsibility for the middle sized drains in a way that most local authorities do in municipal areas where drainage boards do not exist. We need a new approach by the local authorities in the areas where there are drainage districts to ensure that they pick up responsibility for the minor drains, and that is paid for out of the ordinary rating capacity of the local authority; and the major drains and rivers remain the responsibility of the State Government and are picked up by some kind of general revenue that the Water Authority has available to it. However, until local government is prepared to meet the Government's request to pick up responsibility for middle sized drains I do not think we will find a solution.

This matter ought to be directed to the people who are responsible for the report's not being implemented; that is, the local authorities in the areas where drainage districts exist.

MR COWAN (Merredin - Leader of the National Party) [3.43 pm]: I thank the members of the Liberal Party for their support of the Land Drainage Repeal Bill. I must express my disappointment that the Minister has indicated the Government is not prepared to support the Bill, and he has been supported by two members who relate directly to the area.

I will now respond to the various comments, most of which referred to the Lee report - and naturally they should. This legislation is very simple. It is designed to do one thing only; that is to abolish the drainage districts in Western Australia by repealing the Land Drainage Act. The aim of the legislation is to comply with the recommendations of the Lee report. The members for Vasse, Applecross and Wellington indicated their strong support for the

Lee recommendations. The only way those recommendations can be implemented is to repeal the Land Drainage Act. Once the Act is repealed we will find ourselves in a situation where some action can be taken; the Water Authority will accept responsibility for major drains, and the landholders will accept responsibility for minor drains on their properties. Quite simply, local authorities would have responsibility also. Indeed, as the Minister for South-West said - in his capacity as the member for Mitchell - local authorities have indicated that they have some objection to accepting responsibility for drainage as recommended by the Lee report.

I do not know when the Minister last approached the local authorities, and I certainly do not know when the Minister for Water Resources approached the local authorities. I do not know if the Ministers have gone to the authorities with a proposition but I do not think any local authority would have given ground on this issue unless it had a proposition put to it upon which negotiation could follow. I do not think that has ever occurred. Were the Minister prepared to go to the local authorities, such as Harvey, Waroona, Busselton and Capel, and put a proposal to them indicating clearly that the Government was prepared to accept the recommendations of the Lee report - that the authority would remain responsible for major drains, that landholders would be responsible for minor drains, and that the local council would have responsibility for areas which clearly belong to it - the Minister would have received a positive response.

I want to clarify one matter referred to by the member for Vasse at a meeting conducted so long ago that it is only a dim recollection for me.

Mr Blaikie: I have a clear memory of the meeting; it was a very important meeting.

Mr COWAN: Yes it was important. I recall clearly saying to the public that my recommendation that the local authority accept responsibility for drains was in keeping with the recommendations of the Lee report. My recollection was never that - as the Minister implied, mistakenly or otherwise - they should have some responsibility for rating private property owners for maintenance of drains on their properties. That is not the case.

Mr Blaikie: I read the extract of the report of the meeting; I am delighted that we are on the same wavelength and that the report of the meeting was not correct.

Mr COWAN: No doubt the Busselton drainage district is by far the most contentious and perhaps one of the largest drainage districts. Certainly it is a district where a great degree of friction has occurred between the Water Authority and the landholders, and where the landholders have withheld the payment of rates because they believe an anomaly exists. They see an anomaly because of what happened in the Preston River region. The Minister may care to give all sorts of explanations - and perhaps I should refer to him as the member for Mitchell in this case - as to how that occurred and who was responsible, but the fact remains that the people in Busselton who are paying a drainage rate feel aggrieved because they have not received the same treatment as the landholders in the Preston Valley.

This is a very simple Bill which merely seeks to repeal the Land Drainage Act for the purpose of abolishing the districts. This would then put some pressure upon the Water Authority of Western Australia, local authorities and land holders in existing drainage districts to accept the recommendations of the Lee report. I am sure the Minister would reach agreement with the parties more quickly than he thinks, because no-one wants a continuation of the system that throws up anomalies in drainage districts.

Mr D.L. Smith: Apart from containing powers to propose rates the Land Drainage Act gives a lot of powers to the Water Authority to carry out flood control work. How does the Leader of the National Party propose those duties be carried out in the absence of provisions in the legislation?

Mr COWAN: We would place those powers in the Water Bill that has been put before this House. It might just be the push that the Water Bill needs; for some reason or another it has been halted in its progress through the Parliament. I am sure provisions could be included in that Bill that would make flood control possible.

Mr D.L. Smith: Don't you think you should wait for the passing of the other Bill?

Mr COWAN: I acknowledge there needs to be a proper sequence, but given that the Lee report was delivered in 1987, four years is long enough to wait. Any Government that

cannot make a decision in that time is demonstrating that it is unable to make decisions or incapable of making them.

Mr D.L. Smith: The Leader of the National Party knows the delay is to do with local government and not the State Government.

Mr COWAN: The Minister can pass the buck if he wants, but the report was delivered in 1987 and its recommendations were clear and concise. This Bill pursues those recommendations and I urge all members to support the Bill.

Division

Question put and a division taken with the following result -

Ayes (24)			
Mr C.J. Barnett	Mr Cowan	Mr MacKinnon	Mr Strickland
Mr Bloffwitch	Mrs Edwardes	Mr McNee	Mr Fred Tubby
Mr Bradshaw	Mr Grayden	Mr Minson	Dr Turnbull
Mr Clarko	Mr House	Mr Nicholls	Mr Watt
Dr Constable	Mr Kierath	Mr Omodei	Mr Wiese
Mr Court	Mr Lewis	Mr Shave	Mr Blaikie *(Teller)*

Noes (26)			
Dr Alexander	Dr Gallop	Mr McGinty	Mr Thomas
Mrs Beggs	Mr Graham	Mr Pearce	Mr Troy
Mr Bridge	Mr Grill	Mr Read	Dr Watson
Mr Catania	Mrs Henderson	Mr Ripper	Mr Wilson
Mr Cunningham	Mr Kobelke	Mr D.L. Smith	Mrs Watkins *(Teller)*
Mr Donovan	Dr Lawrence	Mr P.J. Smith	
Dr Edwards	Mr Leahy	Mr Taylor	

Pairs	
Mr Trenorden	Mr Gordon Hill
Mr Ainsworth	Mr Marlborough

Question thus negatived.

Bill defeated.

ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF GOVERNMENT BILL

Second Reading

Debate resumed from 6 November.

DR LAWRENCE (Glendalough - Premier) [3.57 pm]: I noted with some interest the second reading speech made by the member for Applecross last week. As is proper, we have considered the Bill. The member's speech shows in a sense why the Parliament's time should not be wasted with this Bill. He very clearly indicated it might be seen as pedantic, that it probably was not necessary -

Mr Lewis: I did not say that at all; the Premier is quoting out of context.

Dr LAWRENCE: No, I am not. I have just had a chance to reread the member's speech. The member clearly indicated in his speech that this is a matter -

Mr Lewis: It is an honest attempt with no tricks to it.

Dr LAWRENCE: - in his opinion, that may improve the capacity of the commissioners to report. The provisions of the Bill in respect of that reporting provision are entirely unnecessary. The member for Applecross acknowledged as much in his speech. I advise the member that that is the case. The Royal Commission has been established to inquire into matters that are contained in the terms of reference and, of course, it will report its findings. I am quite sure, had the Royal Commissioners felt there was any restriction on their capacity

to report, they would have informed the Parliament and asked it to make the requisite changes to their terms of reference. If the member for Applecross looked at the way they have conducted their investigations, he would agree that either they have conducted a whole lot of investigations that will never be the subject of a report, or they are clearly intending to report on all those matters into which they have inquired. The additional specific reference to reporting in the present terms of reference deals with matters that are not specified as subject matter. In other words, they are not referred to in the actual terms of reference; they are the general questions, and hence the requirement for specific reporting is not included. That is clear from the terms of reference - if the member reads them - from the conduct of the commission, and from the fact that the commissioners have not found it necessary to come back to the Parliament. They did on other matters. They asked the Parliament to expand their powers in relation to search and seizure of documents, and to enable them to sit separately if they so choose.

Mr Lewis: That applies no matter how you read it.

Dr LAWRENCE: I know where the member's argument has come from because I have heard it from at least one other person; however, the Government was clear in developing the terms of reference of the Royal Commission, which are more extensive than any that have been provided before.

Mr Lewis: I am not saying that they are not.

Dr LAWRENCE: The Government is saying that what the Bill seeks to do is not necessary.

Mr Lewis: Will that hurt anyone?

Dr LAWRENCE: No, and we will not be objecting to it, even though our advice is that it is not necessary and the commissioners have not said it is necessary. The Government does not believe that the Bill will do anything more than add a slightly confusing element to the Royal Commission which is two-thirds of the way through its proceedings. The Bill will introduce confusion because it may lead the commissioners into believing that they should be doing something differently. The amendment suggested in this Bill gives them no direction on that. The commissioners will not read the Bill in that way. It is something to which we do not object and the member for Applecross will find that if he examines his arguments in support of those changes - I also found this out when I examined them - they are spurious. Firstly, the second reading speech says that reporting would not necessarily be required on those matters as a matter of course.

Mr Lewis: I did not say that.

Dr LAWRENCE: Why else would one do it?

Mr Lewis: One would expect that reporting should be a matter of course.

Dr LAWRENCE: Reporting is not only an expectation but a certainty. There is no need to require a report.

Mr Lewis: Have you ever heard of legal challenges?

Dr LAWRENCE: That will not happen as a matter of course. It is not relevant to use the example in Tasmania. Mr Gray challenged the validity of the commission on the basis of bias by the Royal Commissioner. In any event it is impossible to argue that corruption, illegal conduct or improper conduct are outside the terms of reference of this Royal Commission.

Mr Lewis: I accept that.

Dr LAWRENCE: The member for Applecross cannot point to the Gray example and say it is relevant. Certainly, our legal advice has failed to find a connection.

Mr Lewis: It is one thing to inquire and another thing to report your findings.

Dr LAWRENCE: The member for Applecross's reference to the McCusker inquiry is not relevant because McCusker was an inspector under the Companies Code which lays down quite strict rules about what shall or shall not be inquired into and reported on. We explicitly made the powers extensive on all the terms of reference and went beyond the question of illegality and, clearly, that will be not only inquired into but also reported on. The specific examples the member for Applecross used in his arguments were unconvincing. The

McCusker inquiry did not have to inquire into those matters beyond its specific terms of reference.

Mr Lewis: That is not what the Government told us.

Dr LAWRENCE: It is not this Government telling the Opposition in this case. The terms of reference spell that out quite clearly and the legal advice provided to us and the behaviour of the commission suggest that it has no doubt that it will not only inquire but also report. I have no doubt that the good gentlemen concerned would have immediately informed us, because what is the point of having an inquiry into certain matters if one cannot report? I find it surprising that the member for Applecross should have reached any other conclusion. On that point we are happy to let it go because it does not change the status quo. However, it is a strange way of going about it; it is not necessary and I will not comment further on that. We are happy to let the Bill pass through the second reading stage, but clause 5 presents certain problems. Firstly, it requires the Government, where there has been a finding of an improper payment of money, to take whatever steps are necessary to recover that money. In the terms that have been included in this Bill this applies to any improper payment of money whether by Government or by a private individual or company.

Mr Lewis: No, it doesn't.

Dr LAWRENCE: I am referring to advice that the Government has received from the people who examine the law and legislation very carefully in order to protect the Government and the Parliament from passing legislation that is not proper.

Mr Lewis: It is a payment from the Government.

Dr LAWRENCE: Clause 5 of the Bill refers to the Government taking whatever steps are necessary "to recover from any person to whom it was paid, any money found by the Commission to have been improperly paid".

Mr Lewis: No, any money paid by the Government.

Dr LAWRENCE: That is the logic of the member's argument but it is not the advice that the Government has received. It is the adviser's view that clause 5 requires the Government to take whatever steps are necessary to recover any improper payment of money whether by the Government or a private individual or company. The member for Applecross may not believe that to be the case but it is the type of clause with which lawyers would have fun. Clearly, the advice from the appropriate law officer is that that is the effect of clause 5.

Mr Lewis: Have you received an opinion?

Dr LAWRENCE: The adviser has said precisely that.

Mr Lewis: Is there a written opinion?

Dr LAWRENCE: I detailed a moment ago his advice to us.

Mr Lewis: Did he tell you that? Can you table that opinion?

Dr LAWRENCE: I cannot do that in the ordinary course of events but I am happy, once I have talked to the Solicitor General -

Mr Lewis: We have heard about opinions before.

Dr LAWRENCE: The advice was provided at short notice and the Solicitor General may not want the advice that was provided to me provided to the Parliament. I will be happy to look into that matter. The advice we have - it is not advice I would make up myself - is that that is the effect of clause 5. I am not saying that I necessarily object to the view that Governments should seek to recover any moneys that have been paid improperly, but that a realistic direction must be given to the Government of the day in legislation.

Mr Lewis: Don't you think it proper to recover that money?

Dr LAWRENCE: The Government is not arguing with that because it would occur in any case. The Government would not usually have any basis on which it could recover money which it did not pay. Clause 5 provides that the Government shall take whatever steps are necessary to secure the repayment of money found to be improperly paid.

Mr Lewis: Have you not read the Bill?

Dr LAWRENCE: I have read the Bill and the Government's legal advisers have read the Bill and our advice is, with all respect, that that is the effect of the clause.

Mr Lewis: I did not draft this Bill; it was drafted by Parliamentary Counsel.

Dr LAWRENCE: The member for Applecross often stands in this place and picks holes in Bills that have been drafted by Parliamentary Counsel and been examined closely by more people than are available to the Opposition. I understand that; however, the reason the Government sought Crown solicitors' advice on this question -

Mr Lewis: Do you support the thrust of what the Bill is trying to do?

Dr LAWRENCE: Absolutely. If the member examines what has happened in relation to the McCusker report he will find that we have put considerable resources into trying to track down the money trails and recover the funds. The Government has passed legislation in this Parliament which has provided considerable powers for seizure and which provides considerable powers for profits to be taken in the case of moneys paid; it has moved a long way on that question since the McCusker report.

Mr Lewis: Do you support the goals of the Bill?

Dr LAWRENCE: Absolutely, but that is a different question and the member should understand that the legislation -

Mr Lewis: Would you agree to an amendment to sort out the technical problems?

Dr LAWRENCE: We cannot immediately see one that would make sense.

Mr Lewis: You have a whole roomful of people to do that.

Dr LAWRENCE: The member for Applecross has an argument only if something were to be achieved by this clause that cannot be achieved by legislation already passed by this Parliament, by powers already available to the relevant law authorities or by powers already available to the courts and the Police Force. However, the advice to the Government is that it is possible, and that if moneys are to be recovered, the recovery will be pursued vigorously. That is already happening because the Government has the powers, the precedents and the resources to enable it to do so. I do not know where the member has been sitting for the past 12 months if he imagines that anything uncovered by the Royal Commission requires action implied - not specifically - in the clause and that anyone would suggest they should not be pursued with the full force of the law. Clause 5 requires the Government to take steps to recover money whenever there is a finding of improper payments. This clause ignores two essential issues: Firstly, that there must be a legal basis on which the Government can recover that money.

Mr Lewis: That is for the courts to decide.

Dr LAWRENCE: They have the power to do that now. Secondly, there must be some assessment, as always, of whether the prospects of successful recovery are sufficient to justify the costs of trying to recover that money. If it is estimated to cost $2 million to recover $10 000 that would not be normally regarded as reasonable. The people who have studied clause 5 have said that the usual expression "whatever steps are necessary" - which implies at whatever cost to the taxpayers - should be replaced by "all reasonable steps" at the very least. That is the proposition I am putting to the member for Applecross. The clause does not allow for anything more than what can already be done under the existing law. It certainly does no more than would be the intention of this Government or any Government following a Royal Commission which made recommendations and findings pertinent to those matters.

This Bill is no more than a stunt to bring these amendments before the Parliament so late in the piece. If members opposite seriously thought that there was any deficiency in the legislation at least two opportunities have been available to them to raise these questions, to have them properly explored and to signal their intent. Instead, it has left it to an occasion such as this when the clear advice is that the first part of the Bill relating to reporting is not necessary. It is already a fact of life that the commissioners are inquiring into and will report on those matters. Had it been otherwise, the commissioners would have informed the Government and, frankly, if it had been otherwise the Government would not have put in the money it already has into inquiring into those matters. Why would it inquire into something

and not report on it? That is an absolutely absurd proposition. The powers provided by clause 5 of the Bill already exist. The clause is drafted in such a way as to appear to give the Government powers in relation to the payment of private moneys which it should not reasonably have. Finally, the idea that any steps be taken, regardless of how expensive or how reasonable they are, is a matter of concern. I am signalling to the Opposition that the Government does not have any problem with the general goal it is trying to achieve, despite the fact that that goal has already been achieved. However, it does argue that the specific methods -

Mr Lewis: Why argue against it then?

Dr LAWRENCE: Simply because the specific methods that the Opposition is seeking to put in place are irrelevant and may be misleading to those people who read clause 5 because it states that in cases where a private individual is referred to the Government it, somehow, must induce the private individual against whom this issue has been raised to repay certain moneys. That cannot be done. The appropriate law officers, not the Government, can chase profits, money and a paper trail. I am sure the Director of Public Prosecutions will ensure that the recommendations of the commission pertaining to matters where funds have been improperly paid will be pursued. There is no question in my mind that no law officer in this State would not use the full powers of the Crown and of the investigative procedures vested in the Police Force to achieve that outcome. To suggest otherwise is to say that they would be negligent in their duty. At best, clause 5 in a sense is redundant because it provides that people should do what they are going to do anyway. Our advice is that this clause will create legal difficulties due to the way in which is worded. In addition, the phrase "whatever steps are necessary" is inconsistent with a sensible approach to the recovery of moneys; the usual test is "all reasonable steps" being applied to recover the money. In other words, we would take into account the cost and benefit of doing so. We would not simply take steps to recover money in order to achieve an outcome; there is no use spending twice as much in recovering it.

Mr Court: I see you have $2 million in WA Government Holdings Ltd against Bond this year.

Dr LAWRENCE: That is correct. I think the member asked a question about that.

Mr Court: It is a lot of money.

Dr LAWRENCE: The point is that it costs a lot of money. The Government does not determine what is reasonable; that is left to the officers who are asked to pursue the money and paper trails. They tell us what they think it will cost to pursue them. In the case of the McCusker inquiry and the consequences of it, including the defence of claims against the State, the advice was basically accepted. The Government asks that the costs be kept within reasonable limits, but it does not determine who is pursued or how or why they are pursued. That is not the proper role of this Government. It understands the separation of powers, and the powers that are vested in the organisations which are required to investigate and report on these matters are more than sufficient for the task. If members opposite want to point to specific deficiencies in the Criminal Code or other legislation which deals with these matters, I will be more than happy to look at them. However, attaching an amendment to the Royal Commissions Act, which is an omnibus Act, is a serious strategy.

Mr Lewis: I am not seeking to amend the Royal Commissions Act. I suggest that the Premier read the legislation. This is a separate Bill. The Premier does not know what she is talking about.

Dr LAWRENCE: I had not checked that, but in any case it has the same effect.

Mr Lewis: You don't know what you are talking about.

Dr LAWRENCE: I do know what I am talking about; I have read the Bill carefully and I heard the member's speech. He casually said that this Bill may or may not be necessary, that it may or may not be pedantic and that it may or may not make a difference. I am telling him that it will not make a difference and, therefore, the Government does not propose to oppose it, but it will oppose clause 5.

DR ALEXANDER (Perth) [4.15 pm]: The debate on the Royal Commission into Commercial Activities of Government Bill is interesting; on the one hand, some members are

saying that it does matter while on the other, some members are saying that it does not matter. It is a matter of considerable public importance and while I am pleased to hear that the Government will not oppose this Bill at its second reading stage my colleague, the member for Morley, and I have been vigorously lobbied in the past few days about the inadvisability of supporting any part of this Bill.

Several members interjected.

Mr Court: We have noticed the lobbying.

Dr ALEXANDER: It has been obvious to all members.

Several members interjected.

Mr Lewis: Come on, you did not want it.

Dr Lawrence: It is of very little consequence and I spent too much time speaking on it.

Several members interjected.

Dr ALEXANDER: I do not believe it is of little consequence and I will set out to show that. While I accept some of the comments of the Premier about clause 5, I will refer to it in the Committee stage.

The Bill highlights the very important investigations of the commission into impropriety as opposed to illegality. The terms of reference of the Royal Commission clearly require it to inquire into corruption, illegality and impropriety. However, the terms of reference, inadvertently or otherwise, seem to have been phrased in a way to allow for the unlikely possibility of the commission's failing to report on matters of impropriety and corruption.

[Fire alarm activated.]

The SPEAKER: I advise members that that is a fire warning. If there is a fire we will receive a message at a later stage and if there is not a fire we will also receive a message. I suggest we carry on until we are further advised.

Dr ALEXANDER: Mr Speaker, there is a poem about boys standing on the burning deck and I hope that does not apply here! Let us hope the warning arrives in time and that it is not a warning of another sort.

I was trying to draw the distinction between illegality and impropriety. As a person who has looked at the question of illegality, impropriety and corruption in relation to the activities of a former membership of the Perth City Council, I have had occasion to examine the question closely. The conclusion we must reach is that people in positions of power, whether in the private or public sectors, are often very good at bending rules and getting around regulations, but, at the same time, are doing things which in the public mind appear to be improper. The Perth City Council is not an issue I want to canvass here, but in the early 1980s certain councillors were clearly involved in activities which were improper, although they may not have been illegal. The same thing applies to a lot of issues which are before the Royal Commission into WA Inc. Let us consider briefly a few of them and obviously the commission will make its own conclusion on them.

The issue which is in the news at the moment is the petrochemical plant which involved a large sum of money. It may not have been illegal, but as far as I can ascertain there are elements of impropriety in that purchase because a huge sum of public money was involved in what was essentially a project of very little value. The people benefiting from that purchase appeared to use the money for purposes outside normal business transactions. Again, in my opinion, that points to some possible impropriety. The casino development was, after all, built on land which was originally zoned for public recreation purposes and which appears to have been granted to a developer without perhaps full consideration of the alternative tenders. Again there is a case that the proper procedures were not followed. Certainly, in a planning sense, that is the case. The planning department of the day and the Planning Commissioner were heavily leaned on to comply with the Government's requirements for the land to be rezoned. That did not seem to be a proper course of action to take, and neither was the selection of the final Dempster based consortium to build that proposal. The subject of the SGIC and GESB city centre offices at Central Park and Westralia Square had been debated many times in this Chamber. While there may have been nothing illegal in those deals -

[Fire alarm. Chamber evacuated.]

Sitting suspended from 4.23 to 4.32 pm.

The SPEAKER: I take this opportunity to thank members for their cooperation during what now was clearly an exercise. It is the first such exercise of which I am aware in this building. The fact that such drills were not being held was extraordinary and did not augur well for the safety of any of the people who used the building, either staff or members. In any event, the fire drill has now been conducted and, I am told, in an excellent fashion. I was advised by the Fire Brigade when we were developing the fire program that a building such as this should be evacuated in 15 minutes. The time today from the initial siren until the last warden reported that everyone had left the building was 12 minutes. I thank members for their cooperation.

Dr ALEXANDER: If any member complains again about the lack of drama during my speeches he will have to think again.

Mr Clarko: Fire was put into your speech.

Dr ALEXANDER: It put fire in the belly! I was talking prior to the fire drill about Central Park, Westralia Square and some of the arrangements made with developers on those projects by Government agencies, in particular the SGIC - and latterly the Government Employees Superannuation Board - which could be found by the Royal Commission in due course to have been improper; likewise, the question of donations to political parties by large business concerns and in particular by members of the Curtin Foundation who are coming under close scrutiny of the Royal Commission and have done so at various times during the past six months. I am sure this will continue. In the end, whether the Commission regards such donations as improper is a matter for it, and that is as it should be.

I will introduce a couple of matters into the debate to illustrate this point. When the Curtin Foundation was being set up in the early 1980s the people who raised objections about the possible compromise the Government might be seen to be placed in by accepting donations from large corporations were told not to worry, "We will keep those corporations at arm's length." Subsequent experience showed clearly that was a difficult task, at least.

Mr Court: They were not at arm's length, they were cuddling.

Dr ALEXANDER: That is certainly the perception in the minds of many people as a result of the deals done and undue favours given to a number of organisations associated with the front runners of the Curtin Foundation including Bond, Connell, Dempster, Horgan, et al. Those corporations appear to have received favourable treatment in a number of deals and hence the arm's length impression was well and truly destroyed. Indeed, if the Government in due course suffers electoral defeat that will certainly be one of the reasons for that happening because in the mind of the public it has overextended the bounds of propriety and entered into deals which smack of impropriety at the very least. The point here is that even if those deals do not involve illegal transactions they may involve what the commission regards as improper transactions.

Of course, the public will have the right to judge what the Royal Commissioners produce. The commissioners have high standing in the community and come from a wide enough cross section of the community to guarantee different views on this question of impropriety, which after all in the end is a value judgment. I think the commissioners have public confidence and their report, if it does as this Bill seeks to do, will ensure that findings of impropriety will be well and truly highlighted. Far from it being a matter of no importance, or of little importance, as the Government seems to be suggesting, it is a matter of great importance to public confidence in the political process in general and Government institutions in particular which we know has been eroded to a low level by the events of the past decade and which at least the findings of the Royal Commission will bring into the open.

This is no reflection on the commissioners, but my reading of the terms of reference is that it could be taken literally to exclude the possibility of a report on improper conduct or corruption as opposed to illegal conduct. In the end it would be better, if there is a doubt, to remove that doubt. That is why this Bill, in general terms, is worthy of support, although at the Committee stage I shall be moving an amendment relative to the difficulties which have already been referred to in clause 5. That is properly a matter for Committee debate. In the

meantime I urge members to support the second reading of this Bill and correct a small but apparent anomaly in the terms of reference of the Royal Commission.

MR COURT (Nedlands) [4.41 pm]: It was most encouraging to hear the words of the previous speaker. The community is concerned that this Royal Commission will carry on for a year or so, at huge expense to the taxpayers, without being properly able to report on certain aspects which are quite critical as part of the cleansing process. The whole purpose of this Royal Commission is for the truth to come out on these dealings and for Western Australia to go through that cleansing process so that we can start off afresh and re-establish confidence in the community. Most members opposite would not have read the terms of reference. This Bill, quite simply, makes it possible for the Royal Commissioners to report on matters other than just those areas where there will be criminal proceedings so that they can report on improper conduct. The Government's tactic doubtless is to hope that over the period of the Royal Commission, interest will fade; the Royal Commission will come down with its report, and it will quickly go out of sight and out of mind. That would be a shame. It is quite proper to introduce this legislation to tighten up what one might say graciously is an oversight in the wording; however, with the trust that we have for members opposite in these things, I think it was done deliberately. The terms of reference provide that the commissioners should inquire into certain things but report only about other certain things, and that is why people are concerned. The other legislation in relation to frozen funds is also important.

I want to add another aspect which is not specifically covered by this legislation. Just as the Government is hoping that these issues will fade away and that the commissioners, by complying with their terms of reference, will not report on certain matters of impropriety and the like, it is now time for the Government to spell out how prosecutions, if there are to be any, will be handled. I have said on previous occasions in this Parliament that it is not good enough for the Government to say that the Attorney General will step aside and allow officers in his department to handle the prosecutions, or that the Director of Public Prosecutions, when appointed, will handle the prosecutions. There is a strong case for the establishment of a special prosecutor to act on the findings and activities of this inquiry. We all appreciate the expense, and the fact that this inquiry will be running for a long time, but that will have no effect if at the end of the day there is no proper reporting procedure and a special, independent prosecutor in place to make sure that charges are properly laid and followed through. In the Fitzgerald inquiry in Queensland a special prosecuting section was established which made it possible for this to occur. I support this legislation and urge all members to support it.

MR DONOVAN (Morley) [4.45 pm]: The previous speakers have covered most of the ground already, but I indicate my general support for the proposition put forward in this Bill. Whatever may be the motives behind putting up this Bill - and there have been some allegations about them - the objective is to improve the terms of reference by which the Royal Commission is to treat those matters which come under its purview. I understand there is a problem in regard to the right to amend or alter the terms of reference, and that is why the member for Applecross has used the words that he has in clause 4. Be that as it may, and recognising the argument of the Premier about whether this improvement is necessary, it is worth noting that, necessary or not, it points to a gap in the terms of reference. The member for Perth alluded to that gap. While the commission is required to inquire into corruption, or illegal or improper conduct, it is required to report only on matters which might need to be referred to an appropriate authority with a view to the institution of criminal proceedings or changes in the law of the State in its administrative or decision making procedures which might be necessary or desirable in the public interest. That leaves a gap in the public mind, and that gap has been highlighted by the pursuit of other related matters which are not necessarily before the Royal Commission but about which people are raising the question of propriety. The member for Perth and other speakers have drawn a clear distinction between the questions of legality and illegality on the one hand and of propriety and impropriety on the other, as far as that relates to decision making and other arrangements in which the Government and other parties may have been involved. It is therefore worth changing the terms of reference to make sure that if there is a doubt or a gap, those terms of reference are improved in order to close that gap or resolve that doubt. At least we will be able to leave this place saying that this Parliament has done everything it can to maximise the value which the public can expect from this Royal Commission.

I emphasise that I cannot support any suggestion which might be drawn from this debate that somehow or other the Premier or the Government may have an interest in helping, either wittingly or unwittingly, to constrain the Royal Commission's ability to perform. I say that because we must recognise the role that the Premier played in the establishment of this Royal Commission, which was not uncontested, certainly from within the Labor Party; it was not uncontested elsewhere. It was very much a contested question, and, notwithstanding this contest, it was this Premier who established this commission. I do not think any suggestion should be drawn into this debate that she or the Government had a motive to constrain the Royal Commission. Nonetheless, the argument is still there; the gap exists and the doubt exists. If we can improve the terms of reference and in the process close that gap, we will be doing the community a favour. The member for Perth has foreshadowed an amendment in respect of another aspect of the Bill to seek recovery. That is a matter I will be addressing briefly at the Committee stage. I expect to support the foreshadowed amendment by the member for Perth.

MR LEWIS (Applecross) [4.50 pm]: I deny that the introduction of the Royal Commission into Commercial Activities of Government Bill was a stunt. The Premier implied that the Bill was a stunt, and by saying that perhaps she was reflecting on the need for its introduction. Whether the Bill needed to be introduced is debatable; however, the fact is that there is no harm in this legislation. It is not negative in any way. It is a positive piece of legislation as it relates to the Government's professed intentions. It can only enhance those intentions. In that regard, I wonder why the Premier made a half-hearted protest about the introduction of the legislation. The Opposition decided to take action after reading the terms of reference of the Royal Commission. Indeed, in December 1990 this issue was first drawn to the attention of the Government - during the debate on the amendment to the Royal Commission Bill. At the second reading stage of that legislation I challenged the Government to recognise the deficiency in the terms of reference and to do something about it. The Government dismissed out of hand any need to amend the terms of reference. The Opposition then sought advice on the matter and was informed that a deficiency existed.

With the existence of such a deficiency, and bearing in mind the powers of the superior courts and the ingenuity of some of the eminent Queen's Counsel in Australia, it could be that if the Royal Commission were to report any impropriety, as it saw it, the commission could be challenged on the basis that it had no term of reference to report any impropriety or illegal conduct. I remind members of the Tasmanian situation. The guts of the Bill is to remove any doubt that the Royal Commission has power to report. In no way is the Bill intended to reflect on the Royal Commissioners, nor does it suggest that they would not report. The fact is they probably would want to report. The Bill provides a fail-safe situation; the Royal Commissioners shall report and therefore they cannot be challenged at law on the basis of a deficiency in the terms of reference, even though the commissioners may want to report.

During debate on the inquiry into Rothwells undertaken by Mr McCusker, QC a matter of public importance was moved by the Leader of the Opposition of the day, which drew the attention of Parliament to the deficiencies in the terms of reference of that inquiry. It is interesting to note that Bond Corporation and its associated companies were never cited in the terms of reference of the McCusker inquiry. However, Premier Dowding stood in this House on 21 September 1989 and defended the terms of reference, saying that it was unnecessary to enhance them. Of course, when Mr McCusker reported he proclaimed on two or three occasions that he was sorry; it was not his fault; he could not report on a certain aspect because it was not a provision of his terms of reference. We have heard stories previously about terms of reference not being necessary; we do not accept that situation today. We will not accept it in future. It is vital that the terms of reference, in this case, be amended.

The Premier referred to clause 5 which contains a provision for the Government to recover moneys that have been improperly paid. The Premier made the point that the Government has no power to cause individuals, who may have paid money to some third party, to recover those moneys. Clause 5 provides that the Government shall take whatever steps are necessary to recover from any person to whom it was paid any moneys found by the Royal Commission to have been improperly paid. The Interpretation Act covers the situation where there is any doubt in any Statute of Parliament and states that one should go to the second reading speech. The second reading speech relevant to this Bill reads, in part -

> The second objective is to take whatever steps are necessary to recover moneys from any person or corporation where the Royal Commission finds that moneys have been improperly paid by Government, or where there has been improper conduct by any person or corporation that has caused Government moneys to be paid.

That indicates the intent of clause 5. I cannot see how anyone in this place could object to the Government in the normal course of events recovering moneys that the Royal Commission may have found to have been improperly paid by Government to a third person on the basis of improper conduct. One could listen to shallow arguments that say this legislation will not achieve what we want. This legislation will place on the record that the Parliament believes it is the Government's responsibility, and that the Government shall, where the Royal Commission finds that moneys have been improperly paid by Government, cause the recovery of those moneys through the normal process - that is, through the courts of this State. Any argument that clause 5 is improperly drafted or does not satisfy the intent of the Opposition is fallacious and shallow.

I thank members for their contribution to the debate. I thank the House generally for its acceptance of the main thrust of the Bill.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Dr Edwards) in the Chair; Mr Lewis in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Terms of Reference -

Mr PEARCE: The Premier has clearly indicated that the Government will not oppose this clause; however, I reinforce that it is the most unnecessary clause that has been included in a Bill in the 15 or 16 years that I have been in the Parliament. For the member for Applecross to argue that it is necessary to use this technique to add the words "and report" to the terms of reference of the Royal Commission, which already state that fact, is a nonsense. The member believes that the Royal Commission does not intend to report on the matters it is investigating; he believes that the lawyers who drafted the terms of reference overlooked that fact.

Mr Lewis: Obviously, you have not read the second reading speech.

Mr PEARCE: I have read that speech, the Bill and the legal opinion provided to the Government on this Bill.

Mr Lewis: So there has been written legal opinion on this Bill!

Mr PEARCE: Of course.

Mr Lewis: The Premier said that there wasn't one.

Dr Lawrence: I did not say that; I said I did not have it in front of me and I could not say whether it was information I could table. I wanted to discover its status with the Solicitor General.

Mr Lewis: Why do you not table the legal opinion?

Mr PEARCE: It has never been the practice of Government to table opinions from the Solicitor General.

Mr Bradshaw: The Minister for South-West tabled such an opinion earlier this year.

Mr PEARCE: However, that is not the practice of Government.

Mr Lewis: We have been told before about legal opinions regarding PICL and other deals.

Mr PEARCE: Putting that issue aside, I ask the Committee to consider the proposition from the member for Applecross: He believes that three judges from the Supreme and High Courts, who constitute the Royal Commission, and the eminent lawyers who drafted the commission's terms of reference - which were referred from the Premier - all overlooked the fact that the investigations were to take place but the commission was not required to report

on the investigations! He suggests that the three judges, the eminent drafting lawyers and everyone else in the State failed to notice that the commission was not to tell anybody about its findings. That is a nonsense. It is a pity that the member did not take legal advice of his own before introducing this legislation.

Mr Lewis: I took advice. Don't you know that?

Mr PEARCE: From whom?

Mr Lewis: Quite eminent people provide legal advice to us.

Mr PEARCE: Why does the member not table that advice?

Mr Lewis: Why don't you?

Mr Court: You and the Premier have been caught out.

Mr PEARCE: Not at all; the Premier said that she was not able to table the advice.

Mr Lewis: Even the Premier's brother agrees with me.

Dr Lawrence: I did not mention that because I thought it was rather embarrassing for you.

Mr PEARCE: With due deference to the Premier's brother and her kin, the member for Applecross went rapidly from an eminent legal opinion to the Premier's brother.

Mr Bradshaw: Does the Premier support your statement?

Dr Lawrence: The law is not my brother's area of expertise.

Mr Lewis: It requires great brain power to work this out; it is a matter of great moment isn't it?

Dr Lawrence: That is the point.

Mr PEARCE: Indeed. It is a matter of such insignificant moment that -

Mr Lewis: That is why you are fighting so hard; you took an hour trying to talk the two Independents into voting against the Bill.

Mr PEARCE: We are not fighting against this clause, but there is no need for it.

Mr Court: You told the Independents that this Bill should be thrown out.

Mr PEARCE: It should be - it is unnecessary. Nevertheless, the Independents have a view about another clause which may be shared by members on this side of the House.

Regarding clause 4, the Royal Commission is required to investigate a whole range of Government business deals and to report on its investigation. In addition to the report on the specific areas of inquiry, the commission is asked to report on two separate matters as a result of its investigation. Firstly, it will report on whether any action should be taken against any persons and, secondly, it will report on any general changes it can recommend in the system of Government.

Mr Court: Are you saying that they have been asked to report on impropriety?

Mr PEARCE: Yes, absolutely.

Mr Lewis: You had better read the terms of reference.

Mr PEARCE: I have read them. The Royal Commission has been asked by this Government to inquire into and report upon each of the business deals which are listed in the schedule. It has been asked to inquire into illegalities, impropriety and corruption in each of those matters.

Mr Court: They will investigate cases of illegal conduct and impropriety, but they do not report on this.

Mr PEARCE: That is the member's misunderstanding of the terms of reference. A judge or lawyer would read the terms of reference and understand that each area listed for investigation will involve an inquiry and report for any corruption, illegality and impropriety. In addition to the inquiry and report on those areas of Government activity, the commission is separately required to report on two additional matters arising from the generality of the investigation.

Mr Lewis: Why are you protesting so much?

Mr PEARCE: I am protesting because the member is pretending to do something which already has been done by the Government months ago. Anybody involved with the Royal Commission knows that to be true. The pretence comes from the member for Applecross in claiming in Parliament that the Government is secretly attempting to stop the Royal Commission from reporting on these matters. The member claims that only his eagle eye has picked out this oversight, and he will make it clear to the Royal Commission that it must report. However, the Parliament cannot alter the Royal Commission's terms of reference, which were established by the Governor under the processes under the Royal Commissions Act.

Mr Lewis: This Bill changes the terms of reference.

Mr PEARCE: No, it does not. The member should read the Bill, drafted, I presume, by the Premier's brother. It states that the Royal Commissioners shall take their terms of reference and report on those inquiries; however, rather than letting the commissioners interpret what is required of them from the terms of reference, the member for Applecross wants to interpret the terms of reference for the Royal Commissioners. The member's Bill states that -

> The Commissioners shall inquire and report as required by the terms of reference of the Commission, but as though -
>
> (a) paragraph 1. was amended to read . . .

However, the Government has already attended to that. This Bill does not amend the terms of reference; it cannot do so. The Royal Commissioners have their terms of reference for their interpretation; however, the member is asking the commissioners to interpret the terms of reference as though they read differently from their actual form. As we have been advised, it makes no difference to use the words contained in the member for Applecross's Bill or the words used by the drafting lawyers. This is a shonky way of going about this matter. The member for Applecross has used the forum of Parliament to try to subvert the commission's terms of reference; although he cannot do that legally.

Mr Lewis: There are three ways of constituting a Royal Commission: One is by Parliament, one is by the Governor and the other is by the Queen.

Mr PEARCE: Which avenue was used in this case?

Mr Lewis: The Governor in Executive Council; and the Parliament has the power to amend the terms of reference of a Royal Commission.

Mr PEARCE: The member's Bill is not attempting to do that. The member does not understand his own Bill because it does not seek to amend the terms of reference of the Royal Commission. It says that the commissioners shall report and inquire into matters as outlined in the terms of reference. Therefore, it does not attempt to amend the terms of reference. The member for Applecross is seeking to impose upon the Royal Commissioners his interpretation of the meaning of their terms of reference rather than leaving it to those three eminent gentlemen. He is saying that he knows better than they do about the terms of the Royal Commission. The irony is that he does know what the terms of reference mean. They mean precisely what the Government has established the Royal Commission to do and that which the member for Applecross is asking it to do. It is strange that the member for Applecross should seek to use this shonky procedure to set in train something that has been running with great publicity in the State for the past six or eight months. The only reason one can give for that is that the member for Applecross is either a very slow starter in those matters or, more likely, he is out to do some point scoring from the Royal Commission. The reason is that, in a sense, the Opposition has not been drawing from the Royal Commission as much as it wants. During the Royal Commission's hearings, the Opposition has effectively been sidelined on almost any relevant participation in it. The Government has no wish to change this clause because it does not propose to give any ammunition to the proposition of the member for Applecross that the Government is in some way seeking to restrict the Royal Commission from reporting. The Government is not. It wants the Royal Commission to report on each of those matters. That is why the Government set up the terms of reference of the Royal Commission.

Clause put and passed.

Clause 5: Redress where impropriety found -

Dr ALEXANDER: I oppose this clause for practical reasons. The clause seeks to have the Government take whatever steps are necessary to recover money which may be found by the commission to have been improperly paid.

Mr Lewis: Paid by the Government.

Dr ALEXANDER: The clause does not specify that, but that is its intent. The difficulty with that is twofold: Firstly, it puts the Parliament in danger of making a law for special cases. If something illegal has been done, there is no doubt that a sensible Government - that sometimes may be in doubt but we would assume that may apply in this case - or whoever is on the receiving end of that illegal activity, has the right or the duty to pursue that payment. However, one of the things I tried to do in the second reading debate, and to which other speakers have drawn attention, is point out the fact that in the end impropriety is a subjective concept. Even if the Royal Commission came down with a finding that a payment had been improperly made, other people would deny that that was the case. We have already seen that happen in Royal Commission evidence to date. It is up to the commissioners to judge the matter and, as I said before, it is hoped the community will accept its judgment. It is not then up to the Government of the day to take another step and pursue a matter about impropriety as opposed to illegality.

The advantage of the clauses which have already been passed is that the Bill will bring clearly into the public arena the fact that the commission believes certain deals were improper or that some people acted improperly. It is then up to the public to judge what action should be taken. If actions are illegal, it is obligatory for the Government to pursue the matter. However, if actions are not illegal that is a different proposition. It may be impossible to pursue through the courts a matter relating to impropriety as opposed to illegality. The line is very thin. However, if the law is found to be wanting, it is not up to the Government to pursue a person who may have bent the rules; it is up to the Government to alter the law. That situation applies with the tax law. People find loopholes in the law; the Government proposes an amendment to the law and another loophole is found, and so on. The process can be incessant, but one assumes that gradually avenues for getting around the law are narrowed. The people who are judged to have acted improperly, particularly if they are in the political arena, will find their own judgment at the hands of the people, if they have not already done so. It is going too far to require the Government to take every step necessary to pursue a matter when a payment may have been made improperly. If the Government decided it could legally do that through the courts, that would be a matter for the Government of the day to decide. I understand that actions are under way which have resulted from the McCusker task force. People are being pursued for payments that may have been made either illegally, or, possibly, improperly. I urge members to vote against the clause because, although I fully support the thrust behind this legislation, it is in danger of providing an avenue which could be rightly criticised as it gets into an area about which we are legally uncertain.

Mr DONOVAN: Clause 5 puts this Parliament at risk of making a law that could never be observed. It puts the Parliament at risk of requiring the Government to do something by law which it cannot do. To follow this through, where improper, but not illegal, payments were made the Government would need to take the matter to court for recovery of the payments. The court would be stuck with a very simple proposition; that is, it could not make an order for recovery based on impropriety; it could do that only on the basis of illegality. That is a problem we set ourselves if the clause remains in the Bill, unless of course the Government were to pursue the recovery of an amount paid and the person who received that payment did not object to repaying it. I cannot foresee that happening very often. However, the odd show of guilt or patriotism by somebody who has been the beneficiary of a questionable payment may cause that person to want to pay it back. In that case clause 5 would still be unnecessary. Finally, the member for Applecross said a number of times that it was important to get on the record that it was the Parliament's view that moneys which had been wrongly paid should be recovered. However, Parliament does not pass laws simply to provide a public record; it makes laws which must be observed. We must be cautious for the reasons I, and the member for Perth, have outlined in making a law that cannot be observed.

Mr PEARCE: The Government supports the position put forward by the members for Perth

and Morley. This clause did not seem to be susceptible to achievement. Despite the fact that the member put forward the proposition that, in relation to this matter, his second reading speech is clearer than his Bill - that might be the truth - unfortunately, the reference in the second reading speech to the Interpretation Act was only to be a guide and where the words of the Act require different things -

Mr Lewis: Only when it is challenged; you know that.

Mr PEARCE: I think the member should give up his seat to Bevan Lawrance who would put this argument with a bit more force than can the member. The fact is that people seeking to recover money will finish up before the court on every occasion. It is not a question of "if it is challenged"; if somebody seeks to recover money from someone, as the member for Morley said, there will be a challenge and the first thing the court will do is look at the clear words of the Bill.

Mr Bradshaw: Once it has an interpretation, that is it. They do not keep going back to the court every time.

Mr PEARCE: There was a time when there were lawyers in the Liberal Party! They do keep going back to the court every time to apply the interpretation to the circumstances. If what the member has said is right, there would be one case relating to everything and, after that, things would automatically flow. There would not be great lines of people queuing up before the courts as there are now.

The clear wording of this clause of the Bill will do what the members for Perth and Morley have said it will do and it has the faults that they have said it has. It is no good the member asking us to look at the second reading speech because he has done it better there. The fact is that he has messed it up and the clause should go.

Mr LEWIS: Perhaps I should go back to the second reading speech and read the final paragraph again. The speech states -

> Therefore, this Bill, while it could perhaps be considered over-pedantic, nonetheless does not harm or impact on anyone, other than that it requires by Statute a Government to do what it properly should do. I therefore commend this Bill to the House on the basis that it is innocuous and can impact only if the Government's previously stated intentions to be open and accountable are not true.

In this Committee debate and in the second reading debate, we heard all of the reasons for the deletion of this clause and there is no substance in the Government's argument. It was a lot of rot. There is no harm in this Bill. In fact, it emphasises and amplifies what properly should happen. The gobbledegook that the drafting of the Bill by counsel has been remiss has been debunked. The intention of clause 5 is clear. What is the harm in clause 5? Why is the Government objecting to clause 5? I rest my case. Obviously, the Government has a conscience about this clause because it might be put in the invidious position of having to recover moneys from some of the mates it paid. Maybe that is the bottom line. I commend clause 5 to the Committee. It does not harm anyone; it requires only that the Government should do that which is proper.

Mr THOMPSON: I support the Bill although I am not all that enthusiastic about it. I recall weeks and probably months before the Government appointed the Royal Commission to look into the WA Inc affairs that I was invited to address the Applecross Rotary Club. At that meeting I was asked whether I thought there would be a Royal Commission into these matters and I said there would be; I was confident of that. However, I asked the club not to assume that that would stop the Opposition from having an adverse point of view about such a commission. I said that the Royal Commission would be appointed but that the Opposition would be suspicious of it and it would find some fault with the terms of reference. Here we have it. This is the only expression of opinion on behalf of the Opposition that the terms of reference do not go far enough. I believe that the terms of reference are sufficiently wide for the commissioners to do the work that the community expects them to do. The Royal Commission comprises three of the most eminent people who could have been appointed and I have the utmost confidence that the things that the member seeks to achieve in the Bill will be achieved anyway. This Bill does not really grab me, but I am prepared to support it.

Clause put and negatived.

Title put and passed.

Bill reported, with an amendment.

Suspension of Standing Orders

On motion without notice by Mr Lewis, resolved with an absolute majority -

That so much of the Standing Orders be suspended as is necessary to enable the Bill to pass through its remaining stages this day.

Report

Report of Committee adopted.

Third Reading

MR LEWIS (Applecross) [5.30 pm]: I move -

That the Bill be now read a third time.

MR PEARCE (Armadale - Leader of the House) [5.31 pm]: I point out the reason that I suggested during the second reading debate to some Independent and other members that this Bill would reach the stage at which it would be a waste of the Parliament's time. We have spent half the afternoon debating this Bill, with a clause removed, adding two totally unnecessary words to the terms of reference of the Royal Commission. Every now and then the Liberal Party points to the need to keep unnecessary Statutes off the Statute book and the first part of its legislative program is to add the most unnecessary Statute to that book.

MR LEWIS (Applecross) [5.32 pm]: The Liberal Party regards this Bill as very important, in that it puts beyond doubt the reporting requirements for the Royal Commission. Perhaps the comments of the Leader of the House are an indication of sour grapes that the Government has once again been defeated on the floor of the House.

Question put and passed.

Bill read a third time and transmitted to the Council.

[Questions without notice taken.]

Sitting suspended from 6.04 to 7.30 pm

WILDLIFE CONSERVATION AMENDMENT BILL

Second Reading

MR GRAYDEN (South Perth) [7.31 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to amend the Wildlife Conservation Act by deleting section 23 which exempts persons with Aboriginal ancestry from various provisions of the Act. The section is outdated and nullifies the efforts which are being made to protect native fauna and flora in Western Australia. It is also demeaning and offensive to Aborigines to be treated as second class citizens by being singled out for exemption from legislation designed to protect our threatened wildlife. More than 40 000 persons in Western Australia are exempt from provisions of the Wildlife Conservation Act, although none of these people is now dependent on fauna or flora for subsistence. Many of those who are exempt have only a trace of Aboriginal ancestry. No efforts to conserve wildlife can be effective when such a large section of the community is exempt from the major portion of the State's wildlife legislation. The situation is exacerbated by the ever increasing number of persons eligible to claim Aboriginal ancestry, the additional mobility afforded by vehicles and the use of firearms instead of traditional weapons and food gathering implements. Hunting of feral animals such as rabbits, goats, pigs, cats, foxes and unprotected indigenous species will not be affected by the amendment. Various species of feral animals are commonplace in all regions of Western Australia. Increased efforts to hunt them as a result of a ban on protected fauna will reduce their numbers and this will be of immense benefit to the ecology and the environment. Although this Bill seeks to delete the section which provides a blanket exemption from provisions of the Act for persons with Aboriginal ancestry, section 14 of the Act still allows the Minister the right to declare that any fauna is either protected or not protected throughout

the whole or such part of the State as he shall think fit. The Minister also has other powers, such as declaring a closed season or an open season in respect of any fauna, and he may impose such restrictions on either the taking or disposal of the fauna as he considers advisable.

Section 23 of the Wildlife Conservation Act of 1950 is outdated. It was first inserted in the legislation, then known as the Game Act, in Western Australia in 1874. It was rescinded in 1892 and did not reappear until the Wildlife Conservation Act was formulated in 1950. Therefore, for 58 years no exemptions of any kind existed. When the Wildlife Conservation Bill was introduced into Parliament in 1950 Aborigines in Western Australia were not entitled to receive social welfare. Social services throughout Western Australia were made available only to those categorised as indigents. That applied to the very elderly and the frail or virtually incapacitated and allowed them to receive rations. Apart from that it was introduced simply because in 1950 Aborigines in Western Australia were not entitled to social welfare. They had to subsist by leading a nomadic life and hunting and foraging for various types of edible fauna and flora. The situation has changed dramatically since that time.

Several years ago, on 24 June 1986, I asked the then Minister for Aboriginal Affairs whether any Aborigines in Western Australia were living a nomadic way of life and subsisting entirely on available flora and fauna and, if so, approximately how many. The Minister replied that he was not aware of any Aborigines in Western Australia in that situation. Therefore, for five years not a single Aborigine in Western Australia has been either in receipt of social services of one kind or another or been in work. In fact, at present, throughout Western Australia most Aborigines are not receiving unemployment benefits; they are being paid wages through the community development employment program. Aborigines in every settlement in Western Australia call their wages sit-down money because they are not required to work for their wages. The State's unemployment figures would be boosted greatly if the unemployed Aborigines received social security payments. As I said, since the introduction of the Federal Aboriginal and Torres Strait Islander Commission Act, able bodied Aborigines who would otherwise be unemployed have received a wage. This contrasts markedly with the situation in 1950 when section 23 was introduced into the Act. At that time no Aborigines in this State received social services or wages of the kind I have mentioned. For Aborigines on every settlement throughout Western Australia it is a world of Toyotas, microwave ovens and television sets. Aborigines can go to stores and purchase tinned and junk food. Children, in particular, buy sweets and soft drinks of various kinds and nothing could be worse for their health.

Mr Donovan interjected.

Mr GRAYDEN: They are financed by the community development employment program. Almost every child one sees is clutching handfuls of money and is purchasing things such as bottles of Coca Cola, which may cost over $4, sweets and biscuits, to the detriment of their health.

Mr Donovan: Just as do the children in Balga, Eden Hill, Balcatta, South Perth and Cottesloe and everywhere else.

Mr Lewis: Those children haven't got the money.

Mr GRAYDEN: Yes, they do not have the money. However, I am talking about Aborigines in Western Australia living in a completely different world from the 1950s when this section was introduced into the Act. As a consequence the need for open slather in the slaughter of Western Australia's flora and fauna no longer obtains. This exemption clause for 40 000 people in Western Australia nullifies the efforts that have been made to preserve the flora and fauna of this State. Mr Speaker, can you imagine the problems that would beset a ranger of the Department of Conservation and Land Management who approaches a person suspected of illegally destroying native flora and fauna? That person need say only that he is of Aboriginal descent and the ranger can do nothing. What can that ranger do? There are 40 000 people in that category in Western Australia. Will he ask for a blood test? That person does not have to be included in that category because he must meet only the qualifications required by the extraordinary definition which states -

> "person of Aboriginal descent" means any person living in Western Australia wholly

or partly descended from the original inhabitants of Australia who claims to be an Aboriginal and who is accepted as such in the community in which he lives;

If a person says he is an Aborigine the community will accept that. If any member in this House has a great grandmother of Scottish descent and identifies himself with the Scottish people by saying, "I want to be a Scotsman" and claiming Scottish ancestry we would accept him as such under this definition if it applied to Scotsmen. He would be regarded as a Scotsman and exempted from the flora and fauna laws of Western Australia. What an extraordinary situation! In the same way, if a Department of Conservation and Land Management officer approaches a person in the bush, that person has only to say that he is an Aborigine - and this could apply to many other ethnic groups in Western Australia - and he would be exempt from the flora and fauna laws of Western Australia.

The other day Howard Sattler telephoned and asked me to make some comments on this matter because Neil Phillips from the Aboriginal and Torres Strait Islander Commission was a guest on that radio show. I was told that we had four minutes to speak and I made a few comments on this matter. Howard Sattler asked me to name some of the fauna of Western Australia which was threatened. I mentioned the mallee fowl and the plains turkey in particular, and other fauna, including the dugong. Neil Phillips immediately said that mallee fowl could be found all over the place on the Darling Scarp. I suggest that few members in this Parliament, irrespective of how far they have travelled in Western Australia, have ever seen a mallee fowl. Mr Phillips also said that plains turkeys - which are also referred to as wild turkeys although they are actually bustards - could be found all over the Pilbara and Ashburton areas. He said that one only needs to visit the north west to see huge numbers of that bird. I said that if a person travelled from Perth to Halls Creek he would not see one plains turkey. He said that was so because I had only ever travelled on a road to that place. In fact, I have crisscrossed this State on various prospecting enterprises for 15 years and there are few parts of this State to which I have not been. I was perturbed to find that a member of the Aboriginal and Torres Strait Islanders Commission held such views on the flora and fauna of Western Australia.

Recently, it was announced that bettong - which are kangaroo rats - and golden bandicoots are to be flown from Barrow Island to central Aboriginal reserves because they can no longer be found in that area. Before the attempts can be made to reinstate these species, foxes and feral cats must be poisoned because they will pose a threat. In 1953 I travelled from Perth to the Rawlinson Range and encountered many Aboriginal parties. The women were the ones doing the work with digging sticks. They were digging out bettong and rabbit-eared bandicoots which are also called dalgytes. Repeatedly my party met up with parties of Aborigines digging those animals out of their warrens. At that time a main source of food for those Aborigines was feral cats. Many of the Aborigines at that stage had never met white people, yet they lived mainly on feral cats and foxes; they regarded bettong and dalgyte as delicacies. Now, with the reinstatement of the bettong and golden bandicoot in central Western Australia, people who have not been instructed in the need to conserve and protect our flora and fauna - and who are probably partly responsible for the extinction in their natural habitat of those two marsupials - will undoubtedly hunt them, because they are exempt from the flora and fauna laws of Western Australia.

A different situation obtains now from 30 years ago. Aborigines now have access to Toyota four wheel drive vehicles and to firearms instead of the traditional weapons that were used for hunting food animals. This combination will result in the absolute decimation of many species of animals in the State simply because 40 000 people in this State are exempt from the flora and fauna laws of Western Australia. That will occur, despite the efforts - at great expense - of the Department of Conservation and Land Management and other bodies to protect the flora and fauna of Western Australia.

Often we read about a person who has tried to smuggle birds' eggs out of Australia to perpetuate the species in another country. In many cases those eggs are bred in aviaries and are not taken from the wild. The penalty for smuggling eggs out of Australia ranges between $60 000 and $100 000. However, 40 000 people in this State can eat those eggs every day of the year, if they can obtain them. Of course, they are only available during the nesting season. Where is the justice when one person is fined $60 000 for smuggling eggs out of this country and other people are permitted to eat them at any time?

If one visits Aboriginal communities in the north of this State he will find every boy walking around with a shanghai around his neck. The boys shoot at everything that moves, whether it be a bird or a lizard. What would happen in the metropolitan area or in the south west of this State if children walked around with shanghais around their necks and shot at any type of fauna that moved? The ammunition does not cost them anything because any stone will do for a shanghai.

It is offensive to Aborigines to be placed in a situation where they are regarded as second-class citizens. Throughout this State there are Aborigines with professional qualifications and if one travels around the south west he will find Aborigines employed in all sorts of jobs and in businesses of their own. They are highly responsible people and they want to join the rest of the community in protecting the wildlife of Western Australia. It is offensive to them that they are singled out as a race. Notwithstanding that, of approximately 142 nationalities in Australia only one race is exempt from the fauna laws because it is considered that it cannot shoulder the responsibility of protecting the flora and fauna of this State. It is demeaning and belittling of Aborigines and I am at a loss to understand why some people do not realise that. I have explained this situation to some Aborigines and they agree with me, and I can assure members that they have a great interest in protecting the flora and fauna of Western Australia. Naturally there are some communities which must be educated in the necessity to protect threatened flora and fauna. None of the communities is dependent on flora and fauna for subsistence and they will readily accept the message.

I referred earlier to the definition of "Aboriginal" under this legislation. However, it is completely different from the definition of "Aboriginal" under the Aboriginal and Torres Strait Islander Commission Act, which is that an Aboriginal person means a person of the Aboriginal race of Australia. In other words, as far as that Act is concerned a person must be an Aboriginal to benefit from that Act. If that definition applied to this State's fauna and flora Act the situation would be very different because the exemption clause would apply to Aborigines only and not to people who have some remote ancestry and identify themselves as Aborigines.

Mr Pearce: Your 15 minutes is well and truly over.

Mr GRAYDEN: I said I would not embark on a Bill of this significance if I had only 15 minutes in which to speak. I will conclude my remarks as soon as possible.

Mr Pearce: Do so quickly.

Mr GRAYDEN: It is not a matter of doing that quickly; it is a very important Bill and I was promised that it would be brought on earlier today. I would have spoken to it at greater length if the time were available because it is very important. Now that I have been requested to conclude my speech quickly I will be skipping from one point to another.

According to the Census figures in 1961 there were 16 276 Aborigines in Western Australia and in 1986 there were 40 000 Aborigines in this State. There is no question that the number will increase. It is quite impossible to have such a huge section of the population exempt from the flora and fauna laws of Western Australia. About 12 000 people reside in the Kimberley and about 9 000 of them are exempt from the flora and fauna laws. The situation could arise where the manager of Go Go Station, who may be an Eurasian, was starving and he would not be permitted to shoot a duck. However, if his employees had Aboriginal ancestry they would be permitted to shoot ducks on every day of the year. That illustrates how ridiculous is the situation.

In every area of Western Australia some feral animals - rabbits, goats, pigs, cats, foxes or camels - are in abundance. In addition there are unprotected indigenous species, and in an open season agile wallabies and ducks. Therefore, it is not a question of preventing Aborigines from hunting. Often in the Kimberley open seasons are declared under the flora and fauna legislation for shooting agile wallabies, which are regarded as a pest. Under this legislation the Minister will retain the power to allow local authorities to declare open seasons on indigenous species. In past years there were no game ducks where the Argyle Dam now stands, but now there are 100 000 of them on the dam and the Aborigines will be able to shoot them, provided the Minister gives his permission.

Every time this subject arises the Minister says, "If the member will bring to my attention the species that is in danger of extinction or is being taken in unduly large numbers I will do something about it." The Minister said, in part, in answer to a question I asked -

> . . . I am happy to take action to ensure that species which may be in short supply are not consumed in the course of the next few months while the Parliament takes the appropriate action.

In answer to question No 185 asked on Thursday, 30 May, the Minister for the Environment replied -

> If any species were endangered in this way, I have the power under the Act to take action to ensure that that danger stops by stopping the eating. Eating is preventable in these circumstances. If the member wants to draw my attention to a species which is disappearing through people's teeth, I am prepared to take appropriate action.

In reply to another question the Minister said -

> If the member for South Perth wants to take up those issues, he should make a submission to me which indicates the endangered species which are being further endangered by these practices, and I will take the necessary action.

The Minister also made a similar statement the other day which was reported in *The West Australian*. This is a stratagem adopted by the Minister to deceive people. I wrote to the Minister on 4 September 1991 as follows -

> In reply to question 185 in the Legislative Assembly on Thursday 30 May last you stated "If the member wants to draw my attention to a species which is disappearing through people's teeth, I am prepared to take appropriate action."

I continued later in my letter -

> In view of the fact that you will not agree to the abolition of these archaic exemption provisions in our wildlife legislation I draw your attention to four particular species of fauna which urgently require full protection and I therefore request that they be added to the list of fauna declared rare, or otherwise in need of special protection pursuant to the Wildlife Conservation Act 1950.

I then named the four species which are the echidna, the plains turkey or bustard, the dugong and the mallee fowl. I have not received a reply to that letter, yet every time the subject is raised in the Press or in this House I receive the same reply. I will have to give away asking questions. Whenever one writes to the Minister one does not receive a reply. Aboriginal people throughout Western Australia are eating echidnas. One man in Geraldton advertises, "Come out with me and eat an echidna" while on his tour. The plains turkey cannot stand the shooting to which it is presently subjected. Dugong are being slaughtered in the north, as are mallee fowl which are easy targets and which I have asked be placed on the endangered species list or list of animals in need of special protection. That has not been done. I will not continue with my speech, although I was assured on a number of occasions today that I would be allowed at least a half an hour to present my Bill because I had not prepared a written speech. At the last minute it was suggested that I should speak for only 15 minutes.

The SPEAKER: The member should take no notice of that.

Mr GRAYDEN: I appreciate that you, Mr Speaker, would have allowed me to continue on this important subject. We are spending millions of dollars on fauna protection and then allowing the effect to be nullified by exempting 40 000 people from our flora and fauna conservation laws. I conclude with great regret but commend the Bill to the House.

Debate adjourned, on motion by Mr Pearce (Leader of the House).

RETIREMENT VILLAGES BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

MR NICHOLLS (Mandurah) [8.06 pm]: In my remarks earlier today I sought to put to the House the situation that Western Australians will face with aged accommodation over the next few decades. Legislation such as this Bill will play an important part in retirement villages. I reiterate that I am not suggesting that this Bill is without some inconsistencies, and there will definitely be debate on some of its relevant parts. Legislation is important if the State is to have a strong and vibrant retirement village industry in the future.

When one looks at retirement trends for aged people in Western Australia one sees a remarkable reliance on homes being purchased when people retire. I understand that the 1986 census showed that 70 per cent of people aged 60 years or over lived in separate homes and 16.7 per cent in medium density housing. Less than eight per cent of older people live in institutions such as nursing homes and hostels. As I said earlier today, I believe that percentage will increase dramatically in future. Therefore we need not only to put aged accommodation needs in perspective, but also to look at the number of people who will be seeking such accommodation, whether in retirement villages, hostels, nursing homes or some future design or service covering aged care or accommodation.

When I first read the Bill it seemed to me that we were using a sledgehammer to crack a peanut. I extend my thanks to the Minister and her staff because as a result of a briefing with them it was possible for me not only to discuss some of the perceptions held by other people and me, but also to pass on certain views so that the Minister and her staff could not only analyse them but also arrive at some sort of agreement as to how we would proceed so that fears held by some people would be allayed. For that I believe the Minister deserves not only my thanks but also the appreciation of the Parliament. That briefing has saved the Parliament a lengthy debate and possibly a great deal of conflict. I believe we can learn lessons from the other States, in particular New South Wales and Victoria - the Minister referred to those States in her second reading speech - from the things they have done right, particularly the way they have managed their retirement village industries and the problems which can crop up. However, we need to be careful not to jump at shadows and over-regulate, fearing something might happen which we cannot identify or quantify.

As we heard a few moments ago, the Aboriginal population in Western Australia is increasing. One of the issues on which I would like to focus is the number of Aboriginal people who are now becoming part of our aged population. Most Aborigines do not have a long life-span, as has already been pointed out, but the majority of aged Aborigines are living with their families. While I support that concept - and it is one which the whole community supports - we need to examine the concept of their living in retirement villages. We must also consider other groups in our community who cannot afford access to some of these retirement villages. When examining the legislation which provides parameters for the retirement village industry, we must also keep in mind that we should embrace and support the retirement village concept rather than see it as being exploitative of elderly people. It is important that, as we move into the next century, we as a Parliament appreciate that we need to provide accommodation not only of an adequate standard but also something which is able to cater for the lifestyles and needs of those people.

The code of practice is a very good document; in fact it will be positive for the industry. My view is that it is not complex; it is not something people wanting to enter retirement villages would find hard to understand. In fact I believe they would find it very easy to understand. I hope it will be the main tool used to provide parameters and organisations for solving disagreements in the retirement industry. However, I believe the same sort of outcome could have been achieved by simply following the New South Wales model and adapting it to Western Australia. I accept that that legislation contains some shortcomings, but I support it. However, I wish to see the code of practice as the main basis on which the retirement village industry will grow rather than the present perception of the somewhat heavy regulation contained in the Bill.

My next point concerns the anticipated growth of the retirement housing industry. There is no doubt that this will occur. One point which has been raised by me and by the Minister in conversation, as well as by others in the community, is the fear that we may see retirement villages being built and developers getting tenants in. Then the retirement village may dissolve, or in some way be mismanaged, and as a result the tenants will lose their rights of tenancy. Although this concerns me, it is something which many people face, irrespective of whether they are aged or young people entering leases or rental accommodation. I would like to see the Government and, in fact, this Parliament, giving a clear indication to developers that strata title developments whereby the tenant has ownership of the dwelling will be the rule rather than the exception. I understand that in the case of disadvantaged groups or voluntary care organisations, that will not be the case. However, there is still a far greater scope for strata title developments to become the norm in Western Australia in the future.

Another point concerns the Minister's comment that Australians expect to live as independently as possible and as long as possible, and perhaps one in five or one in six approaching retirement is interested in moving into some form of retirement housing. I do not disagree with the Minister, but while the proportion may be one in six at the moment, in a decade or two we will see a situation where only one in six does not look towards some form of retirement village concept if these people have the capacity to buy into such a facility. We are in desperate need of developing facilities so that people can get into them at a reasonable price rather than make them so restrictive and expensive that only the wealthy in our society are able to afford them.

Another point concerns residents' rights and the need to ensure that tenants have some sort of tenure over their accommodation. However, I am concerned about the continued reinforcement of individual rights. Somebody can demand his rights and others are expected to provide them. My view is that we should be examining the responsibilities of developers, corporations or owners, and the responsibilities of tenants, so that each understands what is expected of him; each understands where he is able to exert some of his preferences and what sort of actions or services he is expected to provide. I urge the Legislative Assembly to examine the matter of people's rights as it applies to this legislation. The phrase creates a perception, particularly among the older population, that all of a sudden they will be empowered to demand what they believe they are entitled to.

Unfortunately, while we may believe we have rights and that we can stand up and berate the Government, business, or the community, we must understand our responsibilities and we must fulfil them. If each of us can do that we will prevent most of the problems from occurring. If that sort of attitude can be developed much of the conflict and trauma that can be created in high density housing developments, such as retirement villages, will be resolved. I urge the Ministers - indeed all members - to focus on responsibilities. When they talk to the community through the media, or even on a one to one basis, they should try to re-educate the community to focus on, understand and fulfil their responsibilities.

I thank the Minister for ensuring that a review of this legislation will take place in 12 months' time. The review will enable us to highlight community concerns and we will be able to analyse whether we have taken the correct path with this legislation or whether we need to change direction and create better incentives. Perhaps we will need to loosen up the regulatory impositions of the legislation. Legislation is needed to ensure that the retirement village industry, which will expand rapidly in the next few years, not only has a clear understanding of its responsibilities but also some guidelines as to where development should take place, the way people should be involved - both developers and residents - in the conduct of their business and in the resolution of any disputes without any long term trauma to the individuals or parties involved.

MR FRED TUBBY (Roleystone) [8.23 pm]: I support the Retirement Villages Bill with some reluctance. For a couple of years I was the shadow Minister for Consumer Affairs and for Seniors. I had prepared a 30 minute speech on this legislation but due to the amount of time taken by the member for South Perth - which was Government time - my time has been cut back to 10 minutes. The Leader of the House was aware of that when he petulantly carried on about the member for South Perth. That was not very generous at all, considering how generous I have been in cutting back my time to speak, and considering that we spent until a quarter to two this morning debating a matter which the Government knew would not go through the upper House. The Leader of the House should think about what happened yesterday. Reluctantly, I will cut back my speech.

Mr Pearce: This is the kind of speech that comes back to haunt people.

The ACTING SPEAKER (Mr Watt): Order!

Mr FRED TUBBY: The retirement village industry is a growth industry. Mr Acting Speaker, as you will retire before the next election you should consider this concept with a great deal of interest; no doubt that interest will become even more profound in future years.

The ACTING SPEAKER: I am not that old!

Mr FRED TUBBY: When the retirement village concept was first mooted, retirement villages were considered dumping grounds for elderly citizens. Elderly people were reluctant to enter retirement villages because they thought that the villages were where

geriatrics went and that the residents did not have a good time. As the shadow Minister for some time I not only looked at the four retirement villages in my electorate but also I travelled to Albany and to other areas of the State to look at retirement villages. Elderly citizens have come to realise that the villages do not represent an inferior lifestyle. They are exciting places; they are places where people of that vintage support one another; they provide social and sporting activities without the need to travel great distances or to incur great expense.

Three main types of villages are operating: First, those set up by local community boards; second, those set up by church groups; and third, the entirely private retirement village concept established around the metropolitan area. As pointed out by the member for Mandurah, our population is ageing. Over the next 20 years that growth will become so significant that there is no way either the State or Federal Government will be able to afford to provide the level of care necessary for elderly citizens. These people need three levels of care in the village concept: Self contained units where people can look after themselves, with ongoing care as one partner dies or becomes incapacitated; the hostel type accommodation; and, if their health deteriorates further, the nursing facilities. In many villages the individual units are well established, and some hostel accommodation has been established with Federal Government funding. Unfortunately, the nursing home component causes problems because the Federal Government does not provide the level of subsidy required. When these people reach this level of care many of them are forced out of the suburbs in which they have lived and within which the retirement villages are situated, into other areas. That causes a great deal of trauma. When talking about the concept of retirement villages we must consider the three levels of care, and the Federal Government must provide greater subsidies for church groups and community boards to ensure that hostel and nursing home accommodation is available within local communities.

Mr Strickland: The people who would normally have gone from hostel to nursing care in the past have had to remain in hostel care because people in nursing care are living longer and the hostels are becoming almost de facto nursing homes.

Mr FRED TUBBY: And they are funded as hostels, and this causes cost pressures on the hostels and on the staff who cannot provide the level of care that they should when they realise the condition of some elderly citizens.

Dr Watson: Putting that into proportion, 93 per cent of these people live independently. We are talking about only seven per cent of the population.

Mr FRED TUBBY: If I am to keep within the time limit members must stop interrupting.

This growth industry will rely in future years more and more on the establishment of retirement villages by private enterprise. The retirement village concept does not include only independent units but also hostel accommodation and nursing accommodation. When somebody buys in at the initial independent unit stage he is buying a complete package which will see him, if necessary, right the way through the three levels of care. That is funded privately with very little support from either the State or Federal Governments. We should be doing everything we can to encourage private enterprise to become involved in the retirement village industry. In future years the State and Federal Governments will not be able to accommodate the requirements of our elderly citizens. In order to do this we need to go back to stage one. When we plan our new suburbs we should ensure that land is set aside, zoned, or reserved for future retirement villages, remembering that when a new suburb is developed most of the people who move in are young families. The blocks are cheap and many houses are developed on house and land package deals and those families are a long way from considering the retirement problems of later years. It is up to the State Planning Commission to make sure that in new suburbs it allocates reserves for future retirement villages for when they become necessary. It is expensive in older suburbs to try to establish retirement villages. I know it has occurred, and the Amaroo Retirement Village is an example in my electorate. In Gosnells very large blocks were developed and streets were closed off making almost a separate village with hospital and hostels all on the one site. The Acting Speaker (Mr Watt) knows the village well because his parents live there. It takes a lot of planning and forward thinking by local authorities and residents to undertake this concept, and it is not without a great deal of expense as the old homes must be purchased and bulldozed to establish the retirement village. It is a very long term measure and it is

expensive. Right from the initial planning stage of our new suburbs we must set aside, zone or reserve land for retirement villages. It need not necessarily be reserved for church or community groups to establish the villages. I do not see any problem with a private organisation purchasing the land and establishing a private retirement village. It is a growth industry and we must consider the future of our elderly citizens. There needs to be cooperation between local, State and Federal Governments and I am pleased to see that, in many of these retirement villages, Homeswest is making money available so that units can be established for rental purposes for tenants who cannot afford to go in as resident funded tenants. That is a great concept and it should be extended for those people. During the last few years some problems have been experienced with the operations of these retirement villages. Whenever a group of people comes together there will be management problems and administrative procedures that will conflict with the needs or aspirations of the people who reside within the group. Problems have been experienced and there needs to be some form of legislation or set of rules. A draft code of conduct was drawn up two or three years ago, when I was shadow Minister for Consumer Affairs. The code was to be established through law by an umbrella piece of legislation so that contracts could operate under the Fair Trading Act. Unfortunately when the Minister for Consumer Affairs got hold of the code she did what she did in the Home Building Contracts Bill and in many other pieces of legislation; she brought in a fully fledged piece of legislation to cover every contingency that could occur in the operation of retirement villages.

Mr C.J. Barnett: Regulate or perish!

Mr FRED TUBBY: That is right. In the Minister's usual form it is a prescriptive piece of legislation which sets up yet another tribunal and provides some exorbitant penalties - up to $25 000 if somebody happens to break one of the rules in the legislation. I consider that we could have got away with a code of conduct and done it the easy way. However, the Minister prefers to do it the hard and prescriptive way; fortunately she has agreed to a review after 12 months. But for that review I would not have been able to support the Bill. The industry has been floundering around for the last three years not knowing what the rules would be. The private sector particularly has found it increasingly difficult to gain finance for the establishment of retirement villages, not knowing what the field of play would be in the future. At least now we know what the rules will be. They are not the most satisfactory set of rules but at least the industry can live by them, and with the promise of a review in 12 months I am sure that all the anomalies we perceive can be addressed at that time. I support the legislation.

MR C.J. BARNETT (Cottesloe) [8.36 pm]: I support the Retirement Villages Bill but, like other speakers, I do so with some reservations. The reasons for supporting this legislation were articulated by the member for Kingsley: Firstly, the industry wants this legislation, and, secondly, it will contain a 12 months' review clause that will allow a second look at this legislation and its operations after one year. The retirement village industry is a growing one and there is a growing need for housing for our ageing population. The member for Mandurah has already quoted some statistics. The 1986 Census revealed that 145 000 people over 60 years of age lived in Western Australia. The projection for the year 2001 is that there will be 200 000 people, or 12 per cent of the population, over the age of 60 years in the State. By the year 2001 one in eight people will be 60 years or more. Some 20 per cent of people who are 60 years and over already live alone; and 75 per cent live in single residential accommodation. There is clearly an emerging housing crisis for seniors in Western Australia, and to this point it has not been properly addressed. At present we have a limited number of high quality, high standard retirement villages and the wealthy seniors have options available to them. At the other end of the socioeconomic scale, some of those poorer seniors can often find accommodation in a Government hostel. However, for the great majority of people nothing is provided within the marketplace at present. I hope that this Bill will be conducive to helping fill that gap. It is important to note that Western Australia has less than half the national average of retirement village accommodation; so this State lags very much behind the rest of Australia.

Mr Minson: There is a sad lack in the country.

Mr C.J. BARNETT: A very sad lack, and the situation is not particularly good in the city either. The reasons Western Australia has less than half the national average of retirement village accommodation could be many, but I suggest there are probably three major reasons:

First, there has been a lack of consumer confidence in the industry; certainly there have been many instances of unethical behaviour that has contributed to that. On that ground alone one could argue a case for some sort of legislative framework. The second reason is the lack of equity for consumers living in retirement villages. The prime example relates to land tax. A person is exempt from paying land tax on his or her principal place of residence. If people live within a retirement village on a strata title basis, that retirement village and therefore the residents are not subject to land tax. However, if those people live in a retirement village where security of tenure is based on some form of loan licence arrangement, land tax is levied on the governing body of the retirement village and therefore, ultimately on the residents. The inequitable situation arises where people living in their family homes do not pay land tax, but if they moved to a retirement village under a certain structure they would. That inequity has contributed to a lack of movement and confidence of people in retirement villages. Similar inequities apply to seniors' concessions and so on. Just as legislation for the retirement village industry is important, equity also demands that people resident in retirement villages be treated on the same basis as people who continue to live in the family home.

A third reason for the retirement village industry lagging in Western Australia is a lack of investor confidence in that sector. Part of that problem is attributed to a lack of regulatory framework, and that is an argument in favour of such legislation as this. The other part relates to the problems of differing local government requirements and attitudes to retirement villages. It will be necessary to encourage greater support from the local government sector if sites are to be made available for investors to move into this industry. I am not suggesting that can be solved in the scope of this Bill, but it is a serious problem. The Retirement Villages Bill will not solve that problem or many other problems.

The member for Roleystone has just pointed out that the industry originally sought a high level of self-regulation through a code of practice attached to the Fair Trading Act. I would have favoured a far greater emphasis being placed on that type of approach. However, this Minister, as is her way, originally seemed to agree with the industry but now has gone down a legislative and quite prescriptive path. We will have an opportunity in a year's time to judge how well the legislation has performed.

It is true that the Bill may give a degree of comfort and protection to consumers. It is also true that it may give a degree of certainty and, therefore, confidence to investors in the industry. However, the Bill is highly regulatory and, in that sense, there is a danger that the Bill could discourage investment in the industry sector. If the Bill is over-regulatory and over-prescriptive, it will discourage choice and variety within the retirement village sector. I am talking about choice and variety in a physical sense - that is, the types of facilities and health care attached to retirement villages - and the price range. We want to generate a wide range of retirement village accommodation with maximum choice and maximum price range. If this Bill acts in a restrictive way on the industry, it will restrict that choice, variety and range of price.

The member for Kingsley also drew attention to the administrative workload that will be attached to the Bill; therefore, I will not dwell on that aspect. She also drew attention to the fact that the Minister has established another tribunal under this legislation. Very wisely, the member for Kingsley suggested that either the local courts or the Residential Tenancies Tribunal could be used to handle disputes arising out of this legislation. Certainly, it is regrettable that yet another quasi legal body is being established in this State. Costs, problems and conflicting jurisdictions are issues that can arise and they have been spelt out in detail by the member for Kingsley.

In conclusion, I repeat that we have an aging population. We are faced at present with a shortage of purpose built accommodation for seniors. We desperately need to provide for greater private sector investment in retirement villages and we desperately need to provide a greater range of retirement villages in terms of health care and other services, recreation, price and variety. I hope the legislation will play a positive role in building up people's confidence about investing in and entering retirement villages, and that it will support the industry. I look forward to a vigorous debate as we examine the Bill in more detail.

DR TURNBULL (Collie) [8.45 pm]: I welcome the Retirement Villages Bill, a concept which has been agreed to by the people who provide retirement villages - that is, the lessors -

and the people who live in the villages. I have had a lot of experience in the country with arranging well aged, frail aged or nursing care accommodation for elderly people, and it is extremely difficult to arrange those types of accommodation. As has been said already tonight, one of the main reasons for the extreme difficulty in organising retirement villages is the regulations relating to a person in the retirement village wanting to break a contract to get out of the retirement village or the organisers of villages needing to break the contract. We are pleased to see that the Bill assists the parties involved in retirement villages to sort out disputes. Members should not forget that under the legislation the disputes tribunal will be the third layer in dealing with disputes. The first would be a disputes committee and the second the conciliation area within the Ministry of Consumer Affairs. As long as a framework is laid down for dealing with disputes, the rights of both parties to the dispute will be protected.

The greatest advantage of this Bill is that it sets out the rights of the occupiers and the lessors. In the country, the lessor is nearly always a corporate body set up in a voluntary and non-profit way. It is very difficult for the people who put an enormous amount of effort and time into organising a non-profit corporate body to have to deal with disputes. It is also distressing to them and I think a framework for dealing with disputes will be welcomed by them.

One matter that is not dealt with by the Bill is the extremely difficult problem of resident funding of retirement villages. We must do something to deal with the situation of a resident dying or leaving a retirement village and leaving the corporate body with the property. I do not know whether the Minister will comment on this problem or whether it comes within the scope of this Bill. However, an enormous problem can arise when a resident of a retirement village dies or leaves the complex if that unit cannot be sold or transferred to another resident pending settlement of the estate. On those occasions funds must be found to settle the outstanding debt to the estate of the former resident. I know of six retirement village organisations in the country which are experiencing that problem at the moment. It is a great disincentive to organisations to develop retirement village projects.

The Bill will create a legal framework for proposals other than the actual purchase of a unit, which is a much better arrangement because it will not be necessary to make a capital payment when a resident dies or leaves the complex. If a retirement village is established, particularly in country areas, whereby the resident is not required to pay a large contribution, somehow the organising body that develops the retirement village must have capital in the first place. There are three ways of achieving that: The first is by providing its own capital and using that capital as an investment on which a return is expected. The second method is to raise the money from the community in a community project through a religious group, a single issue group such as the Returned Services League, a service club such as Lions or Apex, or a body of well-meaning local citizens. The third way is through Government contributions, and that was the system under which these retirement villages were established in the past. Many projects built along the lines of retirement village concepts were started with Federal Government grants. Unfortunately, particularly for country people, 2:1 or 1:1 funding from the Federal or State Government is no longer available. In some cases, it may be necessary for the Government to consider the reintroduction of those grants as a way of providing accommodation for aged persons, particularly in the country. One of the major problems facing rural areas at the moment is the drainage of population, which applies to all age groups. A few years ago many country towns took part in huge fundraising projects to build their own resident accommodation for elderly citizens. Those projects had a small proportion of resident funding in the total funding proposal. Those which are already functioning are functioning well. However, it is unlikely that further projects will develop in those country towns which do not have a facility at present. If the Government wants to stop the drainage of population from country towns, and if it wants to positively encourage people to return to those country towns, particularly senior citizens who seek a refuge from the urban jungle, it must reassure those people that they will have accommodation in those areas for the rest of their lives in a retirement village or resident funded housing.

The National Party supports this Bill. It is a positive move. The National Party commends the Minister and the Opposition spokesperson, the member for Kingsley, on the proposal to review the legislation in one year's time. During that time we shall be able to determine which aspects of the legislation are not working and which are working well. Although some

people may feel this legislation is just more consumer action legislation, the proposed five day cooling off period will be of great benefit to elderly people. Many elderly people have doubts and concerns about whether they are making the right decisions. That five day cooling off period will give them confidence that the contract into which they are entering is genuine and that it has no hidden clauses. Since they will have the opportunity to change their minds within that five day period, they will feel that everything is aboveboard. I am sure from my dealings with many elderly people in their efforts to provide for themselves in their old age that it will give them much more confidence about signing a contract.

As I have already pointed out, the disputes committee will provide an avenue for dealing with any concerns that arise, and in one year's time we can determine whether it is functioning properly and whether it is necessary for the tribunal to continue. It is most likely that it will not be needed. It may be used occasionally if an organisation disadvantages a number of residents in a complex. However, I fully expect the negotiators in the Ministry of Consumer Affairs to deal with most of the problems that arise.

This Bill will provide another benefit; that is, it will enhance the credibility and reputation of the organisers of retirement villages. That is very important because, as I said in my opening remarks, most corporate bodies or organisations which provide retirement village accommodation are non-profit making and they are frequently run by volunteers. It is important that their reputations remain intact and that they have some credibility within the community. I repeat my warning that resident funded accommodation - whether it requires a small or large contribution from the residents - will not be provided in country towns in the current economic climate, or for some time in the future, because of the lack of funds in country areas to provide a pool of capital. That will not be possible because the actual on-sale of the units is often difficult and no corporate body can carry the cost of unsold units. In the long term planning for elderly people in country areas, the Government must recognise that corporate bodies seeking to establish retirement villages need Government resources to back them or a grant to start them off. The National Party supports the Bill.

MRS HENDERSON (Thornlie - Minister for Consumer Affairs) [9.00 pm]: I thank Opposition members for their support of the Retirement Villages Bill. The comments they made were constructive and positive, and provided a good example of an opportunity for members to contribute to a debate in a way that raises issues that may not previously have been raised. I am confident and hopeful that this legislation will do both those things that many members referred to; namely, ensure that elderly folk who go into retirement villages are fully protected and that their security is the number one priority and is well catered for; and, secondly, that the industry as a whole is given adequate confidence by this legislation. I guess that the extent to which this legislation will work will be evident in the future. It may not be evident within 12 months, but I am sure the fact that the industry believes in this legislation will be a significant factor in its success.

The member for Kingsley referred to the necessity for an owner or an occupier of a retirement village unit to lodge a memorial on his property before entering into a sale of that property. The member for Kingsley was correct in expressing concern about elderly residents who might not think that was applicable to them right up until the point at which they were ready to sell their unit. I appreciated the fact that the member sought to find a way in which to ensure that elderly residents were given ample opportunity to lodge a memorial. The member, like me and my staff, encountered the need to find a balance between protecting the incoming purchaser and ensuring that the owner of the unit did not inadvertently incur a penalty by failing to lodge a memorial. However, I think everyone agrees that the memorial is a key element of the Bill because it will provide the ultimate security and protection for residents of a retirement village in respect of the purpose and the use of the land within the retirement village. It is fortunate that none of the catastrophes to which members have alluded has occurred in Western Australia, and I have no doubt that by having a memorial on the land we will ensure that those catastrophes are unlikely to occur here. Several members referred to the fact that people who go into a retirement village are purchasing a lifestyle and a form of security, and they should be able to rest secure without having to worry that that lifestyle may be disturbed by forces beyond their control. The memorial will go a long way towards ensuring that.

The member for Kingsley and the member for Cottesloe asked why we needed regulation, given the fact that a code of practice, which sits under the Fair Trading Act, has been

established and widely accepted. I was pleased that the industry agreed to voluntarily comply with that code of practice. As far as I am aware, the industry has abided strictly by that undertaking, and the code of practice has worked effectively. However, at the end of the day the industry sought to have a number of things taken out of the code and put into legislation. The proposed legislation was expanded during the period of 12 months that we negotiated with the industry. The industry was anxious to ensure that the legislation provided a clear means for residents of a retirement village to resolve disputes about amounts as substantial as $100 000, or more. The industry believed that it was not adequate for the local village disputes committee to resolve such disputes. I know that the question of the proposed tribunal has disturbed some members opposite, and I will come back to that. The member for Kingsley would probably say that the Local Court is the place where such disputes should be resolved, but all the evidence that came to me indicated that many elderly people feel inadequate when they are faced with the prospect of having to go to the Local Court. Significant expenses are associated with hiring a lawyer and appearing before a court. Specialist tribunals work extremely well, and if they can work in a cost effective way and in a way that is quick and fair, there is scope for them to provide a specialist service to people in a particular area; in this case, senior citizens.

Mr Fred Tubby: It would want to be quicker and fairer than the Small Claims Tribunal.

Mrs HENDERSON: I think the member will find that the number of complaints that will be likely to go before the tribunal will be far less, if we look at the experience in other States, because this tribunal will be the ultimate step. It will not be the first step. There will be several steps beforehand. I hope that most of the disputes can be resolved at the village level.

The member for Kingsley referred to the fact that if a resident became aware that a memorial had not been lodged on the land, he would be able to rescind the contract for a period of up to six months after the date on which the contract was signed. She said that could present problems because the resident might not become aware for some time that a memorial had not been lodged. I agree that is a difficulty. However, it is difficult to imagine any way in which that matter could be resolved, because it is certainly the case that in the normal course of events people do not always examine their titles, and we would not expect them to have to do that. It is possible that a person would not examine the title within six months from the date on which he signed the contract, and that his period of protection could pass without his being aware that a memorial had not been lodged. The main intention of this provision is that it be a deterrent to ensure that a memorial is always lodged. It will ensure that the memorial is the key means of security for the person in the retirement village in respect of the status of the land and the ongoing status of the retirement village. That is the reason that if a person discovered that a memorial had not been lodged, he would have the opportunity to rescind the contract. I suspect that, in most cases, a person would seek to have the memorial lodged rather than to rescind the contract.

The member for Kingsley asked how much would it cost to set up the new tribunal. It is not intended to set up a body that will be the tribunal. In fact, in many ways the tribunal will be a name. I mentioned in my second reading speech that the Registrar of the Commercial Tribunal also holds the position of Strata Titles Referee by taking off one hat and putting on another. There will be nothing to prevent that from occurring in this case. A separate structure will not be established. An amount of $7 000 has been provided for a half year for the payment of the sitting fees of those people who will sit on the tribunal. There will be no need to purchase new accommodation; no new leases will be entered into; and there will be no need to purchase furniture and fittings. It is intended to use the existing facilities.

The member for Kingsley also raised a question she had raised before about appearances in the tribunal; that is, the question of representation by lawyers for people going before the tribunal. While we will go into this in some detail during the Committee stage it is important to note that the legislation provides very comprehensive circumstances in which people can be represented. In my view it ensures that if a person is appearing before the tribunal and the tribunal believes that the person may not be able to properly represent himself or herself or conduct his or her own case, or may be in any way unfairly disadvantaged by the fact that they are not able to have representation, then the tribunal can enable him or her to have that representation. Indeed, it goes on to specify a series of circumstances in which representation is automatically provided, such as if one of the parties is legally qualified, or if

one of the parties is a body corporate and the other party wants to be legally represented. In those cases it is not even as though the tribunal needs to satisfy itself as to any disadvantage; it is just an automatic entitlement of the other party. The member for Kingsley raised the question of the amounts of money involved and said that people should be able to have legal representation. The amount of $10 000 has been established as the cut-off point, and because the Bill contains a 12 month review clause we will be able to review whether that cut-off point is realistic. Very good safeguards are built in to ensure that no person should go to the tribunal and not be represented when they would prefer to be represented, or that they should be in any way disadvantaged by being unable to have legal representation.

The member for Kingsley also raised the question of people assisting with the presentation of a case. Although we will probably discuss this during the Committee stage, I would encourage the member to note that a very deliberate distinction has been made between presenting a case and preparing a case. The clause talks about presenting and assisting in the presentation of a case, not the preparation of a case, and by my clear understanding - and I am more than happy to have this on the record - there is nothing in the Bill that prevents anyone getting assistance, whether professional, informal or whatever, in the preparation of their case, such as they might get from their own local member of Parliament or whoever; however, there are some restrictions on the actual presentation of the case in the tribunal.

The member for Kingsley then raised the question of payouts to residents on termination and expressed concern about the situation where the administering body might have to make a payout where a resident was not able to appoint his own agent and had to receive a payout within a certain number of days. The member mentioned 30 days. In a more recent draft of the code, which will be given to members and which is still the subject of discussion with the industry, that period has been increased to 45 days. The problem the member raised is one that might occur where several people are vacating their residences at the same time. She questioned the capacity of the administering body to provide the funding to those people within 45 days if the units had not been sold. It is very important for us to strike a balance. If someone is leaving a village and is not able to engage his own agent to sell the unit, he is entirely in the hands of another agent selling that unit. If he wants to move somewhere else and has no money, he can be severely disadvantaged if it takes six to 12 months to sell the unit. So this links in with a person not having control over the sale. As the member for Kingsley mentioned, there could be circumstances where, in a retirement village, an agent might well be more enthusiastic about selling new units than about selling existing units that have been vacated. We are seeking to strike a balance in that clause. The 30 days has been increased to 45 days, which should assist those administrative bodies, and certainly they assure me that they think that is fair and reasonable.

The member for Kingsley also raised the question of stamp duty and the eligibility for exemption. Currently this area is under review by the State Taxation Department. It does not come directly under the Bill but my advice is that the incidence of stamp duty on retirement village contracts varies according to the type of contract. For example, if a lease is used I am told the duty applies at the lease rate unless the rental is less than $125 a week for the life of the lease; but if a licence is used the duty is charged at the rate applicable to a security for the payment of the money. If it is a non-refundable premium which is charged, as opposed to the first two arrangements, that non-refundable premium attracts duty at the conveyance rates, which are currently between 1.75 and 4.25 per cent. If a premium applies, part of which is refundable should they leave, then it is the non-refundable part that is treated as rent in advance. The stamp duty requirements are quite complex and vary according to the kind of contract, and in some cases it is quite difficult to establish which kind of contract it is. Indeed, I think the State Taxation Department assists in that.

Service charges was another issue raised in relation to stamp duty. I am told service charges are presently treated by classifying the contract that imposes those service charges as an agreement to pay money. Whether it is a separate agreement or part of the main contract, such as the resident agreement, the charges attract duty at the rate of 4.25 per cent because the term of the contract is indefinite. The member for Kingsley raised the example of Belgrade Park Village and said an arrangement has been made to pay $8.75 stamp duty. Previously the organisation was faced with the prospect of paying $1 170 tax. I understand that what happened in that case was that the State Taxation Department agreed to reduce the duty because the method of using leases was changed so that instead of selling the

assignment of the lease - and where that happens the lease is dutiable at the ad valorem rate, which came out at $1 170 - at Belgrade Park Village they developed a scheme whereby each lease is terminated or surrendered and a new lease is issued, and in that way it qualifies for the reduced rate. I understand there is no reason why any other organisation could not enter into a similar arrangement, but I am told that the State Taxation Department is currently reviewing that matter. I am more than happy to ensure that the member for Kingsley receives information from that review when it is completed. Those were some of the main points raised by the member for Kingsley, and I expect that she will want to expand on some of them during the Committee stage.

The member for Avon expressed concern about elderly people being able to understand the detail of the Bill and the code. One of the members opposite mentioned that the code is very readable. I agree, and it would not present a problem for most elderly folk. I hope that most senior citizens would not feel that they needed to read or understand the Bill. It is most likely to be read by developers of retirement villages, as they probably need to understand the details of the legislation, rather than those people who will move into a retirement village. However, it certainly is our intention to ensure that the contents of the Bill and the code are made available to elderly people or anyone else in the community who wants them, and we plan to embark on an education campaign as we did after the residential tenancy legislation became law, to ensure that seminars and other events are held and pamphlets are produced in simple, clear English so that people can have that information in a simple form and do not feel as though they must read the legislation. I hope that goes some way towards allaying the fears expressed by the member for Avon.

The member for Avon also expressed concern about people who, as they grow older, must appear before the tribunal. As mentioned by the member for Collie, the tribunal is the third stage of dispute resolution, and I would expect most disputes to be resolved at the first or second stage. The first stage would involve local efforts, to be followed in the next stage by assistance from the officers from the Ministry of Consumer Affairs. It would not be a common practice for a significant number of elderly folk to take disputes to the tribunal, which will be for disputes of a more intractable and difficult nature.

The member for Mandurah expressed concern about the ageing of the population and the need for more retirement village-type accommodation. I commend the member for his concerns, which were also expressed by the member for Cottesloe. This member also referred to people on smaller incomes and their need for access to this accommodation. He referred in particular to Aboriginal and other disadvantaged groups. Many ethnic organisations have taken it upon themselves to construct retirement village accommodation for the ageing members of their community. That is a commendable development in the community which enables people to remain part of the community in which they previously lived, and with people with whom they have developed close links.

In regard to the disadvantaged members of our community, the Minister for Housing recently indicated to me his desire to involve Homeswest in retirement village-type accommodation. I commend the Minister for that initiative and I will provide support and assistance to ensure that this takes place. The member for Mandurah referred to the need for communities to support the concept of retirement villages to ensure wherever possible planning makes provision for retirement accommodation; this applies particularly in country towns. This will enable people to take up a country lifestyle if they so wish; I cannot agree more with the member. The member for Cottesloe also reflected on the legislation. The Bill provides a framework for this sector, and many of its provisions were requested by the industry. This should make the legislation and the code a workable document which many people will find useful.

The member for Roleystone offered his support for the legislation and referred to the need for planning at the zoning stage of new suburban developments. I agree with him. He commented on the involvement of Homeswest in the provision of rental retirement village accommodation. That is an excellent concept. A pleasing aspect of that is the insistence of Homeswest that the units provided be indistinguishable from others in the development. This will prevent the development of a first and second class citizen notion in such retirement villages. Experience indicates that a mix of different types of people works well; this is the case in a retirement village which was formerly within my electorate.

Mr Fred Tubby: Who manages the recording of all that information? Are agreements made with Homeswest?

Mrs HENDERSON: Homeswest would manage the situation. Agreements are made that rental charges would be no more than for Homeswest accommodation elsewhere. Also, the retirement village would nominate half of the residents, and Homeswest would nominate the other half from its waiting list. The member for Roleystone referred to the Fair Trading Act in relation to this legislation and to the penalties, as did the member for Kingsley. The legislation is tied to the Fair Trading Act and the penalties included in this legislation are designed to sit exactly alongside those within the Fair Trading Act. Therefore, the penalties which apply in this legislation are similar to those which apply in like circumstances under the Fair Trading Act.

The member for Cottesloe expressed concern - which I endorse - that retirement accommodation should be available to the less well off in the community. We should encourage the industry to provide a full range of accommodation for people from all backgrounds and income levels. This legislation has been requested by the industry. It is believed that it will provide the confidence required for further investment in the industry, and I hope that will prove to be the case.

The member for Collie raised an issue which had not been raised by other members and about which I frankly had not thought; that is, what happens when people die in retirement village accommodation? This legislation does not cover that situation at all. I suppose that a person dying with or without a will in such accommodation will be in the same situation as those in the general community.

Mrs Edwardes: Often it is covered by the contract itself.

Mrs HENDERSON: Yes; most administrations would expect that a large proportion of their residents would be likely to die on the premises; therefore, they would ensure that people have a will, and many contracts make provision for that.

I was pleased that the member for Collie focused on the five day cooling off period. That provision will be of enormous benefit to the residents, and will inspire a great deal of confidence in the industry generally. That can only be to the benefit of the industry. I thank Opposition members for their support and comments.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Dr Edwards) in the Chair; Mrs Henderson (Minister for Consumer Affairs) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Interpretation -

Mrs EDWARDES: I refer to the code of practice prescribed under the Fair Trading Act which relates to retirement villages. The Minister has said that that code is being redrafted. Can she advise the House exactly what is the situation with the code and what will be the situation once the Retirement Villages Bill has been proclaimed? The definition of owner in clause 13(7) is different from that described in this clause. Are difficulties likely to arise from the fact that "owner" is defined in two different clauses? From a legal point of view, the owners to which each clause refers are different.

Mrs HENDERSON: The code of practice prescribed under the Fair Trading Act will be gazetted. A copy of the most recent code has been provided to those people who asked for it. Substantive changes have not been made, but a final copy will be available before it is gazetted and I will ensure the member for Kingsley receives it. The amendments in the copy of the code that has been published are reasonably minor and have involved some shuffling around of some sections of the code. That has occurred mostly as a result of those sections being included in legislation at the request of industry. As the member will know, a code under the Fair Trading Act must be fully agreed to by industry and that process is ongoing. It is expected the code will be gazetted before the legislation is proclaimed.

The owner in the Interpretation clause refers to the owner of the land and throughout most of the Bill that is the owner which is being referred to. The owner under clause 13 is the resident; the person who signs the contract. In some cases that person will not own the land and that is why clause 13(7) spells out the definition of owner in that context. It does not refer to any other part of the Bill. Although another word might have been preferable in that instance, the word owner is well understood and refers to the person living on the premises who may have a lease for life or a strata title.

I move -

Page 4, line 4 - To insert after the word "scheme" the following -

or used or intended to be used for or in connection with a retirement village scheme

This amendment extends the definition of retirement village to include the land used in connection with the village but which may not be occupied by any resident. If other land is used in the village to provide some of the services in the contract signed by the resident it is important the land on which those services are located is covered by the retirement village scheme. This amendment denies any opportunity for a contract for services to be separate from the contract for the village. Occasions have arisen when residents have complained that they have entered a village because of the services provided and later the services were withdrawn because the service contract was separate from the residence contract. The residents have had no comeback, particularly when the service contract has been varied by a majority of residents voting at a meeting to make changes. That is disadvantageous to residents who went into the village mainly because of the services.

Mr Nicholls: Does that apply only when the land is owned by the body corporate or the managing body or where, in the case of a strata title, land is leased? Will the amendment apply to land which is leased on a long term, say, from a council or another organisation?

Mrs HENDERSON: Throughout the Bill no distinction is made between strata title schemes and other schemes. The intention is to preserve the integrity of the whole village and to ensure that residents are not left without the services. Irrespective of whether the services are on leased land or any other land the amendment is to ensure that for the purpose of the definition of retirement village scheme it includes the services and that when the person signs the contract for the scheme he is contracting for the services at the same time.

Mrs Edwardes: Will that also cover the situation whereby the other land which could be used in connection with the retirement village is on a separate title? What if that separate title did not even adjoin the village, yet still provided services?

Mrs HENDERSON: That is exactly the situation covered by this definition. It is to ensure that the services are part of that which the person contracted to purchase. It is irrelevant whether the services are on a separate title of land or whether they are adjacent to or separated by other land. The definition is intended to ensure that the integrity of the situation is maintained and that people cannot be later deprived of those services.

Mr Nicholls: If land on which services are provided to the residents of a village is leased by another owner and the lease runs out, will the rights, if you like, which are to be established by this Bill apply to that land, even though the owner decides that the agreement to continue to provide the services or the land to that retirement village or the residents cannot be met?

Mrs HENDERSON: The definition means that, wherever the words "retirement village scheme" appear in the Bill, they will cover all of those things. They do not establish the sorts of things to which the member referred.

Mr Nicholls: I raised that because the Bill refers to "retirement village scheme". If somebody is aggrieved because a service is withdrawn after seven years or the lease runs out and the owner of the land wants to develop it into something else, will the regulations in this Bill apply? Do these people have a separate title and separate ownership of land and, although it falls within the parameters of the scheme, will that land be bound up by this legislation as a service that should remain available for somebody who enters a retirement village scheme for the duration of the scheme?

Mrs HENDERSON: The member should read the definition in the context of the contract that the person signs. If the person signs a contract which states that he or she will have

access to that service for the whole of the time they are in the village, it is reasonable for them to expect that that should occur. The definition means that, wherever the words "retirement village scheme" appear, they are taken to include not only the residences, but also the services.

Amendment put and passed.

Mrs HENDERSON: I move -

Page 5, line 6 - To delete "services;" and substitute -

services,

and any collateral agreement or document relating to the provision of any such service;

This is a slightly expanded definition which takes account of the fact that there may not be a single service contract to be provided and there may be annexures to the contract or an agreement which is incorporated in the by-laws of the retirement village. The definition has been expanded to ensure that all of those will be caught by the definition.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 4 put and passed.

Clause 5: Application of Act -

Mr FRED TUBBY: Will the Minister explain how this clause relates to clause 6(2)? The two sentences seem to contradict each other.

Mrs EDWARDES: Which other clauses in the Bill do not apply under this clause? I gave the Minister advance notice of this question.

Mrs HENDERSON: In response to the member for Roleystone, clause 5 states that the Bill applies to existing retirement villages. In other words, those clauses of the Bill which apply to the village as a whole apply to existing villages. However, the existing contracts are not altered by this legislation. If a new contract is signed for an existing retirement village, that contract is covered by this legislation. It will mean that a person will not have to wait until a new village is constructed before a new contract is covered. However, an existing contract is not nullified or in any way affected by the legislation. That is the distinction between the two clauses.

The member for Kingsley gave me notice of her question but I do not have the piece of paper on which I recorded it with me. I have a feeling that no other clause applies, which surprised me, but I will undertake to find that out during the evening and give the member the information.

Mrs EDWARDES: Will the Minister confirm my understanding that clauses 13(1), 13(2), 13(3), 13(5), 13(6), 13(7), 14, 17, 18, 19, 64, 65 and 74 of this Bill will not apply to retirement villages established prior to the commencement of this Bill or to residence contracts or service contracts executed by an administrating authority and residents prior to the commencement of this Bill? The code of conduct takes out disclosure of information and termination of contracts as not applying to the contract entered into prior to the code's becoming effective. Perhaps that might be a better way to have drafted the clause to make much clearer which clauses of the Bill do not apply to residence contracts entered into prior to the Bill's coming into existence.

Mrs HENDERSON: I will undertake to supply that information to the member.

Clause put and passed.

Clause 6: Contracting out -

Mrs EDWARDES: The member for Roleystone referred previously to a matter about which I am concerned; that is, the relationship between clauses 5 and 6(2). To what provision of the Bill does clause 6(2) apply and how does it relate to clause 5?

Mrs HENDERSON: This goes to the question raised by the member for Roleystone. Clause 6(2) provides the starting point. It states that the Bill "does not apply to any contract,

agreement, scheme or arrangement made or entered into" before the Bill comes into being. Therefore, it formally provides the words that ensure that prior arrangements are not affected by this legislation. I move -

Page 6, line 5 - To delete ", scheme".

Page 6, lines 8 and 9 - To delete ", scheme".

Page 6, line 11 - To delete ", scheme".

Mrs HENDERSON: The reason for the amendment is that some confusion could arise in the terminology. The word "scheme" is used in conjunction with the interpretation of "retirement village scheme" in clause 3 of the Bill. In this case, the word "scheme" refers to a different type of scheme and it was considered that it would be clearer if we removed the word "scheme" from this clause of the Bill to prevent any confusion.

Mr Nicholls: In my copy of the Bill it does not have the word "scheme" in line 8. Is that because I have an incorrect copy of the Bill?

Mrs HENDERSON: It is referred to as being in lines 8 and 9 but the word arises only in line 9.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 7 and 8 put and passed.

Clause 9: Commissioner may institute or defend proceedings for a party -

Mrs EDWARDES: Will the Minister advise the Committee how many complaints are received annually by the Ministry of Consumer Affairs from residents in retirement villages? I refer members to clause (9)(2). If the commissioner decides to institute proceedings under subclause (1), after having received a written consent of the resident making the complaint, and that resident decides he no longer wants the commissioner to take action because it may be causing disharmony within the village, or for whatever reason, it is not possible for that resident to revoke his written consent. On what basis can the Minister make the consent revokable?

I refer members to subclause (3)(b) which states that the commissioner may, without consulting or seeking the consent of the resident, conduct the proceedings in such manner as he thinks proper and appropriate. This subclause takes the complaint out of the hands of the resident concerned. After making a complaint to the commissioner the resident has no control over any action, even though the commissioner is acting on his behalf. Under subclause (3)(d) the commissioner can recoup the costs involved in any proceedings, but what costs does this subclause refer to? What administrative procedures are in place for the commissioner to record the time actually spent on a complaint? How will the cost be calculated and will it apply to direct or indirect costs?

Mrs HENDERSON: I do not have the number of complaints with me, but I will undertake to obtain them and provide them to the member for Kingsley. As soon as the commissioner has agreed to institute or assume conduct of proceedings on behalf of a resident, the resident loses control over the proceedings. The member will note that subclause (1)(b) states that if the commissioner is of the opinion that it is in the public interest, he should institute, defend or assume the conduct of proceedings on behalf of a resident. It is not a position the commissioner is expected to take lightly and it is assumed to be a matter which will have broader implications than for just that resident. Having made the decision and having commenced the proceedings it is not unusual - there are other pieces of consumer legislation as the member would know in which exactly the same words are used - for the commissioner to take over the proceedings in the public interest. The commissioner then has carriage of the complaint and determines whether proceedings will be continued, instead of the resident seeking to terminate the proceedings at a point at which his needs may have been satisfied. The commissioner will use public funds because he has determined that the question is of sufficient public interest for him to be involved - this goes to subclause (3)(b). Again, it relates to the fact that it must be an issue of public importance and concern. The commissioner having taken over the proceedings - the resident has no say in how they will be conducted - may engage legal counsel. Therefore the commissioner pays all the costs and if

they are recovered in the normal way that costs between parties are recovered, they are not returned to the resident, but are retained by the commissioner because he has borne all the costs of conducting the case. The commissioner stands in the shoes of the resident effectively, but he must bear in mind that he is there on behalf of the public interest.

Mrs EDWARDES: I understand it is a simple thing to endeavour to try to recover costs if a solicitor is employed to undertake proceedings on behalf of the commissioner. If that is the case it is obviously a direct cost that can be recouped in the normal way. Will the commissioner, in endeavouring to recover some of the costs incurred in the time he has taken to investigate the case and to prepare it, be able to recoup those costs? If so, what mechanisms have been put in place for the ease of administration in trying to record such time?

Mr NICHOLLS: Is there any reason that the commissioner would want to proceed without consulting or seeking the consent of the resident? If the resident did not wish action to proceed, is it appropriate for the commissioner to proceed in the public interest but not on behalf of that resident, unless one is talking about a contractual infringement or specific case? If that is the example the Minister would use, then surely the person who has been aggrieved should have the right to withdraw and not suffer further pressure or risk of having some amount awarded against them and having to pay that amount even though they had no knowledge of the action taking place, because that is a possibility? Secondly, the person may wish to withdraw consent but could still face that circumstance.

Mrs HENDERSON: In answer to the point raised by the member for Kingsley, the commissioner is a fully paid officer of the Public Service and as such is not in a position to charge for time spent at the tribunal as opposed to performing some other duty. It is not envisaged that the commissioner will calculate his or her time at so much an hour as the salary paid covers the time involved. The sorts of costs referred to here are the normal ones such as those for legal counsel. I have two or three things to say about the questions asked by the member for Mandurah. At the beginning of clause 9 he will see that the resident first makes a complaint to the commissioner who must be satisfied that it is in the public interest. The member is suggesting that, having commenced the case, and possibly having spent public moneys engaging counsel, researching or doing whatever was necessary, and having progressed part of the way before an offer is made to settle, perhaps the matter should then be resolved and that the public will never know the outcome. He suggests that could be done without the resident's case being involved. I do not believe it is possible for the tribunal to sit and resolve a matter unless it has a case before it. It is not possible to create a hypothetical case.

Mr NICHOLLS: If an infringement of a contract has occurred and the matter is resolved but it involves a matter of public interest such as a number of people having been misled regarding a contract and people have not actually delivered what they have purported to deliver, I suggest the commissioner could proceed in the public interest and possibly cite the instances that have occurred. However, legal proceedings could go ahead without the knowledge of the person who complained. The person might not know that those legal proceedings were being pursued and that they may end up having damages or some other payment awarded against them resulting in their indebtedness. The person would then have to pay those costs despite having no real input into what happened apart from possibly writing a letter of complaint in the first place.

Mrs HENDERSON: Under normal circumstances, such a person would be kept informed. All this does is conform with other consumer legislation. It does not place a burden on the commissioner to go back to a resident at regular intervals and say, "This is the result of that bit. We will now move on and do this bit." If, for example, the person was not available on the day the commissioner wanted to contact them and he had to proceed in the afternoon, that may interrupt proceedings. This clause enables proceedings to progress. I understand what the member is saying about multiple contracts with different people and about issues of concern to the public. However, it is not possible to continue unless an actual contract is being used which means, necessarily, that the action will involve the resident.

Mr NICHOLLS: I agree with that. However, if a person reached the point of saying, "I do not want to go into a court", or "I do not want my affairs used in that manner; I do not want to go through that trauma", we are talking in some cases about the possibility of people maybe not seeing the pursuit of legal matters as the centre of the debate.

Mrs HENDERSON: As the commissioner would be conducting the proceeding I imagine that the amount of time and energy that the resident would have to put into the matter would not be substantial and a lot less than if the resident was conducting the proceeding. The member talked about a settlement being offered. I believe that under normal circumstances the commissioner would consult the resident and if the offer were thought to be reasonable would advise the person to accept it and leave the matter at that. A desire is expressed in this and other legislation that a person should not be unduly pressured when things may be progressing in the resident's favour because of other parties wishing to have the commissioner withdraw. That is something about which a resident could come under some pressure in order to ensure the matter was resolved. This sort of provision is not unusual in consumer legislation. I have never received a complaint from a person who thought the commissioner ploughed on regardless of their wishes or sensitivities. It is a matter that is usefully raised and if it becomes a problem we will have to give it further consideration.

Clause put and passed.

Clauses 10 to 12 put and passed.

Part 3: Rights of Residents -

Mrs HENDERSON: I move -

Page 10, line 16 - To delete the heading to Part 3 and substitute the following -

PART 3 - RIGHTS AND OBLIGATIONS OF RESIDENTS, OWNERS AND ADMINISTERING BODIES

This amendment expands the title to this part which at present is only headed "Rights of Resident" when in fact it applies to the rights of all three parties - residents, owners and administering bodies when they are not the owners. It improves the accuracy of the title.

Amendment put and passed.

Clause 13: Residence contract -

Mr FRED TUBBY: I have a problem with the definition of "owner". Under clause 3(1) an owner is defined as a person alone or with others who is registered as the proprietor of an estate in fee simple. Clause 13 states -

(7) In this section "owner" means owner of the residential premises to which the residence contract relates.

Clause 13 relates to disclosure documents and statements that must be provided when a sale is about to take place. The definition of "owner" does not include a person who has a leasehold or licensed interest in a residence being sold. The only person who has to provide all the documentation is the owner under the fee simple title.

I wonder whether we need to clean that up a little and provide in subclause (7) something like, "In this section 'owner' is intended to include a resident with an interest in the premises to which the residence contract relates." That would cover those people who have other forms of interest in that residence without actually owning it. They have something to sell, although they do not own the premises outright.

Mrs EDWARDES: Subclause (1), provides that a residence contract shall be in writing. Subclause (2) prescribes what the owner shall cause to be given to a person who enters into a residence contract. Subclause (2)(a) provides for a statement in the prescribed form to be completed and signed by the owner containing the information required by the regulations. Further paragraphs describe other requirements. Subclause (7) states, "In this section" - so we are dealing only with this section - "'owner' means owner of the residential premises to which the residence contract relates." The definition of "owner" in clause 3 is a person who owns the premises in fee simple. That is the person who is registered on the title. The point is that the definition is limited to those registered on the title in fee simple. All of those people who have a right to sell should be providing the types of requirement under section 13. The only way to interpret "owner" in subclause (7) is by the definition in that subclause. The second word "owner" refers back to the definition in clause 3. That is the person who owns the property in fee simple.

Mr NICHOLLS: I have a query concerning subclause (5). We are dealing with

representation by a person providing information which is inconsistent with subclause (2)(a). In the event of someone commissioning an agent to sell his property, if that agent misrepresents the situation, or provides inconsistent information, bearing in mind the owner is liable for the penalty, would the agent be deemed to be working for or providing information on behalf of the owner? Is the owner liable for the $20 000 fine, not the agent who may either purposely or unwittingly breach this clause by providing incorrect technical information or in some other way misrepresenting the facts?

Mrs HENDERSON: I deal first with the point raised by the member for Kingsley. Subclause (7) clearly indicates that "owner" refers to the owner of the residential premises, and that is different from the definition in clause 3. I understand what the member has said. The member has said that the subclause defines "owner" as the owner of the residential premises, and we must then go back to the original definition in clause 3. If it were interpreted in that way, it would not make any sense to have that definition in subclause (7) which is intended to indicate that wherever the word "owner" appears in clause 13, it will mean the owner of the residential premises. That is different from the definition in clause 3. Unless that were the intention, the clause would have been left with the original definition. The intention here is to make it clear that where the owner might be the person who has the lease or the licence, for the purposes of this section he is the owner and he is required to be bound by the various parts of this clause which set out what he is required to do. That is the reason for adding that subclause to define the owner as specifically different from the definition contained in clause 3.

The member for Mandurah asked whether the owner would be liable for misrepresentation by an agent. My advice is that the owner would be, in the same way as he would be if any agent misrepresented any owner in any circumstances, not only in matters covered by this Bill. It would be a matter between the owner and the agent. The agent is there to provide a service to the owner and to represent him in a true and fair way. This would be no different from any other agent who might act on behalf of an owner in any other circumstances.

I am not clear whether the member for Roleystone was raising the question of an owner where the owner does not actually own the title but, for example, has purchased a lease.

Mr Fred Tubby: A lease or a licence.

Mrs HENDERSON: That is what this is intended to cover.

Mr Fred Tubby: But it is not very clear.

Mrs HENDERSON: My advice is that the form of words suggested by the member - that the owner includes a resident with an interest in the premises - would not cover the situation, because where a person has a lease or a licence, he might not have an interest. To have an interest a person would have to have a share in the ownership of the title. The owner in this case may not have a sufficient interest in the premises, although he may have a lease. I think subclause (7) is intended to cover that point. It is intended to make it clear that we are not talking about the owner in this subclause in the normal meaning of that word. We are not talking about him as someone who necessarily owns the title to the land, but we are talking about someone, for example, who has a lease he wishes to sell.

Mrs EDWARDES: I believe the Minister has difficulty with this definition, but I do not propose to go over the ground again. The definition of "residential premises" in clause 3 is any premises or part of premises, including any land occupied with the premises, used or intended to be used as a place of residence, and includes a hostel unit. The word "owner" is supposed to be defined differently in clause 3 and in subclause (7) of clause 13, so that people will know that we are not talking about the same person. However, there is no indication of whom the provision intends to encompass, or whether it will include other people who have an interest in the land either as leasehold or by licence. What if a company is set up with shares? In that case, each resident of the retirement village has an entitlement through shares. Nothing in this provision indicates that the owner referred to in clause 13 would include any one of those other people, other than those with an entitlement in fee simple. I understand the intention of the Minister and I believe that is the intention she would want under clause 13. However, considering the strict interpretation of subclause (7) if tested by the courts there will be a real difficulty in coming to a different view. I do not think the Interpretation Act will assist the Minister's view.

Mrs HENDERSON: If someone interpreting that clause in the court said that the word "owner" meant an owner, and went back to the original definition of owner there would be no point to the inclusion of subclause (7) because it would become superfluous.

Mrs Edwardes: Perhaps it is an unfortunate use of the word.

Mrs HENDERSON: It is difficult to understand how the member can differentiate between the owner in this clause from the owner in other clauses without using the word "owner" again.

Mr Nicholls: You could substitute owner for occupier.

The CHAIRMAN: If the member has an amendment let us have it in writing. Do not provide amendments on the run.

Mrs HENDERSON: Because the intention of subclause (7) is to differentiate between the use of the word "owner" in this clause from every other clause it would not be possible to use any other word to make that distinction. I can do no more than say that in my view it is clear; I do not have experience of how the courts might interpret it. Perhaps time will tell. I can see no other way to express that to ensure that the intention was that the word "owner" within clause 13 was defined differently from an owner elsewhere in the Act.

Mr NICHOLLS: I do not disagree with the comment that an agent is deemed to be working on behalf of the owner and that, therefore, the owner is liable. My concern is that the penalties imposed are mandatory. I seek guidance as to whether an infringement under this provision would automatically mean a $20 000 penalty per se irrespective of the triviality of the infringement. Why is the word "maximum" not placed before the amount of $20 000? Would the Minister consider such an amendment to this clause?

Mrs EDWARDES: I refer the Minister to subclauses (5) and (6). I believe that a difficulty will occur as to the definition of owner. During the second reading debate I referred to Belgrade Village which is run by a charitable trust, and where the individual residents have licences, so to speak. They can sell the property through their agent. A letter from the Belgrade Village asks who will be responsible for a technical breach involving the misrepresentation of a purchaser. In this circumstance, the management provides the support services, and all the details in respect of the retirement village. A definition of "owner" appears in the Bill but it will not appear on any title, and then we have the so called "owner's agent". If we have a difficulty with the definition of owner and this goes back to the person who is the actual registered proprietor in fee simple on the title, that would be the charitable trust, yet that charitable trust has no connection with the sale of the interest in the unit - whether there is a technical breach either by the person selling the interest or by the agent of the person selling the interest. Therefore, under subclauses (5) and (6) the charitable trust would be held responsible for that misrepresentation.

Mrs HENDERSON: The member for Mandurah referred to the rate of penalty. I am advised that wherever a penalty appears and no other word appears it is the maximum penalty. Clause 13 refers to statements in the prescribed form which will be provided and available, and to notices in the prescribed form, so the member is probably talking about a neglect to provide such statements in the prescribed form.

Mr Nicholls: Subclause (5) is where once again we could have the possibility of misrepresentation.

Mrs HENDERSON: Yes, again it is a maximum penalty which gives plenty of scope in the case of an agent that acted in a way that should not have occurred, had the agent complied with the owner's instructions. I draw the attention of the member for Kingsley to subclause (3) which refers to a situation where the owner is not the administering body. That subclause makes clear that in those circumstances the responsibility on the administering body is to provide the owner with the documentation and information that the owner requires in order to comply. It is clear that even though the owner might be the person in the residence, in fact if it is the administering body which has the necessary information to pass on at the time the licence or lease is sold, that body has a heavy responsibility under subclause (3) to ensure that the information is provided to the owner. All the owner must do is to make written application for the information. If the correct information is not provided, and it is not the fault of the owner but the fault of the administering body, the onus would be on the administering body not on the individual resident.

Mrs Edwardes: I was referring to the possibility that I foresee with the definition of owner in that instance.

Mrs HENDERSON: I know that the member was referring to the person on the title.

Clause put and passed.

Clause 14: Cooling-off period -

Mrs EDWARDES: I referred to the cooling-off period at the second reading stage. Subclause (2) provides that a person is not entitled to rescind a residence contract after entering into occupation of residential premises in a retirement village under the residence contract. Once a person is in occupation there is no right to rescind even though the cooling-off period of five days is provided. People moving into occupation within that time cannot rescind a contract. That can be compared with clause 74 where, provided the person takes action within six months of discovering a memorial has not been lodged, he has a right to rescind the contract. I heard the Minister's comments, but I still cannot accept there is no time limit and a person who may have been in occupation for, say, six years has a right to rescind the contract. I am not sure under which circumstances the retirement village dispute tribunal would not have the right to rescind if the individual raised the point that the memorial had not been lodged. I realise the memorial exists to protect the interests of the retirement village, but it would be totally unreasonable that a person who has been residing in a village for a number of years could rescind a contract when he would certainly know what sort of residence and type of scheme he was occupying. It is inequitable that during the cooling-off period under clause 14(1)(a) a person has a right to rescind a contract unless he has moved in and occupied the premises within that period, but not in the circumstances outlined in clause 74. If anything it should be the other way around.

Mr FRED TUBBY: The cooling-off period in clause 14(1)(a) specifies five working days, but from memory the original code specified 10 days.

Mrs HENDERSON: It was a 10 day cooling-off period, but during discussions a view emerged that it would be useful for the residents to have the documents for five full days before they could sign them. This would ensure that they had the opportunity to fully peruse the documents before they were signed plus an additional five days after they were signed, rather than 10 days after they had signed. Their reasoning was that in some cases there might be some pressure to sign immediately and they could be told that because there was a cooling-off period they could get out of it if they were not happy. It was the view that that might create a situation where more contracts would be rescinded than we would want. We would obviously not want contracts rescinded if we could avoid it because of the complications that could produce. It would be more useful to include a provision that would ensure the people had the opportunity to take the documents away, to seek legal advice or discuss them with their families, and have a proper length of time in which to read them and absorb them before they signed the documents. The onus should be on the person seeking to have someone sign the contract to ensure that the purchaser had all the documentation and that he had five clear days in which to consider the contract. That is purely aimed at reducing the pressure on the purchaser to sign the contract. That was agreed, and it was a change from that original code.

A person loses his right to rescind once he has moved in. When they take possession of the unit, they take matters into their own hands and indicate that they are happy with the contract and in that case should not then have the opportunity to rescind the contract. Clause 74, which we will no doubt discuss in more detail later, is quite different in that it is not something over which the person buying the lease or moving in has control. It is the seller, the previous owner or the developer, who is required to lodge the memorial; so the person buying the lease or entering into the contract does not have control. In clause 14 the person is fully in control; he either moves in or he does not. In clause 74 if the person does not examine the title and is not aware at that stage that a memorial has not been lodged that is a major problem because the memorial is the key protection about the future status of the land. For that reason it is considered to be important that if a person is not aware - because he may not look at the title deed frequently, if ever - that the memorial has not been lodged, they do not lose their rights by default.

Clause put and passed.

Clause 15: Owner to deliver memorial -

Mrs EDWARDES: I smiled when I read subclause (1) - how much land is still to come under the Transfer of Land Act 1893! Clause 15 is very important because it deals with the lodgment and creation of memorials. A memorial creates an interest of the person who is a resident in the retirement village, or by the developer, who is required to lodge this memorial on the title within three months of the Act coming into existence. Several procedural problems are involved. Must a resident of an existing retirement village notify his mortgagee or whoever holds the charge over his title that a memorial will be lodged? Must the mortgagee give consent to the memorial being lodged? I do not believe there is any legal obligation on the financier to give his consent to a memorial being lodged. What does the Minister see as being the process, other than the developer going out and refinancing the property? Likewise, what is the mechanism of registering a memorial? In the event of registering a memorial against a strata plan will it be sufficient to register that memorial against the head title with that being noted against all the strata titles, or will it need to be issued under each new title of the strata plan? In that instance the cost will be a problem. The cost of registering perhaps a caveat at the Land Titles Office, from memory, is $58.

When the Bill is enacted, there will be a time frame within which a person must register a memorial. As a result of amendments made I am aware that it is not necessary for that to be done in this instance, but what is the situation for a property on the market at the moment? The Bill provides that a resident entering into a contract must lodge a memorial and must register that memorial. What procedures have been put in place to cover people who may be halfway through a transaction when the Bill is enacted?

Mr NICHOLLS: The Minister is aware of my view that the memorial requirement is an infringement and represents an over-regulation of the procedure. I would prefer retirement villages to be constructed in areas zoned for that purpose in planning schemes. Once memorials are attached to titles it will be difficult to utilise that land for any other purpose, unless the memorials are removed prior to developments of another nature. I understand the Minister's concern and the concern expressed by people in the community about developers or unscrupulous people purporting to develop a retirement village in order to get approval for higher density development, and then turning the development into a tourist accommodation facility or using it for some other purpose. Although the Minister said the memorial provision is crucial to the legislation, I find it difficult to accept that it is necessary.

Mrs HENDERSON: In response to the points raised by the member for Kingsley, the legislation requires the notification and it is necessary to obtain consent. I raised this same question but I understand that it is not an unusual procedure where these sorts of legal requirements are in place. In this case the owner is expected to lodge the memorial and the process of its becoming incorporated in the title is a matter for the Office of Titles.

In response to the question about the delay, the Bill provides that the memorial must be lodged within three months. The time it takes the Office of Titles to go through the steps of lodging that memorial on the title is of no concern to the owner because the owner is required only to lodge the memorial within that three month period. If a property is on the market when the Bill is enacted, the owner has three months after the commencement in which to lodge that memorial. The member asked whether the memorial needed to be lodged against individual titles on a strata title plan. I am advised that it is necessary, but under proposed subsection (6) a resident is not required to lodge a memorial if that resident is the sole registered proprietor of not more than one unit in a strata titled property.

The member for Mandurah said that he would prefer these developments to be covered by zoning regulations rather than memorials. At the end of the day it is probably a matter of judgment as to which is the better method. It may be that the member for Mandurah believes it would give more flexibility in the future if a local authority on behalf of the local community could change the zoning of such a development, if necessary. However, this Bill is specifically aimed at protecting the individual, and it does not approach this matter from the point of view of the community. The legislation places the rights of individuals above the general planning desires of the community. Individuals often do not have much control over the activities of local authorities, and if this were dealt with as a planning matter it would give less comfort and security to the people involved than would the proposal in the Bill. The legislation contains opportunities for the right one or two residents remaining in a

development, to stay there if they wish to. I hope the legislation is not so inflexible that it will not allow those changes to be made. I move -

Page 12, line 24 - To delete the words "prescribed form" and substitute the following -

form approved by the Registrar of Titles containing such information as is prescribed

Page 12, line 31 - To insert after the word "section" the following -

and paragraph (b) does not apply

Page 13, lines 16 to 23 - To delete subclause (6) and substitute the following subclause -

(6) A resident who has an interest in land in a retirement village either as a tenant in common or as an owner of a lot under the *Strata Titles Act 1985* is not required to lodge a memorial under subsection (3) so long as -

(a) the interest of the resident is related only to the place in the retirement village occupied by the resident; and

(b) the interest of the resident is not offered as security or the resident does not enter into a contract for the sale of that interest.

Mrs EDWARDES: I know that the Minister was concerned about the provision that a person inviting others to enter into a contract without having first lodged a memorial would be subject to the onerous penalties referred to in proposed section 16. I refer the Committee to amended subclause (6). The onerous penalties provided in clause 16 which would have applied to a person entering into a contract without lodging a memorial as required in clause 15, will be offset in that residents who have been living in a retirement village for some time before the Act comes into operation will not be required to lodge a memorial until such time that they enter into a contract. Therefore, they can invite other persons to make applications, offers or proposals to enter into a contract without being subject to that penalty. While this does not go as far as we would like in respect of protecting a senior citizen who may have been in a retirement village for some time, it may be a number of years before he would have to think about selling his unit, and in most instances he would use a solicitor or settlement agent, who would be aware of the requirement to lodge a memorial. Therefore, in the majority of instances people would be protected from any unintended breach of this proposed section. I thank the Minister and her staff for their assistance and cooperation in addressing some of our concerns about what we saw as a problem for the residents of retirement villages.

Mr NICHOLLS: I add my thanks to the Minister for her consideration of this matter. This amendment makes it possible for me to support this clause, even though I have expressed previously my views about memorials. I was concerned that some elderly people might unwittingly infringe this proposed section and be liable to a penalty. This amendment will go some way towards addressing that concern, and I hope we will not see any cases where a sale or an offer to purchase will need to be reviewed on the basis of the memorial.

Mrs HENDERSON: I thank members for their comments, which were constructive and useful. We are all anxious to ensure that a person who has resided in a retirement village for some time and who may not become aware of the need or have no reason to place a memorial over his title will not, in even discussing the possibility of the sale of his unit, inadvertently breach the provisions of the proposed Act. I hope this amendment will go some way towards resolving that problem. We do not intend to place people in that invidious situation, but it has proved to be difficult to weigh up the interests of a resident against the interests of a party who wishes to enter into a contract to purchase. I hope this amendment will strike that balance.

Amendments put and passed.

Mrs HENDERSON: I move -

Page 13, line 25 - To delete the words "prescribed fee" and substitute the following -

fee prescribed under the *Transfer of Land Act 1893*

Page 14, line 3 - To delete the words "prescribed fee" and substitute the following -

fee prescribed under the *Transfer of Land Act 1893*

Amendments put and passed.

Clause, as amended, put and passed.

Clause 16: Occupation right not to be created unless memorial is lodged -

Mrs EDWARDES: This clause provides that if a memorial has not been lodged when a person enters into a contract, despite the fact that the person may have been in occupation for some years, and provided the person takes action within six months of his having found out that the memorial has not been lodged, a contract can be rescinded. I am aware that the reason that the memorial is lodged is to protect the land, facilities and support services as part of the retirement village, and that the residents of the retirement village must fall within the definition in proposed section 3. However, I am not convinced that a person who lives in a retirement village scheme, who falls within that definition, and who may have been in occupation for six years, for example, would not be aware that he was living in a retirement village and, therefore, should be given the right to rescind the contract. I regard that provision as excessive when a person has been in occupation for a number of years.

Mrs HENDERSON: There is perhaps a misunderstanding about the intention of this clause. It is not a matter of a person who has lived in a retirement village for six years not being aware, by looking around him, that he is living in a retirement village, but rather that if the developer or previous owner had failed to place a memorial on the title, that person would not have security in the future about the use of that land. I referred in the second reading debate to some of the concerns that have given rise to this legislation. People should be able to be assured that when they purchase or lease a unit in a retirement village, they do not have to worry for the rest of their life about the use of that village or that circumstances beyond their control may lead to a change in the purpose for which the land was used if the village were sold. That situation did arise, and some people were left in a position where they had bought into what they thought would be a retirement village for the rest of their life but which was turned into some other type of complex which was not a retirement village. The purpose of the memorial is not to enable a person to be aware that he is living in a retirement village, but to provide ongoing security on the title, because the person who has purchased the property is not the one who has control over the lodgement of the memorial. The former owner or developer has that responsibility.

Clause put and passed.

Clause 17: Termination of residence rights -

Mrs EDWARDES: Subclause (1) provides for the circumstances under which a resident's right to occupy a residence may be terminated. Subclause (1)(e) allows the termination where the holder of a mortgage, charge or other encumbrance that was in existence before the commencement of this provision becomes entitled to vacant possession of the premises. This subsection does not seem to contemplate the situation where a resident may wish to charge or mortgage his interest in a residential village. Subclause (1)(e) should not be limited in its present form, but should also allow for termination where a resident mortgagee is entitled to vacant possession. Will this clause impinge upon a resident's ability to raise finance against the security of his property in a retirement village? There have been instances where a resident wished to go on a holiday, or where one of the partners became ill, and in some cases terminally ill, and wished to borrow against the equity in his or her unit, and that has proved to be quite successful. Does this clause impinge on that person's right to do so? Often they are asset rich but income poor. I am sure the Minister for Consumer Affairs would not have intended that, if this provision in fact does that.

Clause 17(2) refers to proposed sections 56, and 64 to 69. Proposed section 56 concerns applications relating to the transfer of residents, proposed section 64 talks about the prohibition of certain recovery proceedings, and proposed section 69 deals with goods being abandoned in those instances. Will the Minister clarify what is envisaged by clause 17(2)?

Mrs HENDERSON: This clause relates to the situation in which the contract can be terminated. The paragraph to which the member for Kingsley referred - that is, 17(1)(e) - is

the only way in which it is possible to protect a mortgage lodged against the title before this legislation came into being. For example, if payment has been made against that mortgage there would be no way in which action could be taken if this clause of the legislation prevented the bank or building society, or whoever had the mortgage, from taking action because this legislation prevented the termination of the rights of residence of the owner. As I read it, it prevents someone from lodging a mortgage against their property which could subsequently result in their contract and their residence rights being terminated. However, I will get advice on this because I might be wrong. My advice is that it does not prevent them from lodging a mortgage, but I suspect that a bank or building society would be very reluctant to extend the loan if it did not have any capacity to recover, which effectively this provision does not give. So to some extent it protects the residence rights of the person, so that if the person falls behind in the mortgage payments in those circumstances he cannot just lose his right to live in the village, but that may well impinge upon his capacity to borrow.

Clause put and passed.

Clause 18 put and passed.

Clause 19: Contractual rights of residents -

Mrs HENDERSON: I move -

Page 17, lines 1 to 5 - To delete subclause (2) and substitute the following subclauses -

(2) Every term relating to the provision of a service to a resident under a service contract binds a resident and each successor in title of the resident until the term is varied or cancelled by the Tribunal under this Act.

(3) Where a premium is paid under a contract providing that it will be repaid in whole or in part on the happening of a contingency and the contingency occurs, the sum repayable shall be paid -

(a) where the place formerly occupied by the resident in the retirement village is subsequently occupied by another person - within 7 days of that other person taking occupation;

(b) in any other case - within 45 days of the day on which the resident ceases to reside at that place in the retirement village.

(4) Any amount not paid within the period referred to in subsection (3) may be recovered as a debt from the administering body for the time being of the retirement village.

(5) Subsection (3) does not apply to a residence contract unless -

(a) the residence contract has been terminated in accordance with the terms of the residence contract; and

(b) the resident does not have the right to appoint or nominate his or her own agent for the purpose of disposing of the resident's interest in the retirement village.

Page 17, after line 14 - To insert the following new subclause -

(7) In subsection (2) "service" means a service referred to in the definition of "service contract" in section 3.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 20: Charges -

Mrs EDWARDES: This clause provides for protection and security for any premiums which are being paid by residents, but those premiums actually become a charge on the retirement village land other than freehold interests which are owned by the resident, or other prescribed parts. Other prescribed parts are dealt with in subclause (1)(b). There is no real explanation as to what would constitute the part of the village referred to as other prescribed parts, which is actually excluded from the charge. As to understanding what a retirement village scheme is, it could be that a prescribed part would be the common areas. If those are excluded from

the charge, will it affect the ability of a mortgagee in possession to facilitate the sale if the common area is excluded from any of the charges? I have real doubts as to the effectiveness of this provision in facilitating sales in such instances. Those premiums which are paid subsequent to the registration of the memorial amount to a first charge on the land and have priority over the other mortgages and charges or encumbrances arising out of the creation of the statutory charge but subsequent to the day on which the memorial is registered against the relevant land. There may be some difficulty in some instances in dealing with the exclusion of any other prescribed part. What is envisaged by the term "any other prescribed part"?

Mrs HENDERSON: My understanding is that the inclusion of the term "any other prescribed part" is to provide some flexibility in terms of regulation to exclude some areas. There is no preconceived idea as to what that might be, but if we do not provide the flexibility in the legislation it is not possible to exclude any area from that charge. It might well be a common area or it might be some other aspect of the retirement village, but under normal circumstances for each new retirement village this charge will stand ahead of all other charges if the whole retirement village were to be sold. However, there are examples, and the member for Kingsley gave one earlier when she talked about some service contracts being separate and apart. It might be possible for that to be described as something sufficiently different. This provision has been included as a means of providing some flexibility to allow for unusual circumstances. In the normal course of events the whole village would obviously be covered by this provision.

Clause put and passed.

Clause 21 put and passed.

Clause 22: Termination of retirement village scheme -

Mrs EDWARDES: Retirement villages cannot be terminated without the approval of the Supreme Court while a resident remains in occupation. However, the clause does not deal with the situation whereby the remaining resident or residents actually agree to such termination. Although they all agree, they must still go to the Supreme Court for approval of the termination of the retirement village scheme, and that appears unnecessary.

Mr NICHOLLS: I also have reservations about subclause (1) and its heavy bureaucracy. I understand the Minister's desire to protect consumers, but we must not over-regulate such matters. We must not create an impossible situation. For example, a situation may arise in which a retirement village is no longer profitable and it is far better to relocate to alternative accommodation. If every person except one within the village accepts the relocation, problems will be created. If from a village of 50 residents 49 decide to take up alternative accommodation and one resident decides that he or she does not want to take up the offer, that could prevent the termination of the retirement village scheme. I hope that some reconsideration will be given to this clause so that some sanity will prevail. If one resident decides to be obstinate, it will be possible to hold up a development which will be for the benefit of all other residents. I also question the situation in which a resident has died or is no longer occupying accommodation. In the latter case a person may own a unit but is cared for at a hostel. A resident may have died and ownership of the unit may have passed to the Public Trustee or to the next of kin, and the unit is held in the hope of a better offer. If my interpretation of the clause is correct, this could prevent a redevelopment or a cessation of a retirement village scheme. In all cases the resident or the owner may want a better financial deal even though that person is in the minority and is acting only for his or her benefit.

Mrs HENDERSON: The intention of this clause is to ensure that anyone who enters into a retirement village contract would expect to spend the rest of his or her life in that village, and in such cases that person's interests will be well and truly protected. It does not mean that if one person decides that the retirement scheme should not be terminated, the scheme could not be terminated. In such cases an independent body of high standing, in this case the Supreme Court, would examine the situation to ensure that everyone's interests had been considered. In the case of somebody who had died or had moved into a hostel, as I read subclause (1), the retirement village scheme could not be terminated only while a person admitted as an occupant remained in occupation. In the case of a person who has died, if that person still owns the unit -

Mr Nicholls: Therefore, the person must physically occupy the accommodation

continuously. This is very important. If somebody is absent from the accommodation for a number of months, are they considered as occupying the accommodation?

Mrs HENDERSON: The member constructed a situation where one person had died or did not live in the accommodation -

Mr Nicholls: I used those two extremes.

Mrs HENDERSON: As I read the clause, that situation would not come under subclause (1) which relates to persons who remain in occupation. In any event, it certainly would not mean that if one person remained in occupation of accommodation in a village and the majority sought termination of the scheme, nothing could be done. The Supreme Court could be charged with examining the situation. An action as dramatic as terminating a retirement village scheme should be reviewed by an independent body with the ability to consider all the legal and other rights of the individuals who entered into those contracts. That is why the Supreme Court has been chosen for this role. As I read the clause, one person could not -

Mr Nicholls: Hold the rest to ransom.

Mrs HENDERSON: Yes, it could not be done unreasonably through a resident who no longer occupied accommodation, or whatever the circumstance.

Clause put and passed.

Clause 23: Appointment of retirement villages referees -

Mrs EDWARDES: There must be a better way of accommodating dispute settling mechanisms than the one contained in this clause. All such legislation involves creating a tribunal. The Minister has said that this involves only one level of expense, yet at some stage or other it does involve other expense. It will be necessary to create new stationery to support the operation of this tribunal. This tribunal may use the referees taken from other areas and made to wear another hat, but expenses are involved in establishing this tribunal.

Clause put and passed.

Clauses 24 to 30 put and passed.

Clause 31: Remuneration -

Mrs EDWARDES: The Minister is indicating that a budget of $7 000 is allowed for the remuneration of the tribunal members. On what basis was this figure established? Obviously, the Minister is referring to a number of members on the tribunal and a certain number of sittings in order to produce that figure.

Mrs HENDERSON: The figure I provided was for half-day sittings, and was based on the standard fee to members of Government bodies. I believe that figure is $89 for a half-day. The figure is determined by taking that half-day figure into account, along with the number of members on the panel as defined in the legislation, and the number of days on which the tribunal is expected to sit - obviously it is a projection, which I presume the Ministry of Consumer Affairs determined on the basis of some average of sitting days for such bodies.

Clause put and passed.

Clauses 32 to 40 put and passed.

Clause 41: Witnesses and inspection of documents -

Mr NICHOLLS: Is this clause inconsistent with the standing precedent in law inasmuch as a person may, if he so decided, not answer a question before the tribunal because it may render him liable for a penalty or incriminate him?

Mrs HENDERSON: This is not an uncommon clause; it is identical to clauses in the Real Estate and Business Agents Act and the Consumer Affairs Act. It does not allow people to use that concern as a reason for not complying with the requirement to produce a document or to answer questions; they are required to comply. The safeguard is contained in the following clause wherein it cannot be used in any other civil proceedings; it can be used only in relation to the areas covered by the specific Act. That is constructed to sit alongside the requirement that a person has to answer a question by saying that his answer cannot be admissible in any other proceedings.

Clause put and passed.

Clauses 42 to 46 put and passed.

Clause 47: Presentation of cases -

Mrs EDWARDES: I highlighted my concerns about this clause in the second reading debate. The Voluntary Carers Association has concerns about the lack of an automatic right to legal representation before the disputes tribunal. I know the Minister believes that I am trying to protect the legal profession. However, it is not only my concern but is also the concern of the Voluntary Carers Association and others. Subclause (4) does not prevent a body corporate being represented by an officer or an employee of the corporate body. However, an employee or officer of a body corporate may appear regularly before the tribunal and would become very familiar with the proceedings and also with the legislation and that could give those people an unfair advantage. If it does, I am sure the referee would invoke subclause (3)(a) to ensure that a person does not receive an unfair disadvantage. I believe in those circumstances that this clause could be commonly invoked.

Mr NICHOLLS: I am disappointed that we are debating this matter tonight. Following a briefing with the Minister, I left with an understanding that an amendment would be moved to allow legal representation if one of the parties decided to request it. I am concerned that a body corporate involved in regular disputes could receive regular legal advice but not be actually represented at the tribunal. The other party in that dispute may be an elderly person and may not be familiar with the legislation or the tribunal. That person would be unfairly disadvantaged. I understand that the Minister's intention is to protect the consumer against financial hardship. However, we believe that that intention may impinge very severely on the rights of individuals who want legal representation. I urge the Minister to reconsider this clause and allow legal representation for people who desire it.

Mrs HENDERSON: This is an important part of the Bill. Obviously, it is our intention to prevent an automatic escalation of the tribunal to a position where parties are always legally represented with all of the inherent costs and escalations in the formality of the proceedings. This clause includes one of the most comprehensive lists of circumstances under which people can have legal representation that I have seen in any legislation. I cannot imagine any circumstance whereby the tribunal would not grant legal representation should either of the parties be disadvantaged. If the person representing a body corporate were well versed, there would no question that the other party would be unfairly disadvantaged if he or she did not have legal representation. This clause allows that person not only to have legal representation but also to have an agent represent him or her also which, for the elderly, is very important. All they have to be able to show is that they are unable to appear for themselves or unable to conduct the proceedings properly or that they may be disadvantaged.

Clause put and passed.

Clauses 48 to 50 put and passed.

Clause 51: Appeal -

Mrs HENDERSON: I move -

Page 34, lines 25 and 26 - To delete the words "in the manner and in the time prescribed by rules made by the District Court" and substitute the following -

and, without derogating from any other power of the District Court to make rules of court, the District Court may make rules with respect to the manner of and the time for appeals under this section.

Page 34, line 29 - To delete the word "or".

Page 35, line 1 - To delete the words "the Tribunal or".

Page 35, line 2 - To delete the word "appeal." and substitute the following -

appeal; or

(c) the appeal involves a decision of the Tribunal under section 56 (4).

Page 35, line 4 - To delete the words "the Tribunal or".

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 52 to 55 put and passed.

New clause 56 -

Mrs HENDERSON: I move -

Page 36, after line 21 - To insert after clause 55 the following new clause to stand as clause 56 -

Disputes in relation to service contracts

56. (1) Where -

(a) a party to a service contract proposes a variation or cancellation in relation to any of the terms of a service contract, whether during or on the expiry of its term;

or

(b) a dispute arises between the parties to a service contract,

either party to the service contract may make an application in relation to the matter to the Tribunal.

(2) Without derogating from any of the powers conferred on the Tribunal under section 42 the Tribunal may give practice directions with respect to applications made under subsection (1).

(3) Where the Tribunal is of the opinion that an order, if made under this section, may be relevant to more than one service contract the Tribunal may require the administering body to furnish the Tribunal with such information in relation to any other service contract or service contracts that may be relevant to the application and effect shall be given to any such order.

(4) The Tribunal may upon application made under this section order -

(a) specific performance of the service contract;

(b) the reopening of the service contract;

(c) the payment of a sum of money,

and make such other orders as the Tribunal considers appropriate and may declare that the order applies to such service contracts as are specified in the order and the order shall have effect accordingly.

New clause put and passed.

Clause 56: Applications relating to transfer of residents -

Mrs EDWARDES: Subclause (6) provides for a resident to be transferred from one form of accommodation to another form of accommodation. The tribunal may, with the consent of the resident, request the chief executive officer of the Health Department or any other person to prepare a report on the resident's physical or mental capacity. The word "may" has been interpreted from to time to time as "should". Therefore, this provision is restrictive because the tribunal, in determining any application for transfer of resident, will have to obtain the consent of the resident to a medical examination. If a resident withholds his or her consent to medical examination it could effectively frustrate the proceedings before the tribunal to transfer a resident.

The tribunal will be prevented from performing its functions in respect of not only this clause, but also clause 57. This matter could be considered in the review of the legislation and perhaps it will be necessary to substitute words along the lines that the consent of the resident should not be obtained. Clause 57 would also need to be amended. It is a problem that could be raised within the next 12 months. Perhaps the tribunal will be able to get around the problem by its interpretation of the word "may".

Mrs HENDERSON: I bow to the legal knowledge of the member for Kingsley, but my understanding is that the word "may" gives the possibility of one way or the other. This clause has been deliberately worded in a way to allow the tribunal to act either with or without the consent of the resident. I understand that is exactly the reason why the word "may" has been used instead of the word "shall". I am not aware how that word has been

interpreted in other Acts, but it is frequently used in legislation and it is certainly intended to give that choice.

Clause put and passed.

Clause 57: Termination of occupation on medical grounds -

Mrs EDWARDES: Voluntary carers' associations have some concerns that this clause will, for the reasons I outlined in clause 56, require the consent of a resident for the purpose of obtaining a medical certificate. It is felt that there will be delays in transferring residents from one level of care to another. A resident may dispute the move and withhold his consent to that termination. In some instances there could be expensive delays in transferring residents because of the way in which this clause and the previous clause will operate.

Mrs HENDERSON: It is important to distinguish between termination of occupation and transfer. We spent considerable time discussing this with the organisations referred to by the member for Kingsley. The advice we were given is that this clause does not prevent transfers, but it does require certain steps to be taken in terminating the occupation, and the transfer could occur ahead of the move to seek termination of occupation. I understand that this clause will not stand in the way of a move from one area of a village to another.

Clause put and passed.

Clauses 58 to 63 put and passed.

Clause 64: Prohibition on certain recovery proceedings in courts, etc. -

Mr NICHOLLS: It may be that I do not understood this clause but it seems to me that it precludes an administrating body from its possible legal right to pursue either a term of contract or another legal matter. Is it fair to stop an administrating body from taking action? Possibly another resident may take action on the ground of a person not conforming with his contract. What is the reason for this clause?

Mrs EDWARDES: This clause is inconsistent with clause 65, which refers to the recovery of possession of premises prohibited except by order of a court or tribunal. However, in this clause the administrating body is prohibited from commencing proceedings in a court to recover possession of residential premises in a retirement village. In the clauses discussed previously it is clearly set out that a residence contract can be terminated only by the tribunal. This is intended to preserve that situation so that the administration cannot commence legal action in another jurisdiction to gain possession of a premises before it has sought to cancel the contract; so in fact the route that the administration would need to take would be to seek to cancel the contract through the tribunal. Obviously it would then automatically gain possession of the premises. However, it cannot seek to go to a separate jurisdiction and gain possession of the premises. This Bill is intended to ensure that the only way in which the contract can be terminated, because it is such a serious action, is through the tribunal created under this legislation for that purpose.

Clause put and passed.

Clause 65: Recovery of possession of premises prohibited except by order -

Mrs EDWARDES: This clause makes reference not only to the order of a tribunal but also to a "judgment, warrant or order of the court". What is anticipated by those words which obviously refer to something other than an order of the tribunal for recovery of possession or termination of a contract? Obviously the draftspeople envisaged other types of instances where a judgment, warrant or order of the court would enable recovery of possession.

Mrs HENDERSON: It is a matter of the sequence in which events occur. The application to terminate a contract must be made to the tribunal. I understand that appeals can go to the District Court which may make an order under clause 65 which would result in an opportunity for the person to take possession under an order of that court. This clause allows that to occur.

Clause put and passed.

Clauses 66 to 71 put and passed.

Clause 72: Reasons for decisions -

Mrs EDWARDES: I wish to highlight the concerns of the industry keeping in mind that the

Bill will be reviewed after 12 months. This clause provides that the tribunal is required to give reasons in writing for a decision or an order only if requested to do so in writing within 14 days of the decision being made by a party, or of its own motion. The concern of the industry and people carrying out reviews is that the tribunal will not undertake to give its reasons in writing so that the industry knows the reasons for its decisions.

Mrs HENDERSON: The intent of this clause is to prevent the tribunal from becoming bogged down because its members are required to give written decisions in every case. Hearings will need to be recorded in some way in order to enable someone to provide a written decision if it is requested within 14 days. I do not think one could have a more reasonable clause than one which allows for a written decision to be given if asked for. However, we do not want to bog down the tribunal by requiring it to provide written decisions in every case merely to establish some sort of case law.

Mr NICHOLLS: Can one assume that a written record of the tribunal's decisions will be kept?

Mrs Henderson: Yes, a tape recording.

Mr NICHOLLS: Will that record be kept for longer than 14 days?

Mrs HENDERSON: There will be no reason for the tribunal to keep the record for longer than 14 days if a person has not applied within that period for a written decision. If the proceedings are tape recorded, for instance, there would be no reason to maintain those tapes and they could be erased. It is not an unusual practice for proceedings to be taped and, if a person does not ask for the evidence within a given period, for the tapes to be erased and reused.

Clause put and passed.

Clauses 73 to 81 put and passed.

Clause 82: Review of the Act -

Mrs HENDERSON: I move -

> Page 52, line 3 - To delete the words "as soon as practicable" and substitute the following -
>
> within 6 months

This amendment was suggested by the member for Kingsley who is anxious to ensure, even though the Bill provides for a review after 12 months, that the review is commenced within six months of the expiration of the 12 month period. I have no difficulty with that approach. I would expect the review to commence less than six months after the expiration of the 12 month period, so I am happy to accommodate the member's wish.

Mrs EDWARDES: I thank the Minister and her staff for accommodating the concerns of the retirement villages industry and the Opposition. The Opposition has highlighted a number of concerns, some of which may eventuate within the next 12 months and some of which may not eventuate for some time. The industry regards the review as an important part of the new Act. It is extremely important to the industry that the review get under way a short time after the expiration of that 12 month period, and that is why we have nominated a period of six months.

Mr NICHOLLS: I would like an assurance from the Minister that the review will take place in a public forum rather than before a review panel bound by confidentiality. Often when reviews take place people have problems accessing them. They think the matters of concern to them are too trivial to raise or that they are the only person who has experienced a particular problem. If the review provides for public access it may well be that there is far more input by people whose complaints might otherwise go unnoticed for a number of years. I urge the Minister to consider that matter.

Mrs HENDERSON: Subclause (2) provides that a report shall be produced based on each review and shall be laid before the Parliament. Therefore, that will obviously be a public document. I would be reluctant to undertake that reviews will be held in public because there are many circumstances in which individuals wish to come forward to describe their situation but do not wish to do so if other people are able to sit and listen to what they have

to say. I have experienced that. There needs to be enough flexibility in the review to provide for confidential submissions, or submissions in a public forum, should they wish to give them. I would like to keep the option open to do either.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 83 and 84 put and passed.

Clause 85: Strata Titles Act 1985 amended -

Mrs HENDERSON: I move -

Page 53, line 4 - To insert after the word "Villages" the word "Disputes".

Page 53, line 7 - To insert after the word "Villages" the word "Disputes".

Page 53, line 11 - To insert after the word "Villages" the word "Disputes".

Amendments put and passed.

Clause, as amended, put and passed.

Schedule put and passed.

Title put and passed.

Bill reported, with amendments.

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (NMRB) BILL

Returned

Bill returned from the Council without amendment.

House adjourned at 11.53 pm

QUESTIONS ON NOTICE

CONSOLIDATED REVENUE FUND - EXPENDITURE
Item No 84 Division 12 - Estimated Expenditure Increase

1350. Mr BLAIKIE to the Premier:

(1) Would the Premier provide full details of item No. 84 in Division 12 of the Consolidated Revenue Fund expenditure Budget?

(2) Who were the legal expenses paid to, and on whose behalf?

(3) What are the reasons why the Government has increased estimated expenditure by some $2.6 million for 1991-92?

Dr LAWRENCE replied:

(1),(3)

Provision is made to meet expected legal and related expenses that may arise principally as a result of the McCusker report into the affairs of Rothwells Ltd and other legal proceedings involving the Government.

(2) The legal expenses were paid as follows -

Mr P.J. Jopling on behalf of the State of Western Australia
Mr E.M. Heenan on behalf of the State of Western Australia
Dwyer Durack, solicitor, and Mr R. Le Miere, counsel, representing Mr D. Parker who is a party to the action

SCHOOLS - MAINTENANCE
New System

1420. Mr MINSON to the Minister representing the Minister for Education:

(1) Does the Minister intend to implement a new system for the organisation of maintenance work in schools?

(2) If so, what will this system be and when is it expected to commence?

Dr GALLOP replied:

(1) Yes.

(2) Proposed changes to procedures are yet to be finalised. The proposed changes include devolution of some funding to schools. Further consultation is required with all parties concerned, including unions, school principals and the Western Australian Council of State School Organisations before any revisions to procedures are finalised and announced. In addition, some changes have occurred to minor works funding arrangements. Up to $1 500 will be available to parents and citizens' associations and school/community groups for improvements to school facilities. School principals will also have direct access to funding for minor improvements for jobs up to $500 in value.

PENSIONERS' RATES REBATES AND DEFERMENT BILL - PRESENTATION DATE

1561. Mr BRADSHAW to the Premier:

(1) Did the Premier announce at this year's annual general meeting of the Australian Council on the Ageing that a pensioners' rates rebates and deferment Bill would be presented to Parliament?

(2) If so, when is it expected that the Bill will be introduced?

Dr LAWRENCE replied:

(1) Yes.

(2) Towards the end of the current session or early autumn session 1992.

LAND TAX - ANNUAL FEE COMMENCEMENT DATES

1582. Mr MacKINNON to the Treasurer:

On what dates in each of the past 10 years has the annual billing of land tax commenced?

Dr LAWRENCE replied:

1991-92	25 September 1991
1990-91	10 October 1990
1989-90	27 November 1989
1988-89	28 November 1988
1987-88	29 September 1987
1986-87	13 October 1986
1985-86	25 September 1985
1984-85	19 September 1984
1983-84	14 September 1983
1982-83	15 September 1982
1981-82	30 September 1981

HOSPITALS - FREMANTLE HOSPITAL
Superintendents - Redundancy Packages

1717. Mr MINSON to the Minister for Health:

(1) Have any superintendents of Fremantle Hospital recently been made redundant?

(2) If so -

(a) which superintendents; and

(b) what has been the cost of these redundancy packages?

Mr WILSON replied:

(1) No.

(2) The medical superintendent and the deputy medical superintendent have expressed an interest in the Government's voluntary severance scheme and this is currently being processed. Any settlement, however, will be a private matter between the hospital and the officers.

BUSES - SCHOOL BUSES
Inspections - Functional Review Committee Inquiry

1725. Mr HOUSE to the Minister representing the Minister for Education:

In relation to question on notice 1263 of 1991 -

(1) When was the functional review committee investigation into the Ministry for Education's school bus inspections carried out?

(2) When was the FRC's report finalised?

(3) On what basis was the FRC's financial cost/benefit analysis made?

(4) Has there been any change to the cost comparisons between the Police Department and the Ministry of Education since the FRC report?

(5) If so, what are they?

Dr GALLOP replied:

(1) 1987.

(2) April 1988.

(3) Actual cost of providing Ministry of Education inspections and Police Department inspection fees at that time.

(4) There has been no change to cost ratio differential between Police Department and Ministry of Education inspections of buses up to 4.5 tonnes.

(5) Not applicable.

METROPOLITAN REGION IMPROVEMENT TAX - REVENUE

1729. Mr LEWIS to the Treasurer:

(1) What are the total amounts of moneys raised in each of the financial years from 1 July 1983 to 30 June 1991 from the metropolitan region improvement tax?

(2) To what accounts have these receipts been posted?

(3) Are there any statutory provisions for how these moneys should be used?

(4) If so, have these moneys at all time been credited and used as specified in the relevant statute?

Dr LAWRENCE replied:

(1)

Year ended 30 June	MRIT Collections $m
1984	7.0
1985	7.9
1986	7.8
1987	8.8
1989	10.2
1988	11.0
1990	13.4
1991	15.8

(2) Land tax and metropolitan region improvement tax - MRIT - collections are initially posted to the Consolidated Revenue Fund as a single amount before the MRIT portion is fully transferred to the metropolitan region improvement fund.

(3) The Metropolitan Region Town Planning Scheme Act 1959 provides for moneys paid into the metropolitan region improvement fund to be applied to all expenditure incurred in effecting the metropolitan region town planning scheme.

(4) Yes.

ASSET MANAGEMENT TASKFORCE - PROPERTIES
Sold and Listed for Sale

1739. Mr MacKINNON to the Treasurer:

(1) Will the Treasurer please list detail of all properties sold to date by the Asset Management Taskforce?

(2) Will the Treasurer also list all properties currently listed for sale by the Asset Management Taskforce?

Dr LAWRENCE replied:

[See paper No 750.]

HEALTH DEPARTMENT - ENVIRONMENTAL HEALTH OFFICERS
Duties, Functions, Employment Statistics - Labels Assessment

1765. Mr HOUSE to the Minister for Health:

(1) What are the duties and the functions of the Health Department's environmental health officers?

(2) How many Health Department environmental health officers are employed in the -

(a) metropolitan area;

(b) south west;

(c) lower great southern;

(d) upper great southern;

(e) midlands;

(f) south eastern;

(g) central;

(h) Pilbara;

(i) Kimberley?

(3) In relation to the Health (Foods Standards) (General) Regulations 1987 regarding the labelling and advertising of food, how many contraventions of subregulation (6), (which requires the name of the country in which the food is produced to be included on the package), did the officers report in 1990-91 in the following areas -

(a) metropolitan area;

(b) south west;

(c) lower great southern;

(d) upper great southern;

(e) midlands;

(f) south eastern;

(g) central;

(h) Pilbara;

(i) Kimberley?

Mr WILSON replied:

(1) Health Department environmental health officers play a significant role in overseeing the administration of the Health Act, regulations and by-laws made under the Act. Specifically the duties can be identified as follows -

Pest Control - Monitors and regulates the pest control industry. Includes licensing of operators and registration of firms. Investigates misapplications and public complaints.

Land Assessment - Approves and controls the installation of on-site wastewater disposal systems throughout the State. Approves country landfill disposal sites.

Meat Hygiene - Provides a meat inspection service to Watson's abattoir, monitors abattoir standards and smallgoods manufacturers throughout Western Australia.

Public Buildings - Approves public building proposals and ensures public buildings are safely constructed and maintained.

Applied Environmental Health - Oversees local government authorities through investigation and review of their environmental health standards and administration. Provides environmental health policy advice and support for Aboriginal environmental health program.

Food Surveillance - Review and enforce safety standards with respect to permitted ingredients, additives and treatment agents, microbiological and other contaminants and packaging materials. Coordinates the food monitoring program.

(2)

(a)	metropolitan area	- 36
(b)	south west	- -
(c)	lower great southern	- -
(d)	upper great southern	- -
(e)	midlands	- -
(f)	south eastern	- -
(g)	central	- -

(h)	Pilbara	-	1	) Aboriginal environmental
(i)	Kimberley	-	1	) health program
	Total	-	38	

(3) Nil. Labels are assessed on an ongoing routine basis by officers of the Health Department. The labels are assessed for conformity with the provisions of the Western Australian health food standards regulations as a whole. Officers assess many food labels and follow through consumer complaints, referrals from industry and direct requests from industry and importers for assessment. A recent survey of imported fish products revealed an unacceptable level of noncompliance with the regulations and as a result the attention of local authority environmental health officers has been drawn to the requirements of the relevant legislation. The Health Department has also written to retailers and suppliers to remind them of the regulatory requirements and the penalties that could be incurred for noncompliance.

LOCAL GOVERNMENT - ENVIRONMENTAL HEALTH OFFICERS
Duties, Functions, Employment Statistics - Labels Assessment

1769. Mr HOUSE to the Minister for Health:

(1) What are the duties and the functions of the Local Government environmental health officers?

(2) How many Local Government environmental health officers are employed in the -

(a) metropolitan area;

(b) southwest;

(c) lower great southern;

(d) upper great southern;

(e) midlands;

(f) southeastern;

(g) central;

(h) Pilbara;

(i) Kimberley?

(3) In relation to the Health (Foods Standards) (General) Regulations 1987 regarding the labelling and advertising of food, how many contraventions of subregulation (6), (which requires the name of the country in which the food is produced to be included on the package), did the officers report in 1990-91 in the following areas -

(a) metropolitan area;

(b) southwest;

(c) lower great southern;

(d) upper great southern;

(e) midlands;

(f) southeastern;

(g) central;

(h) Pilbara;

(i) Kimberley?

Mr WILSON replied:

(1) Local government environmental health officers through their local authority are authorised and directed to carry out within their district the provisions of the Health Act, and regulations and by-laws made thereunder. Essentially their role is that of investigation, inspection and education.

(2)

(a)	metropolitan area	- 141
(b)	south west	- 29
(c)-(d)	lower and upper great southern	- 14
(e)	midlands midwest	- 13
(f)	south eastern	- 7
(g)	central	- 18
(h)	Pilbara	- 9
(i)	Kimberley	- 3
	Total	- 234

(3) There is no obligation upon local authorities to report details of label assessment to the Health Department. No statistics on this matter are available.

EQUAL OPPORTUNITY ACT - AMENDMENTS
Age Discrimination in Employment Removal

1774. Mr NICHOLLS to the Premier:

Why has this Government not lived up to the commitment given by the Premier on 14 May 1990 in a media statement and again by the Premier in an address to the Western Australian Council of the Aging Annual General Meeting in March 1991 to introduce legislation to amend the Equal Opportunity Act to remove age discrimination in respect to employment?

Dr LAWRENCE replied:

Legislation to amend the Equal Opportunity Act to include discrimination on the ground of age has been drafted and will be introduced in the current session of Parliament.

LAND TAX - NEW ASSESSMENTS
Income Estimates

1790. Mr MacKINNON to the Premier:

(1) On what basis has the Government made its income estimates for the revised land tax assessments which will be issued as a consequence of the Government's decision to amend certain land tax assessments for the current year?

(2) What proportion of land tax assessment will be revised?

(3) When will the legislation providing these amendments be presented to the Parliament?

Dr LAWRENCE replied:

(1) On the basis of the 1991-92 Budget estimate and advice from the Commissioner of State Taxation that land tax revenue forgone in 1991-92 as a consequence of the amended assessments will be $16 million.

(2) Approximately 40 per cent.

(3) As soon as possible during the current parliamentary session.

BETTER CITIES PROGRAM - STATE FUNDING ALLOCATION

1795. Mr MacKINNON to the Premier:

(1) How much funding will be received by Western Australian during the year ending 30 June 1992 from the Commonwealth Better Cities Programme?

(2) For what purpose will those funds be used?

(1)-(2) A submission seeking funding for the first year of the five year Better Cities program has been made to the Federal Government. A response is expected by the end of November and I expect to make an announcement at that time.

LAND TAX - ROTTNEST ISLAND BUSINESSES ASSESSMENTS

1799. Mr MacKINNON to the Premier:

(1) When were land tax assessments first issued to Rottnest Island business operators?

(2) How many such assessments were issued during the year ending 30 June -

(a) 1985;

(b) 1986;

(c) 1987;

(d) 1988;

(e) 1989;

(f) 1990;

(g) 1991?

(3) On what basis were those assessments issued?

(4) For what years were the assessments issued in each case?

(5) Why were the assessments backdated?

(6) On what basis were the valuations made by the Valuer General for those assessments to be issued?

(7) When were the business operators on the island advised of those assessments?

Dr LAWRENCE replied:

(1) 1988.

(2) 1984-85, 1985-86, 1986-87, 1987-88 - Nil.
1988-89 - 4
1989-90 - 3
1990-91 - 1

(3) The assessments were issued under the Land Tax Assessment Act which provides that an owner for land tax purposes includes a person who is entitled to land under a lease or licence from the Crown and a person who is entitled to use land for a business, commercial, professional, or trade purpose under an agreement or arrangement with the Crown or any agency or instrumentality of the Crown.

(4) Of the four assessments issued during 1988-89 -

One covered 1987-88 and 1988-89
One covered 1986-87, 1987-88 and 1988-89
Two covered 1985-86, 1986-87, 1987-88 and 1988-89.

The three assessments issued during 1989-90 covered just that year. The single assessment issued during 1990-91 covered just that year. A further seven assessments covering 1990-91 were issued early in 1991-92. Two covered just 1990-91, three also covered 1989-90 and two also covered 1991-92.

(5) To cover years for which land tax had been payable but for which assessments had not previously been issued.

(6) The Valuer General has advised that the valuations were made in accordance with the requirements of the Valuation of Land Act.

(7) When they received the assessments.

WESTERN AUSTRALIAN GOVERNMENT HOLDINGS LTD - LEGAL COSTS

Government Payment

1800. Mr MacKINNON to the Treasurer:

Would the Treasurer provide a detailed breakdown of why the Government

has paid $2.2 million relative to Western Australian Government Holdings' legal costs as outlined in answer to question on notice 1353 of 1991?

Dr LAWRENCE replied:

The amount referred to in the question has not been paid. Provision has been made in the 1991-92 Budget for WAGH to expend this amount in the year to end on 30 June 1992 for legal costs which are expected to be incurred for the following -

	$
To defend the legal action commenced against it by Bond Corporation Holdings Ltd and Others, and prosecute its counterclaim	2 000 000
For its legal representation before the Royal Commission into Commercial Activities of Government and Other Matters	150 000
To protect its position as the sole secured creditor of Petrochemical Industries Ltd (in liquidation) and a shareholder and unsecured creditor of Petrochemical Holdings Ltd (in liquidation)	50 000
	2 200 000

WASTE MANAGEMENT AND RECYCLING - GOVERNMENT ACTION

1802. Mr MacKINNON to the Deputy Premier:

(1) Has the Government taken any recent action on the question of waste management and recycling?

(2) If so, what action has the Government taken?

(3) What groups, committees or other such bodies has the Government appointed to examine these areas?

(4) What persons are represented on those groups?

(5) On what basis were those persons appointed to those groups?

(6) What is the purpose in each case of the group?

Mr TAYLOR replied:

(1) Yes. In the past six months the Government has initiated a major review of the State's waste management system and a State Recycling Blueprint. The Government, through the Recycling Industries Unit of the Department of State Development, has also continued to exert a strong influence in encouraging collection of recyclables and the development of new recycling industries.

(2) The Government has undertaken the following action -

Waste Management Review - A discussion document entitled "Waste Management into the 21st Century" prepared by a team from the Health Department, EPA and the Department of State Development, proposes a waste management agency be established. The discussion document has been widely circulated amongst local government and industry for comment. Public submissions on the document have been called for.

State Recycling Blueprint - The Recycling Industries Unit is coordinating the forming of a blueprint to integrate waste minimisation and recycling activities throughout the State to achieve the State and National goal of a 50 per cent reduction in waste to landfill by the year 2000. The Government has appointed the Recycling Blueprint Action Committee with representation from Government, local government and industry to develop the plan.

Industry Development - The Government is working closely with the proponents of a 60 000 tonne per annum newsprint deinking plant and a

145 000 tonne per annum cereal straw pulp mill. Both projects are nearing the completion of feasibility studies. A 2 000 tonne per annum suction moulded paper fibre plant has been built as a direct result of an initiative by the Recycling Industries Unit and the WA Egg Marketing Board to have manufactured locally the 16 million egg cartons used in WA each year. The plant will manufacture egg cartons, seedling pots and other paper packaging out of old newsprint and magazines. It will commence production in December.

The Government has also moved to make country recycling possible by encouraging Government trading enterprises, beginning with SECWA, to provide free backloading to Perth, on a space available basis, of low value recyclables which cannot sustain commercial transport charges. The Government is working in conjunction with the Western Australian Municipal Association to encourage home composting by the provision of composting bins to ratepayers. The Government is cooperating with the City of Perth and WA recycling industries in the conduct of the Perth CBD recycling trial covering 63 different businesses in the city. The trial is expected to lead to a city wide service to recycle 12 000 tonnes of the 14 000 tonnes per annum presently going to landfill. The Recycling Industries Unit is also working closely with industry to improve the level of recycling of plastics, tyres, high grade paper, cardboard and putrescible wastes.

(3) The Government has appointed a Recycling Blueprint Action Committee to develop the State Recycling Blueprint. In addition, an interdepartmental committee chaired by the Department of State Development meets regularly to coordinate recycling action within Government.

(4) The Recycling Blueprint Action Committee is made up by representatives of each of the metropolitan regional councils, a country local government representative, the WA Municipal Association and the Department of State Development, the Health Department, and local government. Industry is represented by Mr Stephen Drake-Brockman, interim chairman of the WA branch of the Australian Waste Management Association.

(5)-(6)

The local government and State Government organisations represented were chosen on the basis of their controlling interests in waste management and recycling. The industry representative was chosen on the basis of his experience in recycling industry at all levels - collection, sorting and sale to reprocessing industries. His selection was endorsed by the Confederation of Western Australian Industry.

WESTERN AUSTRALIAN DEVELOPMENT CORPORATION - ALKIMOS LAND PURCHASE

Rural and Industries Bank of Western Australia - Cabinet Decision

1809. Mr COWAN to the Deputy Premier:

(1) Which Minister directed the Western Australian Development Corporation to acquire 966 hectares of Alkimos land from the R & I Bank in January 1989?

(2) Was the direction to the WADC a Cabinet decision?

(3) If yes to (2), on what date was that decision made?

(4) If not to (2), when did Cabinet first become aware of the transaction?

Mr TAYLOR replied:

(1) No Minister to my knowledge. The decision was made by the board of LandCorp.

(2) No.

(3)-(4)

Not applicable.

UNIVERSITY OF NOTRE DAME AUSTRALIA - WESTERN AUSTRALIAN DEVELOPMENT CORPORATION
Alkimos Land Joint Venture

1811. Mr COWAN to the Deputy Premier:

(1) Has there ever been a proposal or an undertaking that the Western Australian Development Corporation and the University of Notre Dame Australia enter into a joint business venture for the development of land at Alkimos?

(2) If yes, when did the Treasurer first become aware of such a proposal or undertaking?

Mr TAYLOR replied:

(1) The joint venture proposal for the development of land at Alkimos was part of a submission to the then Minister for Economic Development and Trade by the planning board of the University of Notre Dame Australia in December 1988. The Minister agreed to explore the possibility but no undertaking was given.

(2) The proposal was submitted to Cabinet on 19 December 1988. On 9 January 1989 it was deferred sine die.

UNIVERSITY OF NOTRE DAME AUSTRALIA - ALKIMOS LAND GRANT
Government Agreement, Pre-1989 State Election

1812. Mr COWAN to the Deputy Premier:

(1) Did the Government agree to or promise a grant of Alkimos land to the University of Notre Dame Australia just prior to the 1989 State election?

(2) If yes, was the grant to be about 600 hectares?

(3) Did the Western Australian Development Corporation state publicly, at the time it purchased the 966 hectares of Alkimos land just a few weeks before the 1989 State election, the reasons for that purchase?

(4) If yes, on what date and will the Treasurer table a copy of that statement?

Mr TAYLOR replied:

(1) and (3)
Not to my knowledge.

(2) and (4)
Not applicable.

GOVERNMENT DEPARTMENTS - 008 TELEPHONE NUMBERS

1819. Mr NICHOLLS to the Minister for State Development; Goldfields:

(1) Which departments within the Deputy Premier's responsibility have 008 telephone numbers for non-metropolitan inquiries?

(2) Which departments within the Deputy Premier's responsibility do not have 008 telephone numbers for non-metropolitan inquiries?

(3) Are there any departments within the Deputy Premier's responsibility which currently do not have 008 telephone numbers, which have requested 008 telephone numbers in the previous twelve months?

(4) Of those departments which have requested 008 telephone numbers, how many will receive this facility in this financial year?

Mr TAYLOR replied:

(1) The Department of State Development and the Small Business Development Corporation.

(2) The Goldfields-Esperance Development Authority.

(3) No.

(4) Not applicable.

GOVERNMENT DEPARTMENTS - 008 TELEPHONE NUMBERS

1826. Mr NICHOLLS to the Minister for Housing; Construction Services; Heritage:

(1) Which departments within the Minister's responsibility have 008 telephone numbers for non-metropolitan inquiries?

(2) Which departments within the Minister's responsibility do not have 008 telephone numbers for non-metropolitan inquiries?

(3) Are there any departments within the Minister's responsibility which currently do not have 008 telephone numbers, which have requested 008 telephone numbers in the previous twelve months?

(4) Of those departments which have requested 008 telephone numbers, how many will receive this facility in this financial year?

Mr McGINTY replied:

(1) Homeswest and the Department of State Services.

(2) The Building Management Authority and the Heritage Council of Western Australia.

(3) No.

(4) Not applicable.

HOMESWEST - COUPLES ASSESSMENT

1846. Mr NICHOLLS to the Minister for Housing:

(1) How many Homeswest tenants were being assessed as couples and paying rent accordingly, for each of the previous 10 years?

(2) How many of those rental tenancies were charged to the single criteria because of the death of a partner?

(3) How many of those were living in aged persons' units?

(4) Were any of those required to vacate this accommodation and relocate?

(5) Are surviving tenants required to continue to pay rent equivalent to that of a couple, over the period covered by the bereavement allowance from the Department of Social Security?

Mr McGINTY replied:

(1)-(4) This information is either not available or will take considerable resources to compile. If the member wants information on a particular case I will happily provide it.

(5) No.

RURAL ADJUSTMENT AND FINANCE CORPORATION - ASSISTANCE APPLICATIONS

Approvals and Refusals

1853. Mr McNEE to the Premier:

(1) How many applicants have been granted and refused assistance by the Rural Adjustment and Finance Corporation in the financial year 1990-91?

(2) Does the interest earned on RAFCOR's trust funds go to the Consolidated Revenue Fund?

(3) With reference to RAFCOR's 1990 annual report, page 86, note 25, would the Premier explain -

(a) the purpose, source and destination of each fund;

(b) the current amount in each fund;

(c) the heading "Other"?

Dr LAWRENCE replied:

(1) Approvals - 446; declines - 390.

(2) No, for the Rural Adjustment 1985 Fund, Farm Water Supply Sub-accounts of the Rural Assistance Fund and the Crop Proceeds Trust Private Account. Yes, for the Rural Reconstruction Fund, Rural Adjustment Fund and balance of Sub-accounts in the Rural Assistance Fund.

(3) (a) Rural Adjustment Fund: Purpose is to account for funds received from the Commonwealth under the 1976-85 Rural Adjustment Scheme and for repayments from farmers for loans advanced under this scheme. These funds will be used to repay the Commonwealth for funds advanced under this scheme.

Rural Reconstruction Fund: As above, except the 1971-76 Rural Construction Scheme.

Rural Adjustment 1985 Fund: Purpose is to account for funds received from the Commonwealth under the current Rural Adjustment Scheme and the provision of assistance under the various categories of this scheme.

Rural Assistance Fund: This fund is used as the operating account for all the schemes the Corporation administers under section 7A of the Rural Adjustment and Finance Corporation Act 1971. These schemes include Natural Disaster Relief, Farm Water Supply, Interest Rate Relief, Dairy Adjustment and Special Carry-on. The majority of funds in the account represent repayments by farmers of advances under the Special Carry-on Scheme 1983 to 1987. These funds were initially advanced from the Rural Reconstruction Fund and will be credited back to this fund. The balance represents repayments received from farmers under other rural assistance schemes, and cleared monthly to Treasury.

(b) Balance as at 31 October 1991 is -

	$ million
Rural Adjustment Fund	17.974
Rural Reconstruction Fund	5.499
Rural Adjustment 1985 Fund	14.273
Rural Assistance Fund	8.413

(c) The heading "Other" represents crop proceeds funds held in trust for farmers in line with the corporation's securities and mortgage and securities fees held pending disbursement as costs for securities registered.

PLANNING - CITY OF CANNING
GR-4 Zoning - Three and Two Bedroom Unit Valuations

1854. Mr KIERATH to the Premier:

(1) In the GR-4 zoning in the City of Canning, should the valuations be different for three and two bedroom units in a group of dwellings?

(2) If yes, what is the basis and the reasons for these differing valuations?

Dr LAWRENCE replied:

(1) Yes.

(2) Depending on location, age, size, design and other factors which affect values.

FINES - COMMUNITY WORK ORDERS
Revenue - Default Detentions

1858. Mr NICHOLLS to the Minister representing the Attorney General:

(1) What are the number of fines which have been converted to community work orders in each year since 1986?

(2) What is the amount of revenue in fines forgone in each of these years?

(3) What is the cost of administering and implementing this option for offenders?

(4) How many people have served a period of detention due to defaulting on fine payments and what is the collective amount of the lost revenue for such defaults, for each year since 1986?

(5) What was the cost to the State to hold these people in detention each year?

(6) What is the criteria for determining who is permitted to convert a fine to a Community Work Order?

(7) Where the victim of a crime has lost property as a result of a criminal action, do they receive any compensation when the fine for retribution is not paid?

Mr D.L. SMITH replied:

(1)-(2)

The legislation providing for work and development orders was enacted on 1 March 1989. Fines imposed prior to that are not convertible. At the point of conversion of fines to a work and development order all outstanding fines for a particular offender are assessed with regard to their cumulative or concurrent status and a resultant number of hours is calculated. From this calculation one work and development order is issued which represents the aggregation of all "called in" or presented outstanding fines. It is not possible to ascertain from the database the number of individual fines that have been converted. Since the enactment of the legislation the following number of work and development orders have been issued -

1 March 1989 - 30 June 1989	39
1989 - 1990	2 636
1990 - 30 June 1991	7 767

(3) A recent review of work and development orders concluded the establishment and recurrent costs for the first two years of operation of this program to be $1 410 755 during which time 6 676 orders were commenced. In any assessment of costs it should be understood that during this period offenders worked - in an unpaid capacity - on more than 900 community projects. Thus while revenue may be forgone to the Government there are significant gains to the community.

(4) Numbers received into prison for fine default only -

1985-86	1 643
1986-87	1 899
1987-88	1 775
1988-89	1 765
1989-90	2 549
1990-91	2 877

Caution is needed when comparing these figures with work and development orders. From 1 March 1989 until December 1990 all persons converting a fine default to a work and development order had to be received into a prison. Consequently the numbers recorded as received into prison for fine default do not represent a distinct alternative group. Many fine defaulters received into prison were subsequently exited to a work and development order for the outstanding amount of the fine not already "cut out" in prison. The amount of collective lost revenue is not known, for reasons stated above.

(5) The costs would be very substantial, but it is not possible to estimate them with any accuracy.

(6) The criteria for entry to the program are the agreement by offenders to convert to a work and development order rather than be imprisoned, and their preparedness to undertake 14 hours of community work - where that is assessed as appropriate - for a set number of weeks according to a schedule determined by the fine.

(7) No. An order for restitution can be made as part of the fine, in which case the court enforces the order; or restitution ordered to the complainant, in which case the court does not take a role in the enforcement except after application by the complainant for the possible issue of a warrant. In either case if the defendant elects not to pay the restitution, no compensation is paid by the Crown to the complainant. The complainant may take civil action to recover the amount ordered.

RATES - CONSOLIDATED REVENUE FUND CONTRIBUTIONS
List of Royalties, Taxes, Charges, Fees and Levies

1862. Mr HOUSE to the Premier; Treasurer; Minister for the Family; Women's Interests:

(1) Can the Treasurer provide a list of all the rates of royalties, taxes, charges, fees and levies that are administered by the departments, agencies, statutory authorities or Acts under the Treasurer's jurisdiction, and which contributed to the Consolidated Revenue Fund in 1982-83?

(2) If not, why not?

(3) Can the Treasurer provide a list of all the rates of royalties, taxes, charges, fees and levies that are administered by the departments, agencies, statutory authorities or acts under the Treasurer's jurisdiction, and which contributed to the Consolidated Revenue Fund in 1991-92?

(4) If not, why not?

Dr LAWRENCE replied:

This information is published in the relevant annual reports and Budget papers.

RATES - CONSOLIDATED REVENUE FUND CONTRIBUTIONS
List of Royalties, Taxes, Charges, Fees and Levies

1863. Mr HOUSE to the Deputy Premier; Minister for State Development, The Goldfields:

(1) Can the Deputy Premier provide a list of all the rates of royalties, taxes, charges, fees and levies that are administered by the departments, agencies, statutory authorities or Acts under the Deputy Premier's jurisdiction, and which contributed to the Consolidated Revenue Fund in 1982-83?

(2) If not, why not?

(3) Can the Deputy Premier provide a list of all the rates of royalties, taxes, charges, fees and levies that are administered by the departments, agencies, statutory authorities or acts under the Deputy Premier's jurisdiction, and which contributed to the Consolidated Revenue Fund in 1991-92?

(4) If not, why not?

Mr TAYLOR replied:

This information is published in the relevant annual reports and Budget papers.

DRUG ABUSE - YOUTH ASSISTANCE

1878. Mr MINSON to the Minister for Health:

Will the Minister outline to the House what avenues of assistance are available for people between the ages of 12 to 21 years who are involved in drug abuse and particularly those who are heavily addicted?

Mr WILSON replied:

There is a range of mainstream and specialist youth drug services available for young people between the ages of 12 and 21 years. Mainstream drug services are provided by the Alcohol and Drug Authority through the -

Alcohol and Drug Information Service
Community Service Teams

Central Drug Unit
Solvent Use Team
William Street Clinic

The specialist youth drug services are provided by -

Palmerston Centre
Holyoake
Teen Challenge
The Perth City Mission.

A recent Government initiative will establish a Troubled Youth Support Scheme, coordinated jointly by the Health Department and the Alcohol and Drug Authority. This initiative will also closely involve the non-Government sector and will target homeless and at-risk youth in specific problem areas. A range of youth services is being developed by the Department for Community Services and the Alcohol and Drug Authority. These initiatives target young offenders with alcohol and other drug problems appearing before the Children's Court and will provide treatment programs through Palmerston, ADA, Holyoake and the Perth City Mission.

WHEAT - GUARANTEED MINIMUM PRICE
Increased Plantings

1879. Mr MINSON to the Minister for Agriculture:

(1) What was the estimated percentage increase in wheat planting in Western Australia in 1991 due to the guaranteed minimum price?

(2) How was this percentage estimated?

(3) Were increased plantings in areas which grow varieties which attract higher prices in the niche markets of South East Asia?

(4) If yes to (3), will the Government take action to isolate the increased returns so that these increased returns are distributed to Western Australian wheat growers as was the intention of the bipartisan decision of this Parliament and not to all the wheat growers in Australia, as will occur under the present pooling arrangements the Wheat Board has with growers of Australian standard white wheat throughout Australia?

Mr BRIDGE replied:

(1)-(2)

It is not possible to calculate what effect the State Government wheat commitment had on wheat plantings in 1991. It is likely that the wheat commitment prevented the State's wheat area declining by as much as it might have otherwise done, but the low wool price, lack of other cropping options, and break of the season, would also have had a significant influence.

(3) The Government was careful to ensure that the wheat commitment did not distort the Australian Wheat Board's (AWB) price signals to growers. Hence all AWB premiums and deductions applied, based on a price of $150 per tonne net pool return for 10 per cent protein Australian standard white. This included the payment of premiums on noodle varieties grown in Western Australia.

(4) Australia currently markets its export wheat under national pooling arrangements established under the Federal Wheat Marketing Act. This pooling provides growers with a method of sharing risk due to variations of price over time and between markets. Growers have been happy with these pooling arrangements, although industry is currently looking at the possibility of having an increased number of pools, such as a special noodle pool. This is an issue to be resolved by growers, their organisations and the AWB. It should be noted that noodle wheat growers in this State currently receive premiums of $12.50 per tonne for Eradu and $15 per tonne for Gamenya if over 9.5 per cent protein when delivered to the Australian standard white pool.

WOOL - GROWERS' FUNDS
Security Legislation - Auction Sales Act Amendment

1880. Mr OMODEI to the Minister for Agriculture:

(1) Has progress been made in relation to the commitment given at the 1991 Western Australian Farmers Federation conference to introduce legislation into the Parliament to give security to all growers?

(2) Does the Minister intend to introduce legislation to amend the Auction Sales Act 1973 to ensure that woolgrowers' funds are secured?

(3) If the Minister does not intend to introduce the promised legislation, then what action does the Minister intend to take to secure woolgrowers' funds?

(4) In view of the collapse of wool sellers in recent times, which adds weight to the Western Australian Farmers Federation request, when does the Minister intend to move to secure woolgrowers' funds?

Mr BRIDGE replied:

(1)-(4)

At the 1991 conference of the Western Australian Farmers Federation, the Premier agreed to examine the federation's request for greater security of woolgrowers' funds from wool sold at auction. The Department of Agriculture held meetings with the Western Australian Farmers Federation and Western Australian Wool Brokers Association, and prepared a discussion paper for comment by the industry. I will finalise a report for the Premier's consideration in the near future.

QUARANTINE CHECKPOINTS - NORSEMAN
Eucla Relocation

1881. Mr OMODEI to the Minister for Agriculture:

(1) Does the State Government intend to relocate the Norseman check point to Eucla?

(2) Is the possible importation of pests and diseases from the Eastern States being considered in relation to the check point remaining in Norseman?

(3) Have approximately 50 vehicles per week been using the Balladonia/Parmango Road, thus avoiding the check point?

(4) Have there been recent local Press releases stating that second hand farm machinery has bypassed the Norseman check point by using the Balladonia/Parmango Road?

(5) Are there other tracks north which can also be used to bypass the current Norseman check point?

(6) Has the State Government considered a South Australia/Western Australia funded checkpoint at Eucla?

(7) If yes to (1) when does the State Government intend to begin the relocation of the Norseman checkpoint to Eucla?

(8) What is the estimated cost of shifting the Norseman checkpoint to Eucla?

Mr BRIDGE replied:

(1) No.

(2) Yes.

(3) No. The last five day survey by the Department of Agriculture in July was two vehicles from the Eastern States.

(4) Yes, in May. Prosecution has been recommended.

(5) Other tracks travel north to the trans line but are seldom used.

(6) Yes.

(7) Not applicable.

(8) No estimate has been finalised.

MARKET CITY - TRADING HOUR CHANGES
Chamber of Fruit & Vegetable Industries in Western Australia (Inc) Request

1888. Mr OMODEI to the Minister for Agriculture:

(1) (a) Has any action been taken as a result of a request from the Chamber of Fruit and Vegetable Industries in Western Australia to change market hours at Perth Market City;

(b) if not, why not?

(2) Has a response been forwarded to the chamber in relation to the following items -

(a) no buyer entry to central trading area from 4.00 pm on the day preceding the main market day to 5.00 am on the day of the sale;

(b) movement of produce permitted from central trading area to buyer parking bays at any time;

(c) only tenants' vehicles be permitted before 4.45 am;

(d) the above to be controlled and policed by way of a boom gate?

(3) If a response has not been forwarded to the Chamber of Fruit and Vegetable Industries in Western Australia, why has this not occurred?

Mr BRIDGE replied:

(1) (a) Yes. The Perth market authority considered this request and subsequently decided not to change market hours.

(b) Not applicable.

(2) Yes.

(3) Not applicable.

QUESTIONS WITHOUT NOTICE

WESTERN MINING CORPORATION LTD - UNDERGROUND MINING LEGISLATION
Seven Day Week Continuous Shift Roster System

489. Mr MacKINNON to the Premier:

(1) When did the Government give Western Mining Corporation Ltd a commitment that it would legislate to allow WMC and other mining companies in Western Australia to operate underground mines seven days a week on a continuous shift roster system?

(2) Is it correct that some underground mines in Western Australia already operate under these conditions?

(3) Why then does the Government continue to refuse to honour its commitment to change this legislation?

Dr LAWRENCE replied:

(1)-(3)

I am somewhat mystified about the reason that this question has been addressed to me rather than to the Deputy Premier. The Leader of the Opposition is aware that the Deputy Premier is directly responsible for this area and has been involved in this matter on a day to day basis.

Mr MacKinnon: Because you are the Premier and you made the commitment.

Dr LAWRENCE: Nonetheless, the relationship between the Deputy Premier and me is such that I am well aware of precisely what has happened in this matter. Yes, a commitment was given and I have already read the relevant section of

the letter sent to Mr Morgan and signed by Ian Taylor MLA, Minister for State Development. The letter is dated 4 September and it has already been the subject of a question and answer in this House. The letter states under the heading "Amendments to Mines Regulation Act" that the Government is committed to the due process of amending the Mines Regulation Act with appropriate consultation between the parties concerned - the key issue - to allow underground mines to operate throughout a seven day week provided the necessary occupational health and safety measures are maintained. These two conditions attach to that.

The Deputy Premier has spent a great deal of effort and energy on this matter, along with the Minister for Mines, precisely because this is such an important operation and the additional investment is so important to Western Australia. From all reports, and as I see it, he has used his best endeavours in that respect. It is of great regret to everyone in this Parliament and in the Labor Party, and to the Deputy Premier that the talks he chaired broke down because of an issue of such minuscule proportions in the total picture of the things the mining union had been asked to do, that it beggars imagination that it should have provided a stumbling block to Western Mining. That being said, similar arrangements are already in operation in other areas. It think it is important that the record be set straight on this matter. The Deputy Premier answered yesterday questions from the Government side and from the Opposition, so that Parliament would be informed about the events that had occurred and the reason for them. It is rather mean spirited to raise this matter again, because no change has taken place since yesterday.

There are similar shift arrangements operating in this State in isolated areas and they typically involve new mining operations where, for the most part, fly in, fly out workers are employed. These workers are keen to work extended shifts over longer periods than is typical in the industry in order that they may leave the mining area and return to their families. That does not apply in Kambalda. Nonetheless, the union was willing to negotiate on that and on a range of other questions which would have resulted in a significant decline in the conditions the workers have enjoyed over a long time. People in this Government and in the community have all pushed hard to improve the productivity of workers in this country, whether they be in the private sector or the Government sector. That would have been achieved by the agreement of the union - a 30 per cent increase in the company's capacity to use its productive capital. The Opposition cannot score cheap points from this. The matter is in abeyance at the moment; it is before the Industrial Relations Commission and everyone wants it to be resolved. Nothing is to be gained by taking sides in the matter, and denigrating workers in Kambalda, who have provided by their labour significant income to this State and who have enjoyed conditions that they, too, now recognise cannot continue into future. In its own interests and in that of the people it represents, the union wants to negotiate a reasonable outcome with the company since the people it employs are giving up so much.

HAROLD E. HOLT COMMUNICATIONS STATION, EXMOUTH - US NAVY PERSONNEL

Rapid Withdrawal Concern

490. Mr LEAHY to the Deputy Premier:

(1) Is the Deputy Premier aware of local concern in Exmouth about suggestions of a rapid withdrawal of US navy personnel from the Harold E. Holt communications station during the next 12 months?

(2) If yes, will the Deputy Premier take any steps to respond to this concern?

Mr TAYLOR replied:

(1)-(2)

The member for Northern Rivers has taken a very genuine interest in the issues associated with Exmouth. I have visited Exmouth a couple of times, on

one occasion in the company of the Leader of the Opposition. The member for Northern Rivers is quite clearly regarded as a person who understands and is prepared to deal with the needs of the local community. Anyone who goes to Exmouth or throughout the Northern Rivers electorate has no doubt that that is the case.

Some time ago I established, as the Minister for State Development in Western Australia, a consultative forum that would give those people who have an interest in the future of Exmouth and the naval base a role to play and a knowledge of what is being done. That forum is chaired by Hon Tom Stephens, the Parliamentary Secretary who represents me in the Legislative Council on a range of issues. The forum involves the Royal Australian Navy, the United States Consul General, the United States Navy, the local shire president, and representatives of the civilian work force on the base and of the local business community. I am aware that there is great concern in the Exmouth community about what may happen. One of those concerns relates to some documents that have been leaked from the base on whether the closure will be an early one as far as the Americans are concerned. I have written to the Minister for Defence about this issue and have asked him to bring forward an announcement about the future of the base so that the people of Exmouth and those who are interested in this issue will know what will happen. I also wrote today to the United States Consul General in Western Australia, urging that a phased withdrawal process does not result in any sudden or dramatic impact upon the local community. We are aware of the fact that the base will remain in operation. An Australian presence will be maintained at that base, and it will provide an important communication facility for the Royal Australian Navy and will fit in neatly with the decision of the Federal Government to have a two-ocean naval policy, where half the Navy will be based here on the west coast.

Mr Court: Will you be constructing a marina?

Mr TAYLOR: The member for Northern Rivers could probably ask a question about that matter at a later stage so that the member will know what action is taking place.

Mr House: Do it before the next election. The member may not be here!

Mr TAYLOR: The member will certainly be here. Exmouth is at the forefront of the commitment and responsibility of the member for Northern Rivers, and I have no doubt that with the member's involvement in and dedication to this issue, the people of Exmouth will be kept well informed. It is important, both at a Federal level with the Australian Government and at a United States level, that these issues be resolved as quickly as possible so that the people of Exmouth will be informed about the future of that base.

LABELLING OF PRODUCTS REGULATIONS - IMPORTED FOODS
Packaged and Processed Fruit, Vegetables, and Meat

491. Mr HOUSE to the Minister for Health:

Can the Minister give a commitment to include in his recently announced labelling regulations for bulk fruit, vegetables, nuts and packaged orange juice, other imported foods such as packaged and processed fruit and vegetable products, and meat and meat products?

Mr WILSON replied:

That announcement was made in relation to labelling requirements which will come into force in the near future as a result of the establishment of the Australian Food Authority. That measure has been brought about by agreement between the States and the Commonwealth to standardise the requirements for labelling of food products across the country. This matter obviously needs to be dealt with as a national issue, inasmuch as the implications involve Australia's relationships as a nation with other nations and its general trading relationships with other countries. I cannot give the

assurance that the member seeks at this stage because the provisions that will be put in place as a result of those regulations - which will be invoked in Western Australia by a process of reference to the national agreed arrangements - are largely being directed by the Federal Department of Primary Industries and Energy at a national level. The health authorities in each State will have an input into the new arrangement, but it will be largely governed at a national industry level and by major input from the Department of Primary Industries and Energy. I will refer the member's question and request to the department so that the matter can be fed into the process and due note can be taken of it.

HOMESWEST - RENT INCREASES
Federal Member for Stirling's Comments

492. Mr CUNNINGHAM to the Minister for Housing:

(1) Is the Minister aware of comments by the Federal Member for Stirling, Ron Edwards, with regard to Homeswest rent increases?

(2) If so, can the Minister explain why those rent reviews were undertaken?

Mr McGINTY replied:

(1)-(2)

Yesterday the Federal member for Stirling, Ron Edwards, made a number of criticisms of the State Government which I believe were quite unjustified.

Mr Court: He made a criticism of all members of this Parliament. He said that State Parliaments were not capable of handling expenditures.

Mr McGINTY: The criticism specifically levelled by the Federal member for Stirling was that every time the Federal Government took an initiative to increase pensions and family allowance supplement payments to pension recipients, the State Government immediately increased Homeswest rents to take away the benefits of those Federal increases. That is an unfortunate criticism, and it is also highly inaccurate. The Federal member for Stirling should have been aware prior to making those criticisms that under the Commonwealth-State Housing Agreement the State is obliged to review rents every 12 months.

In addition, the Commonwealth required Homeswest to increase its rents because Western Australian rents for Homeswest tenants were amongst the lowest rents in the country, and unfortunately what was happening was that construction funds from the Commonwealth were being diverted to a rent subsidy for existing tenants. Therefore, it is both hypocritical and misleading for Ron Edwards to criticise the State Government for doing what the Commonwealth required it to do. In addition, members would be aware that the State Government recently cancelled a proposed Homeswest rent increase of between 10 per cent and 15 per cent that was due this month, in order to provide some assistance to low income earners in the current tight economic times.

Mr C.J. Barnett: Even you would agree that a 56 per cent increase in 12 months was a bit tough, and I congratulate you for doing that.

Mr McGINTY: The problem was that many people in Homeswest accommodation are on pensions which are linked to the inflation rate, and it would have been unfair to increase the rents at a time when pensions were not expected to increase and many people were experiencing some hardship. That decision will help more than 34 000 Homeswest tenants and their families, all of whom are low to moderate income earners. It would be more helpful if Ron Edwards - who I understand is a factional colleague of the member for Marangaroo -

Mr Cunningham: Wash your mouth out, Minister - never been a part of us.

Mr McGINTY: - put his energies into more positive measures to assist low income

earners instead of making inaccurate and unjustifiable criticisms of the State Government and engaging in the sort of Federal-State bickering which he is generating.

WILSON, BRUCE - AUSTRALIAN WORKERS UNION STATE SECRETARY
Union Leader of the Hijack of the North Rankin A Platform

493. Mr KIERATH to the Deputy Premier:

(1) Is Mr Bruce Wilson, the State Secretary of the Australian Workers Union, the same man who led the infamous union hijack of the North Rankin A platform in 1986?

(2) If so, how does the Minister now support a person who has acted in such an irresponsible and reprehensible way in the past?

Mr TAYLOR replied:

(1)-(2)

It was very interesting to read the article on Bruce Wilson in today's *The West Australian*. I thought it was a very fair article about his role with the Australian Workers Union. There seems to be a motivation from people like the member for Riverton to see Bruce Wilson in a certain light.

Mr Court: He has got his profile - give him a seat in Parliament. That is what you do with them.

Mr TAYLOR: Bruce Wilson would give the member for Nedlands quite a few headaches if he were in here.

Bruce Wilson is a union leader who will lead the AWU in a way that is appropriate for a leader of union movements to say that he is concerned with the welfare of the union members. I wonder what his reaction will be when he sees the comments made by the Leader of the Opposition by way of interjection when the Premier was speaking. The Leader of the Opposition has this great view that the workers at Kambalda, for example, have the hide to take five weeks' leave a year and to have not 12 but five rostered days a year, and also to earn $70 000 a year -

Mr Troy: Bruce Wilson has special empathy for non-English speaking people, too.

Mr TAYLOR: That is good. Certainly he is the sort of person who will stand up for those people who are part of his union. I admire him for standing up for the people at Kambalda and selling to the work force at Kambalda exactly what was agreed between me, Western Mining Corporation Ltd, and the AWU.

Government members: Hear, hear!

MINES REGULATION ACT - AMENDMENTS
Underground Mines Continuous Shift Rosters - Union Approval Requirement

494. Mr COURT to the Deputy Premier:

(1) Is it correct that at the recent State ALP Conference a motion was passed stating that the Government could not approve of changes to the mines regulation legislation to allow continuous shift rosters in underground mines without first obtaining "approval from the unions covering underground workers"?

(2) Is this the real reason the Government has not introduced legislation to amend the mines regulations to allow continuous mining without the need to seek a special exemption?

Mr TAYLOR replied:

(1)-(2)

The member for Nedlands obviously does not listen. Last night in this House and again today the Premier indicated exactly what we offered to Western Mining Corporation Ltd. What we said to Western Mining - and I will read it again just so that the member for Nedlands knows - was that the Government

is committed to the due process of amending the Mines Regulation Act with appropriate consultation between the parties concerned to allow underground mines to operate a full seven day week and so on, provided the necessary occupational health and safety measures are maintained. As a matter of interest, the issue of amending the Mines Regulation Act has gone to the Commission of Occupational Health, Safety and Welfare, if I remember rightly, and the commission is not convinced that the occupational health and safety issues have yet been addressed.

Mr Court: They tell me they refused to put a submission to Cabinet. You asked them to put a submission to Cabinet and they refused to do it. Talk about who is running the show!

Mr TAYLOR: That is not right. They do not put submissions to Cabinet - Ministers do.

Mr Court: You know who runs the show. They were asked to put a recommendation.

Mr TAYLOR: In 2001, when the member for Nedlands has a turn as a Minister, he will probably come to understand that Ministers make submissions to Cabinet.

Mr Court: They were asked to make a recommendation to Cabinet.

Mr TAYLOR: They do not make recommendations to Cabinet as such; they consider the issue and give us advice on it. The members for Nedlands and Riverton should not just listen to and get briefings from people like Duncan Bell about these issues.

Mr Court: We listened to the unionists at Kambalda - that is what is irking you.

Mr TAYLOR: If the member listened to the unionists at Kambalda he might also be in a position to understand that today, of their own volition and with no urging from the union, they were so angered by Western Mining's issuing retrenchment notices, of which I have a copy here, that they said they would not cop it but would go on strike. That was done without the union's even pushing them into that situation.

Mr Court: Wilson was in the paper yesterday saying he would take them all out on strike. He is the same guy who is not allowed back on an oil rig in the world.

The SPEAKER: Order! I call on the member for Nedlands to behave himself, please.

Mr TAYLOR: As I said last night, for Western Mining to issue retrenchment notices while the Industrial Relations Commission was going to hear this matter was a very foolish move, and would be as a red rag to a bull. It was not a clever thing to do and I think even Western Mining was surprised at the anger of the unionists at Kambalda. That is certainly the message I have received from those unionists, and it is the message received by other members who are far closer to this issue than are the Leader of the Opposition and the members for Nedlands and Riverton. I suggest those members inform themselves properly about this issue and support the action of the Australian Workers Union in taking this matter to the Industrial Relations Commission, where it will be properly resolved. I would hope that Western Mining will not be in a position to continue with those retrenchment notices after the commission has made a decision on the matter.

UNEMPLOYMENT - INDUSTRY ASSISTANCE

495. Dr TURNBULL to the Premier:

In the light of the release last week of the disastrous unemployment figure for Western Australia of 11.6 per cent, the highest ever in Western Australia, and the lack of any statement in Parliament or any Press release from any Minister's office in relation to the promotion of projects with job creation potential, will the Premier inform the Parliament of any initiatives her Government will take to assist industry in fast tracking projects in Western Australia which will result in jobs for the unemployed?

Dr LAWRENCE replied:

I wonder where the member for Collie has been. I am absolutely stunned by this question. I have answered questions in the House, I have issued Press releases, the Deputy Premier has issued Press releases, and there is one staring the member in the face in her own electorate. Some members opposite have questioned the validity of the biggest investment in a power generation system in this country when the Minister for Fuel and Energy is doing everything, as is the Government, to ensure that that project goes ahead on schedule. It is already generating significant employment, as various subcontractors are working toward detailing the specifications and so on, but in some sections of this community, and some sections of the Opposition - although not the member for Collie, I admit - there has been an attempt to railroad that project. It involves $2 billion worth of investment and over 700 jobs. That is just for starters.

Last week I announced a specific program in relation to public sector employment to ensure that young school leavers and young graduates had specific opportunities in apprenticeships and traineeships as well as level 1 positions in the Public Service. The State Government has been involved in a range of projects. The effort that the Deputy Premier has been putting in to ensure the investment in Kambalda, despite the very cheap shots from the Opposition, is precisely to achieve that end. We have a Ministerial Council which is working every week, effectively, to ensure that projects before us which have the capacity to be held up by various issues are in fact accelerated. The Deputy Premier can probably go through, chapter and verse, the amount of investment that is shaping up over the next 18 months in this State, on which Ministers are working to ensure that it actually take place. In the case of areas like Yakabindie and Marandoo clearly there have been problems, but there are proceeding apace a whole range of investments worth at last count, as I recall, some $1.4 billion, principally in the primary processing area, where the State Government has taken significant action.

I could go on, but I really am surprised at the member for Collie's observation that there has not been any action on this front. It is the number one priority for this Government. The Premiers, myself included, in the last week have been pushing the Federal Government to accelerate this and, partly as a result of pressure from us but also as a result of the Federal Labor and Opposition members, the Prime Minister will make a statement tomorrow which we hope will see significant additional funds injected into employment generating programs.

Far from talking about things like a 12 month holiday for some people who pay payroll tax, and flogging off the R & I Bank, we have been systematically addressing the issue on all fronts, making sure programs go ahead expeditiously and putting a lot of energy into that, negotiating between the parties when there are any reasons for dispute, ensuring that our tax regime is kept to a minimum and in one case rescinding an earlier decision on land tax because of the changed economics, promoting Western Australian investment and Western Australia, and making sure people know what a good place this is in which to invest. They might be forgiven for thinking otherwise if they listened to members opposite, who are trying to scuttle a $2 billion investment project in the Collie area for short term political gain. People in the community know what members opposite are about. They know that when it comes to the crunch, the members opposite do not give a fig for those who are unemployed; they are always after the short, cheap shot.

GRAPES - FLUORIDE DAMAGE RESEARCH

496. Mr TROY to the Minister for Agriculture:

Has the Department of Agriculture undertaken research over the last three years in relation to fluoride damage on various table grape varieties? Will the Minister also indicate the extent and outcomes of such research?

Mr BRIDGE replied:

I am not able to provide those details to the member for Swan Hills, but I will follow that up and provide an answer tomorrow; if not then, I will provide an answer in written form.

MIDLAND SALEYARD - NEW SALEYARD CONSTRUCTION SUBMISSIONS

497. Mr BRADSHAW to the Minister for Agriculture:

(1) How many submissions have been received to build new saleyards to replace the Midland saleyard?

(2) How many of these submissions are acceptable?

(3) When will the new site be announced?

(4) When will the new saleyards be built?

(5) What is the expected cost of building the saleyards?

Mr BRIDGE replied:

(1)-(5)

I have not been advised about the number of submissions from the working party, so I am not able to provide the member with any of that information. The submissions will be considered by the group which will advise me and then I will be in a position to make some assessment.