Legislative Council

Wednesday, 5 December 1990

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

PETITION – PENSIONERS

Federal Prescription Charges and Savings Deposit Assessment Reconsideration

Hon Muriel Patterson presented a petition bearing the signatures of 465 persons expressing concern at the Federal Government's attack on pensioners in the recent Federal Budget and urging the State Government to denounce the Federal Government's impost on pensioners, and urging the Commonwealth to reconsider the introduction of prescription charges and the assessment of pensioners' savings deposits as earning 10 per cent per annum.

[See paper No 843.]

MOTION – COMMONWEALTH CORPORATIONS ACT

Implementation Delay

HON R.G. PIKE (North Metropolitan) [2.37 pm]: I move –

That this House requests the Prime Minister, Hon Robert Hawke, and the Federal Attorney General, Hon Michael Duffy, to delay the implementation of the Commonwealth Corporations Act until 1 July 1991, because –

(1) On Wednesday, 16 May 1990, the following resolution was passed by the Legislative Council of Western Australia –

That this House resolves –

(1) To inform the Attorney General that it does not support the compromise he has entered into as it constitutes in substance and effect a breach of the principles set out in the motion adopted by this House on Thursday, 3 May 1990 which said in part –

BUT SUBJECT ALWAYS to the following conditions precedent –

(3) That this Parliament should not be asked to approve any law that transfers constitutional power or authority to the Commonwealth.

(4) That the State should retain the full benefit of and rights under the High Court decision.

(5) That the State should not concede the benefit of any undecided constitutional doubt in favour of the Commonwealth.

(6) That there should be real and substantial political, constitutional and administrative power retained by the State.

(2) To warn the Attorney General that the House is unlikely to adopt any legislation which gives effect to the deal done and the consequences of rejection of any such legislation will rest with the Attorney General and the Government.

(3) To suggest to the Attorney General that the records of the corporate affairs office or any related State office should not be made available to the Australian Securities Commission or any other agency of the Commonwealth.

(2) The Corporations (Western Australia) Bill was introduced into the Legislative Council on Thursday, 22 November 1990. Only three sitting days have passed up to Tuesday, 4 December 1990 and the Government has previously announced that the Parliament will rise on Thursday, 6 December 1990, clearly not allowing time for the Opposition to work with the Government to prepare an acceptable Bill which will allow a practical working arrangement with the Commonwealth, but will keep power and administration in Western Australia.

(3) There is serious doubt throughout Australia that the Commonwealth Corporations Act will be capable of being complied with if it comes into force on 1 January 1991.

(4) The Law Institute of Victoria considers that there is an undue rush to implement the new corporations legislation. The institute president said the national interest is in fact being harmed by the rush to get this legislation through the Parliaments. The Opposition in the Legislative Council agrees with this opinion, and considers that legislation of such obvious national importance should not be rushed through the Parliaments, but should be proceeded with in a responsible, considered and thorough manner.

I do not wish to retread the matters which I raised yesterday, but we are here addressing a fudge and a bluff by the Commonwealth Government. The word "bluff" was used by Mr Bosch, the gentleman who was the former Chairman of the National Companies and Securities Commission, and the word "fudge" is the word I use. A defensive facade has been put up by the Commonwealth and it has reversed the attack on the States in such a manner that we appear to have adopted a defensive attitude. With the utmost priority I indicate that this State, and certainly this House, in which the Opposition has the majority, will not be seen to be defensive in this matter at all.

This motion clearly outlines that on 16 May this year, this House, in the most unambiguous terms possible, resolved – as indicated in paragraph (1) of the resolution – to indicate to the Attorney General, and therefore the Government, that it would not approve of any constitutional transfer of power or authority to the Commonwealth. Paragraph (2) of that resolution also warned the Attorney General that this House was unlikely to adopt any legislation to that effect, and the effects of that rejection would rest with the Attorney General and the Government.

A little later in my speech I will quote from questions which were answered by the Attorney General earlier this year. These answers put a contrary opinion – if lie is too harsh a word – to that which the Attorney General gave to this House yesterday and the day before. He will be condemned by his own words.

Hon J.M. Berinson: Paragraph (1) of your motion is directed at forwarding a request to the Commonwealth and then you list your previous motion and so on. Are you proposing that the whole of your motion, if it were passed, be forwarded to the Commonwealth or only the first paragraph?

Hon R.G. PIKE: I am proposing the whole motion be forwarded to the Commonwealth. Rather like its attitude to WA Inc, the Government blithely and serenely ignored this definite resolution and set out to be party to a proposition by the Commonwealth Government to geld the States. This upper House of State Parliament refuses to have its powers and authority gelded. We ought not to be seen to be defensive in that regard; we ought to be seen to be reaffirming that which was affirmed on 16 May 1990. In the face of such a definite proposition which was carried by this House and, if I recall correctly, which saw the Labor Party in this House voting with the ayes – a good reason for it to be carried as easily as it was – we are nevertheless looking at a situation where the Government has proceeded willy nilly. As I said yesterday when I quoted Hawke, the Federal Labor Government has set out with the disposition of a runaway circular saw to exercise a half–Nelson control on the total corporation power of Australia. That is totally contrary to the Constitution of this State. I am certain that Sir Henry Parkes and Sir John Forrest would be spinning in their graves over what we are dealing with today in view of how the Commonwealth was envisaged when Australia federated in 1901 and the Commonwealth Constitution was passed.

Having made it clear that as far as the Eastern States are concerned, particularly New South Wales and Victoria, there is a distinctive noise of the slap of tongue on leather by those two States, it was pointed out yesterday that Henry Bosch said that both those States made a deal with the Commonwealth and were bought off. One of those States was unfortunately a Liberal State, which fact is relevant to the control of this legislation and the way it has been imposed by the Commonwealth.

I refer to comments made by Bryan Frith in *The Australian* on page 15, and I quote –

> There is also genuine concern in many quarters as to whether the legislation will be capable of being fully complied with if it comes into force on January 1.

Later I will quote the same words used by the Attorney General in this place in answer to a question asked by me on 16 October where he says precisely the same thing. The quote continues –

> The Law Institute of Victoria, for one, considers that there is an undue rush to implement the new corporations legislation.
>
> In a statement last week, the council likened this rush to implement the legislation to the charge of the Light Brigade.
>
> "The national interest is in fact being harmed by the rush to get this legislation through the Parliaments", the institute president, Mr Peter Gandolfo said.

I ask members to listen to this next quote very carefully because it refers to the practical application of the law and of the regulations –

> "It is not enough to just implement the legislation, it must be implemented smoothly and properly, and we believe July 1 1991 is a more realistic date."
>
> As yet there has been no sign of any regulations, the nuts and bolts, which determine how any legislation will work in practice, what information must be contained in documents, such as prospectuses, takeover documents, financial statements, prescribed interests, etc.

What is that all about? On 5 December the House is debating a law being implemented in the Commonwealth for which there are no regulations or other details. Mr Frith pointed out very competently in his article that there are no regulations and no nuts and bolts. The issue is in complete chaos. In view of that, later I will refer to comments in answer to questions about whether the Attorney General on 16 October agreed with those facts. Paragraph (2) in my motion states –

> The Corporations (Western Australia) Bill was introduced into the Legislative Council on Thursday, 22 November 1990. Only three sitting days have passed up to Tuesday, 4 December 1990 and the Government has previously announced that the Parliament will rise on Thursday, 6 December 1990, –

My understanding is that that date is very close to when the House will rise. The motion continues –

> – clearly not allowing time for the Opposition to work with the Government to prepare an acceptable Bill which will allow a practical working arrangement with the Commonwealth, but will keep power and administration in Western Australia.

What is that all about? I asked the Attorney General when would the Opposition receive details of the Government's Bill. Notwithstanding his answer at the time, the fact is that we received those details on 22 November. Is it fair; is it proper; is it reasonable that a Bill which proposed to transfer one of the greatest powers of the State Government – the registration of control of incorporation of companies, building societies, and the list goes on – ought to be the subject of three days' notice when the Opposition must prepare its alternative legislation having given notice of its intention to do that on 16 May?

Hon J.M. Berinson: You do not consider alternatives only during sitting days, do you Mr Pike? We are talking about 22 November to 4 December.

Hon R.G. PIKE: Let the Attorney's argument about sitting days be admitted and we are looking at 11 to 12 days.

Hon J.M. Berinson: You are looking at two weeks.

Hon R.G. PIKE: The time available was 11 to 12 days, not two weeks. Given the manifestly complicated nature of the legislation, one would be chasing rainbows if one thought the Commonwealth, in consultation with the States, could speed up this incredibly intricate and complicated process of introducing the laws for the transfer of these powers. Allowing that the time available to prepare an alternative Bill is 14 days – it is not, but the Attorney is saying it is – why has not the Opposition in this State in five sitting days produced its Bill with all those details to provide a viable alternative to the Government's Bill? It is unadulterated bovril even to begin to think that it would be possible for the Opposition to do that in a responsible and proper way. The Attorney General knows that.

Hon J.M. Berinson: To do what in a proper way? To prepare a reasonable alternative?

Hon Mark Nevill interjected.

Hon R.G. PIKE: The problem with the honourable member who has just interjected is that he thinks with his mouth.

Hon John Halden: That is more than we can say for you.

The PRESIDENT: Order!

Hon R.G. PIKE: The Opposition is not Mandrake. Notwithstanding the quite proper and dedicated thoughts and work that has been done by the Opposition's shadow Minister for Justice, Hon Derrick Tomlinson, 14 days is clearly not enough time to prepare an alternative Bill. If that is admitted – and Hon Derrick Tomlinson has pointed out that the Opposition will introduce its Bill on 17 March next year; appropriately the feast of St Patrick – I will now go on to look at the proposition as to what is practical and what can be done. We will hear more of Hon Joe Berinson's comments in a moment and we will see how he has changed his direction – 180 degrees. Of course, he does that with such panache and style that members opposite do not even realise he has even changed.

The PRESIDENT: Order!

Several members interjected.

The PRESIDENT: Order! When I call order it means that members will stop interjecting and let the member finish his speech.

Hon R.G. PIKE: Nevertheless, what we have to ask ourselves is: Is it reasonable or is it unreasonable for the Opposition, having given seven months' notice to this Government almost to the day by way of resolution that it will not pass such a law, to have that resolution of this House ignored? The Government, with the same disdain and absolute disregard for the functions of this House of Parliament as it has consistently displayed in its WA Inc obscenity, wants to proceed willy-nilly as though this House had not made such a determination. Now, if one reads the Press releases of the Attorney General and others one finds it is now the fault of the Opposition that no Bill has been prepared in order to cater for the transition period and the problems that will be created. In the end, the Government simply has not been dinkum in this matter. It has not been sincere; it is camouflaging the issue with a little dose of a few facts thrown in which confuse the readers, because so far the Opposition in this Parliament has not received a fair go in the media –

Hon J.M. Berinson: Poor thing.

Hon R.G. PIKE: – in regard to the undoubted facts of the matter –

The PRESIDENT: Order!

Hon J.M. Berinson: The more they report you the more ridiculous you look.

The PRESIDENT: Order!

Hon T.G. Butler: "Gilligan's Island".

Hon R.G. PIKE: Not "Gilligan's Island" but "Gullibles Travels", and that applies also to the comment which was made by a member opposite. The gullible people are not the Opposition on this side of the House, but the yahoos and the hip hip hoorays on the Government backbench. I withdraw the word "yahoos" before it is demanded, Mr President.

Several members interjected.

The PRESIDENT: Order!

Hon R.G. PIKE: I will now go on to the questions which were answered by Hon Joe Berinson in this matter and I quote –

Several members interjected.

The PRESIDENT: Order! I remind honourable members that we are at the beginning of the day's sitting and it will be a long day. It will be terrible if members have to miss the entire day's proceedings. I suggest members come to order when I call order.

Hon R.G. PIKE: It is the glue of the collective ambitions of the Commonwealth bureaucracy and the Federal socialist Labor Government, initiated by Murphy and Whitlam, which have

set out with purposeful design to transfer the totality of corporate affairs power so that the whole of the corporate system in Australia is tethered to the Canberra post. That is what we are talking about today. The Federal Government has never deviated one iota from that purpose. What we are debating today is the achievement of that purpose, but not in Western Australia. On 16 October 1990 in question 703 the Attorney General said, in answer to a question asked by me, that –

> The Commonwealth has advised that it is still pursuing a legislative timetable in this respect which is designed to meet its target date for implementation of 1 January 1991.

Several members interjected.

Hon R.G. PIKE: Mr President, whenever we get close to the bone in this place we have horrible noises from members of the Government by way of distraction. We have the ho-hums and the Cockney comments of one of the members and we will have more if we wait a while. The Attorney General's answer continues –

Several members interjected.

The PRESIDENT: Order!

Hon R.G. PIKE: I will keep repeating it until it is clear.

Several members interjected.

The PRESIDENT: Order! That is the second time – the next time there will be no warning.

Hon R.G. PIKE: I remind members that the nub of this question is precisely this: Is it reasonable and proper or is it unreasonable and improper to ask the Prime Minister and the Attorney General to delay the implementation of this legislation until 1 July 1991, with the background that most of the professional organisations around Australia, as I have just evidenced, are asking that it be delayed because the regulations are not ready and it is a first class Commonwealth snafu? To continue the reply by Hon Joe Berinson –

> I have said previously on a number of occasions in this House and elsewhere that I am doubtful whether that target date can be achieved from a practical point of view.

Again on 16 October 1990 the Attorney General's reply to question 714 was as follows –

> Frankly, I am not aware of the full detail of the mechanical arrangements between the Australian Securities Commission and my department. . . . What we have here is a position where everyone is expecting that the ASC will come into operation with the agreement of the States either on 1 January or, if that is not possible, at some date thereafter. Accordingly, and at whatever time that happens, there has to be a grey area in which the requirements of both departments must be satisfied.

I ask members to note the following –

> I thank Hon Bob Pike for assisting me and promptly forwarding the documents to which he referred. It has to be said that the documents have gone out from the ASC with some fairly brave assumptions.

Further on Hon Joe Berinson quoted from a pamphlet from the Australian Securities Commission and the *Hansard* record continues –

> The Corporations Act will replace all legislation under the existing Co-operative Scheme.

Combine that with a comment in another documents which states –

> After 1 January 1991, all Annual Returns will be processed by the Australian Securities Commission.

That is a brave assumption.

The *Hansard* record continues with Hon Joe Berinson reading from the inside front page of the Australian Security Commission's guide as follows –

> The 1990 Annual Return will therefore be processed by the Australian Securities Commission as well as by the appropriate bodies in each of the states and territories if lodged before 1 January 1991. . .

Thereafter –

> . . . all Annual Returns will be processed by the Australian Securities Commission.

Those statements will simply be wrong if the Act is not in place both in the Commonwealth and in this State by 1 January 1991. It will be wrong and people who do not comply with these guidelines will not be in breach of anything as long as they provide the document to the State Corporate Affairs Department.

In summarising I believe I have adequately pointed out a number of very firm and proper points. The first is the seven months' notice that the Opposition would refuse the Bill. Second, is the abysmal lack of time the Opposition has had to draft another Bill – only two weeks. I will not bore the House, but if I were to read out answers to other questions which Hon Joe Berinson has given in this place he would be consistently telling us, "Sorry we can't give you any information; we don't have any at present." Then we have the proposition that suddenly, in some Mandrake–type way, we are expected to produce an acceptable Bill, with all the i's dotted and the t's crossed, in 14 days – something which the Commonwealth has been unable to produce in 14 months and longer.

There is serious doubt on the part of business, accountancy and legal eagles throughout Australia that it can be complied with, and the regulations, the nuts and bolts and all the determinations in regard to the documentation, financial statements, prescribed interests, and so on are not even in place as at 4 December 1990. In conclusion, the President of the Law Institute of Victoria has been critical and has said that the national interest is being harmed by the rush to get this legislation through the Parliaments.

This Opposition is not defensive, it is offensive. It is offended by the seven months' delay and the unfair requirement that we should be able to produce such a Bill in such an inappropriate time slot. It just cannot be done. Therefore the request to the Prime Minister and to the Federal Attorney General, who are so anxious to tether Corporate Affairs to their centralist post, is not unreasonable. In view of all these facts, it should be deferred until 1 July 1991. I commend the motion to the House.

HON J.M. BERINSON (North Metropolitan – Attorney General) [3.05 pm]: The Opposition is already looking so foolish as a result of its rejection of the Corporations (Western Australia) Bill that it really is surprising that it should compound the position with this further posturing by Hon Bob Pike today. I do not know whether the Commonwealth will delay implementation of its scheme beyond 1 January. Certainly the Australian Securities Commission would appear to face daunting administrative problems if the Commonwealth presses on with its determination to meet the 1 January deadline. Nonetheless, every indication is that neither the Commonwealth Government nor the ASC proposes to defer the introduction of the ASC scheme. Even if its introduction were delayed, it is important to understand that it would be for its own administrative requirements, to which all of this motion by Hon Bob Pike is irrelevant.

He asked at one stage whether it was reasonable and proper to ask for a deferral of the implementation date to 1 July. The answer is that it depends on the reason. It may well be reasonable to suggest that there should be some delay for a month, or two, or three, or six, in order to ensure that the administrative arrangements are in place in time and to ensure, for example, that the affected professions have sufficient opportunity to get to grips with the new legislation. That is one proposition that could be reasonably considered and, no doubt, it is the sort of reasoning that led the Victorian Law Institute to make the suggestion which Hon Bob Pike has seized upon. The problem is that he is seizing on a suggestion for a deferred date but at the same time is ignoring the Law Institute's reasons and giving a reason of his own which is as absurd as the proceedings which we witnessed in this House earlier this week.

Where do we find Hon Bob Pike's reasoning? It is contained in paragraph (2) of his motion which comes down to saying that more time is required. He said that not enough time had been allowed –

> . . . for the Opposition to work with the Government to prepare an acceptable Bill which will allow a practical working arrangement with the Commonwealth, but will keep power and administration in Western Australia.

As I said yesterday, we have been working on such a proposal for three years. Other States have joined Western Australia in that effort, and all have failed. The Commonwealth is boring ahead. Between last Thursday and yesterday – a space of four days, five days at most – Hon Bob Pike and his colleagues, against this background of three years' consultation and work towards a modified scheme, managed to come up with three separate alternative proposals. They did not advance them as different proposals, but seemed to think they were all the same proposal. The fact is that they are different. In four days they could find three alternatives to meet their own standards, whereas over a period of three years, after continuous and intensive effort, it became clear that an agreement with the Commonwealth along those lines would simply not be possible. Hon Bob Pike says it is all a great plan by the Federal Government. He does not seem to know whether it is a bluff.

Hon R.G. Pike: What about Henry Bosch? Is he wrong too?

Hon J.M. BERINSON: Mr Bosch was perfectly correct for the conditions and times about which he was speaking. I shall give Hon Bob Pike a personal guarantee. He can contact Mr Bosch and ask whether he supports Western Australia's staying out of the agreement between the Commonwealth and every State other than Western Australia.

Hon R.G. Pike: Mr Hartnell said he could live with it.

Hon J.M. BERINSON: Did he? Has the member had further contact with Mr Hartnell?

Several members interjected.

Hon J.M. BERINSON: I am aware of Mr Pendal's meeting with Mr Hartnell. In fact, as members know, I suggested that he should make himself available for discussion. With the greatest respect, I have to say that within an hour or two, which would be about as much time as the member had, he would not be in a position to make the sort of assertions he is making. Is the member able to indicate what it means to say, "We can live with it"?

Hon P.G. Pendal: Yes, I do.

Hon J.M. BERINSON: One can live with anything.

Hon P.G. Pendal: Mr Hartnell said that, not us.

Hon J.M. BERINSON: One can live with one kidney. One can live with all sorts of things. One can live in the face of all sorts of difficulties, but why impose them?

Hon P.G. Pendal: Mr Hartnell made that comment.

Hon J.M. BERINSON: Why impose that upon the business community of this State? Of course, when Mr Bosch was reporting in his book on the events –

Hon R.G. Pike: That was four months ago.

Hon J.M. BERINSON: Mr Bosch's book was published about four months ago; that is true. His comments related to an earlier period, not the one where every State but Western Australia had agreed with the Commonwealth.

Hon R.G. Pike: I said in my speech it was in 1990.

Hon J.M. BERINSON: That is right. We are now in the twelfth month of 1990. Take off four months and give the publisher a little time for the book's release, and the member will realise what I am telling him is absolutely correct. If he reads Mr Bosch's comments other than out of context he will concede that he was talking about a period which preceded the agreement of all States other than Western Australia.

Hon R.G. Pike: You are distorting the facts.

Hon J.M. BERINSON: The longer we go along this route which the Opposition's rejection yesterday has led us to, the more outlandish the position becomes. Even over the last 24 hours it has become very clear that there is simply no support anywhere in Australia.

Hon P.G. Pendal: That is not true.

Hon J.M. BERINSON: Can the member give me some support?

Hon P.G. Pendal: What about the Law Institute of Victoria?

Hon J.M. BERINSON: What about the Law Institute of Victoria?

Hon P.G. Pendal: It supports the position that the current Commonwealth legislation is full of holes and should not be dealt with in the circumstances.

Hon J.M. BERINSON: The Law Institute of Victoria is not suggesting that Australia should not have a uniform companies scheme in the future. It is asking for improvements. It is arguing for delays in the implementation of this scheme to allow the administration to be sorted out. No-one with any knowledge of the business and commercial system of Australia would seriously argue that the position adopted by the Opposition in this House is anything other than irresponsible. There was a small indication of that in this morning's *The Australian Financial Review*. I offer a brief quote.

Hon Mark Nevill: The only person who knows anything about it is silent.

Hon J.M. BERINSON: It reads as follows –

> The decision by the WA Liberal Party to hold out against the ASC and to propose its own form of co-operative regulation is an especially dangerous piece of stupidity . . .
>
> But the immediate problem is the present stalemate, and, assuming it's not broken by WA Attorney-General Joe Berinson welshing on his previous deal –

And I interpolate here to say that that is a very reasonable and well based assumption; to continue –

> – or by the Liberals seeing sense, then WA will go into the New Year with its companies governed by the old laws and the NCSC.

I continue the quote –

> That is a particularly hideous prospect, since there are some significant differences between the new and old laws, which would make life so difficult as to be impossible for WA companies trying to operate interstate.

I have only one thing to add to that comment, and that is that the commentator is putting it mildly.

Hon George Cash: Who wrote that comment?

Hon J.M. BERINSON: That is Chanticleer's comment.

Hon P.G. Pendal: They are the people who have been giving you a bucketing over WA Inc, I think.

Hon J.M. BERINSON: That is correct. I assume the honourable member will have agreed with that writer in that case.

Hon P.G. Pendal: He is not always right.

Hon J.M. BERINSON: Now that the bucket has been turned in the direction of the Opposition, for the very best of reasons, the honourable member is saying that Chanticleer has it all wrong.

Hon P.G. Pendal: Yes.

Hon J.M. BERINSON: Today a person who I think would be very widely acknowledged as among the leading company lawyers in Western Australia wrote to the Opposition and provided a copy to the Government. It is quite a lengthy letter, and again I quote only some brief comments from it.

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

Hon J.M. BERINSON: The author is Richard Warren of Corke and Co.

Hon R.G. Pike: Previously of the Corporate Affairs Department.

Hon J.M. BERINSON: Quite so, and a practitioner with 30 years' experience outside of corporate affairs. I did not intend to name the practitioner, but I am happy to identify him and to repeat that I believe he would be widely regarded as among the leading company law practitioners in the State.

Several members interjected.

Hon J.M. BERINSON: Is it not enough for Hon Bob Pike to have made himself ridiculous –

Several members interjected.

The PRESIDENT: Order! I have already twice asked members to stop their constant interjections when members are addressing the Chamber. I repeat what I said: We are in for a couple of very lengthy sitting days. Tempers sometimes become a little frayed. Some members will be more fortunate than others inasmuch as they will not be spending the same amount of time here if they do not come to order when I call them. All members addressing the Chair should remember that they have to address their comments through the Chair. Many fewer interjections would occur if members stopped directing their comments to individual members in the Chamber.

Hon J.M. BERINSON: I quote these comments –

> These events have the ability to place company law in this state into a more inadequate condition than reverting to the 1943 Companies Act.
>
> Some of our firm's principal clients will, under these conditions, face an increase in legal fees on various major transactions of the order of 250%, or more – during a recession, at a time when people can least afford to be treated in this fashion . . .
>
> Looking back over the past 30 years, . . . I cannot remember any other single act of such costly, irresponsible and damaging proportions. . . .
>
> The events in the Upper House of the Western Australian Parliament over the past few days, in the debate on the introduction of the ASC legislation, simply remind me of the deceased daughter of a prominent US television personality, suffering from a flashback to a time when she had been addicted to LSD, and as a result, she walked out of a 28th floor office tower window, claiming she could fly.

I need hardly add to the comments I have made over the past few days, and on this motion now. It is interesting that the motion was moved by Hon Bob Pike, and that it has not been supported by the Opposition spokesman, Hon Derrick Tomlinson; and that even in debate on the Corporations (Western Australia) Bill itself his position was not supported by Hon Peter Foss, who has a good knowledge of this area and who rarely misses an opportunity to give us the benefit of his advice.

It is very understandable that members like Hon Derrick Tomlinson and Hon Peter Foss should abstain from debates of this nature because they must surely be embarrassed by the direction which the Opposition has taken on this very important and serious issue. Surely they at least must understand the forlorn and foolish road that Hon Bob Pike has led and continues to attempt to lead the Opposition down. The position is bad enough in respect of the foolishness in which we have engaged already this week, without adding to that with the quite empty, futile and additionally foolish gesture of writing to the Federal Government in the terms that Hon Bob Pike has proposed.

The business and professional community of Western Australia will face very difficult times over the next few months as a result of the position taken by the Opposition yesterday to reject the Corporations (Western Australia) Bill. That is bad enough, and we should not make it worse by, as it were, rubbing salt into that wound. I urge all members to oppose the motion.

HON P.G. PENDAL (South Metropolitan) [3.22 pm]: We have been treated for the last 20 minutes or so to a display of contrived anger on the part of the Attorney General.

Hon J.M. Berinson: I am not angry, contrived or otherwise.

Hon P.G. PENDAL: It was contrived.

Hon J.M. Berinson: I tell you that you are crazy!

Hon P.G. PENDAL: I will tell the House why that anger was contrived.

Hon Garry Kelly: The Attorney said that it was not.

Hon P.G. PENDAL: The fact that the Attorney General tells this House that something is not what it is, we take no note of – having listened to him for five years telling the story that WA Inc did not exist.

I remind the House that in May this year a certain person said on the subject now before the House –

> I record my strong objection to the way in which the meeting date of May 4 has been set by the Commonwealth with three days' notice and effectively on a "no alternative" basis.

Who said that?

Hon J.M. Berinson: I did!

Hon P.G. PENDAL: It was the Attorney General.

Hon J.M. Berinson: I was right then, and I am right now.

Hon P.G. PENDAL: What we complain about today is exactly what the Attorney General complained about in May.

Hon J.M. Berinson: You are trying to hide from the real significance of the motion.

Hon P.G. PENDAL: The Attorney General gave this House a matter of days' notice to debate a Bill which by his own admission had far reaching consequences.

Hon J.M. Berinson: It only involves one issue.

Hon P.G. PENDAL: He has changed his tune.

The PRESIDENT: Order!

Hon J.M. Berinson: No I haven't.

Hon P.G. PENDAL: He has changed his tune in seven months. In May the Attorney General was so outraged he told the Commonwealth, "Because of the resumption of our Parliament this week this has created almost insuperable difficulties." Yes, it has. By bringing to this House legislation that is as complex and as far reaching as that, with five days of the session to go, he has created insuperable difficulties.

Hon J.M. Berinson: That was not the basis of your rejection. It was a straight out States' rights issue.

Hon P.G. PENDAL: Hob Joe Berinson is a phoney, by his own admission.

On Monday this week I, along with other members of the Opposition, attended a meeting that was convened at the request of the Attorney General and attended by Mr Hartnell. Western Australia has something when one senior bureaucrat can be flown in at five minutes' notice at the behest of the Attorney General –

Hon J.M. Berinson: It was not at the behest of; it was at the request of. It was decent of him to comply.

Hon P.G. PENDAL: The Attorney General was not present. I will tell him about the meeting. All the doom and gloom and chaos forecast by the Attorney General is a falsity; it is a misrepresentation of the facts.

The PRESIDENT: Order! You cannot use that language, and you know it. You should withdraw.

Hon P.G. PENDAL: I withdraw. It was scare mongering on the part of the Attorney General. It was deliberate scare mongering to bring about a false belief in the minds of businessmen in this State that certain consequences would follow the rejection of the legislation.

Hon J.M. Berinson: I did not have to put that into their minds.

The PRESIDENT: Order! I call the Attorney General to order. I am reaching the stage where I cannot hear the member who is screaming at the top of his voice. The point is that the House requires that I ensure that members do not use language that is unparliamentary. If I cannot hear members, I cannot be blamed for not picking it up. I ask the honourable member to quit yelling, and the Leader of the House must stop his interjections.

Hon P.G. PENDAL: It will be easy to quit yelling without the interjections of the Attorney General.

It was remarkable for the people who attended that meeting to note how supportive Mr Hartnell was of the position taken by the Western Australian Opposition. Hon Tom Butler can laugh, but he did not happen to be there, the silly little man. I tell Hon Tom

Butler, and the Attorney General – because he knows – that Mr Hartnell was supportive of our view. I admit it was not his preferred view naturally enough, as someone representing the Commonwealth Government. It was not the Commonwealth's position. His view was that the Commonwealth proposals ought to prevail. However, he told us that if they were not to prevail in Western Australia he would request certain things of us.

Hon T.G. Butler: The Gilligan's Island Bill.

Hon P.G. PENDAL: If the member wishes to interject, I can raise my voice so that my point can be made. Mr Hartnell's clear view was that he would prefer the Commonwealth's position to prevail but if it could not he could live with a certain number of proposals. He vowed to the meeting that he would make it work.

This Government has deliberately gone out of its way to spread misrepresentations, not only of the Opposition's stance –

Hon J.M. Berinson: That is untrue.

Hon P.G. PENDAL: – but also Mr Hartnell's position.

Hon J.M. Berinson: That is untrue as well. You simply did not understand.

Hon P.G. PENDAL: Mr Hartnell and others will confirm that the collapse of corporate crime-busting in Australia has nothing to do with the failure of this Opposition to pass the Bill. It has everything to do with the failure of the Government to have the will to capture the crooks.

Hon J.M. Berinson: I do not know what you are talking about.

Hon P.G. PENDAL: I will tell you.

Hon J.M. Berinson: It has nothing to do with the Bill.

Hon P.G. PENDAL: I am talking about what Mr Hartnell confirmed; that is, that the lack of resources put at the disposal of Corporate Affairs by the Attorney General in this State, and elsewhere in the nation –

Hon J.M. Berinson: What about talking about the Corporations Bill.

Hon P.G. PENDAL: Corporate crime-busting has not achieved the ultimate because Corporate Affairs have been starved of resources, deliberately so, by some Governments in Australia.

Hon J.M. Berinson: Not the Western Australian Government!

Hon P.G. PENDAL: Oh, no?

The PRESIDENT: Order! Honourable members are obviously endeavouring to display to me that they are totally ignoring the decorum of this place. I am warning members that I will name the next interjector. We can spend the rest of the day here and I do not care whether some members are here or not, but members are going beyond what reasonable people would tolerate. I have asked and asked, and that includes the Leader of the House. I ask members to stop their interjecting.

I will now give members an opportunity to determine whether they will accede to my request by suggesting that one hour has passed since the time set down for this sitting and leave of the House is required for the debate to continue.

Standing Orders Suspension

HON J.M. BERINSON (North Metropolitan – Leader of the House) [3.33 pm]: I move, without notice –

> That so much of the Standing Orders be suspended as is necessary to enable this debate to be extended until 3.45 pm or the completion of this debate, whichever is first.

My only reason for moving in this way is the great pressure on the Notice Paper. I acknowledge that this would result in two Opposition speakers and one speaker from this side of the House, and I hope the Opposition will accept that as a reasonable extension.

Question put and passed.

Debate Resumed

Hon P.G. PENDAL: I will finish on the note on which I began, and offer the House a second quotation from the same Attorney General who finds the Opposition's action now so offensive. This is what he said as well as that earlier quote in May of this year –

> Acknowledging the tight Commonwealth legislative timetable it has to be said that that is not a problem of the State's making.

I agree with that; so much so that I say to the Attorney General today that this problem before the Parliament is not of the Opposition's making. I will paraphrase the Attorney General. Acknowledging the tight Commonwealth and State legislative timetable it has to be said that this is not a problem of the Opposition's making. The Attorney General is the last in a long line of those people who have undergone remarkable changes of heart and remarkable conversions in the last few months. We have seen it on such disparate matters as WA Inc, duck shooting and now on this matter. What Hon Joe Berinson stood for so passionately in March of this year he does not stand for quite so passionately now.

Hon J.M. Berinson: The circumstances are entirely different.

Hon P.G. PENDAL: They are different because the Attorney General allowed them to change.

Hon J.M. Berinson: So I permitted the five other States to act as they did!

Hon P.G. PENDAL: The Attorney omitted to arrange for the Parliament to have before it mirror legislation of the kind that Mr Hartnell spoke to our group about on Monday afternoon. That legislation could have been in this Parliament. It was an act of omission on the Attorney General's part, and I say that it was deliberate.

Hon J.M. Berinson: You are overlooking a small problem: It does not need Mr Hartnell's agreement, but the agreement of the Commonwealth Government.

Hon P.G. PENDAL: Had this Government been prepared to stand up to its master in Canberra and joined forces with the Opposition on this matter, given that we gave the Government notice of our position in May, the Commonwealth may have taken a different view and it may have had no choice but to accept the sort of mirror legislation that the Attorney General has dismally failed to bring into the House.

HON DERRICK TOMLINSON (East Metropolitan) [3.35 pm]: I draw the attention of the House to the statements of the Attorney General on 8 May 1990 in which he reported a meeting of the Ministerial Council.

Hon J.M. Berinson: Do I detect you blushing, Mr Tomlinson?

Hon DERRICK TOMLINSON: The headlines of *The Sydney Morning Herald* report said that the ASC would commence operations on 1 July 1991. Mr Berinson was reported as saying, "Hopefully it will but there are many important issues to resolve before the issue can realistically be put with anything approaching that degree of certainly." On 11 July 1990, again following a meeting of the Ministerial Council in a report to this House, the Minister said –

> The States and the Commonwealth have agreed to work towards 1 January 1991 as a commencement date for the new scheme though I am bound to say that I still regard it as highly doubtful that the target can be met.

Hon J.M. Berinson: I stand by both of those statements.

Hon DERRICK TOMLINSON: In the Attorney General's second reading speech on the Corporations (Western Australia) Bill, he said –

> It is with regret that I have to inform the House that arrangements for the establishment of the Perth office have not yet been finalised and I also have to acknowledge that I introduce the Bill to this House with some reservations.

He then went on to explain the arrangements he hoped would be in place to enable the scheme to commence operations in Perth on 1 January. He said that the Bill should be considered on the basis that the ASC agreed that the whole of the State Corporate Affairs staff that perform companies and securities functions, together with the necessary support staff, should be seconded to the services of the ASC until staffing is finalised.

The Attorney General introduced the Bill to the House with some reservations. He knew full well that it was logistically impossible for the ASC to commence operations in Perth from 1 January 1991 for these reasons: There had been no offers for the 190 staff to be employed by the ASC –

Hon J.M. Berinson: My second reading speech indicated how that would be managed.

Hon DERRICK TOMLINSON: – no decision had been made on the number of senior executive staff who would be responsible for the administration and decision making in the Perth office; the computing system essential for data storage and retrieval had not been put in place; –

Hon J.M. Berinson: I said that in the second reading speech.

Hon DERRICK TOMLINSON: – it was impossible for the offices to be habitable before the end of March. All of those things the Attorney General stated in his second reading speech.

Hon J.M. Berinson: I also said how the problem would be met.

Hon DERRICK TOMLINSON: He then presented to this House a Bill which he has said several times offered the Opposition two alternatives only. It was a procedural Bill, a Bill which we could not amend – a Bill which we received still warm from the photocopier on a Thursday afternoon, and we were told that the Attorney General wanted to debate it on the next Wednesday; we finally debated it on Thursday. The details of this Bill could not be divulged by the Attorney General because he had not received them from Victoria until 5.00 pm on the afternoon they were presented to this House.

Even had we wanted to accept parts of the Bill and to disagree with other parts of the Bill, those options were not available to us. The Bill was introduced on a procedural basis; we could either accept it or reject it. When the Opposition in this place is confronted with the possibility of using its numbers to reject Government legislation it does not do so lightly.

I hope I reflect the Attorney General's comments when I say that anybody who knows anything about the operation of businesses and commerce, companies and securities arrangements and public fundraising in Australia could not contemplate the possibility of rejecting the Bill without knowing it was fraught with difficulties for the Government, for business and for commerce in Western Australia.

Yet the Opposition was being asked to accept it or reject it; to forget the political principles involved; to forget the fact that the Bill represents a sellout to the Commonwealth, that it represents a takeover of Commonwealth powers which are denied in the Constitution, that Western Australia was not consulted before procedures were set in place for implementation of the Australian Securities Commission Scheme, and that the Commonwealth had told the States to accept or reject it and to forget the political principles. It was asked to take it or leave it.

The Opposition left it. It took the only possible action in the circumstances surrounding the total irresponsibility of the Attorney General introducing a Bill into this House about which he had reservations, which he could not support and which he knew was to be accepted or rejected.

If the Attorney General were honest to his statements of the past eight months, by now he would have made representation to the Commonwealth Attorney General asking him to delay the implementation of the ASC scheme until 1 July 1991.

Hon J.M. Berinson: You are joking!

Question put and a division taken with the following result –

Ayes (14)

Hon J.N. Caldwell	Hon P.H. Lockyer	Hon R.G. Pike
Hon George Cash	Hon Murray Montgomery	Hon Derrick Tomlinson
Hon Reg Davies	Hon N.F. Moore	Hon D.J. Wordsworth
Hon Max Evans	Hon Muriel Patterson	Hon W.N. Stretch
Hon Barry House	Hon P.G. Pendal	*(Teller)*

Noes (13)

Hon J.M. Berinson	Hon Kay Hallahan	Hon Bob Thomas
Hon J.M. Brown	Hon Tom Helm	Hon Doug Wenn
Hon T.G. Butler	Hon B.L. Jones	Hon Fred McKenzie
Hon Graham Edwards	Hon Garry Kelly	*(Teller)*
Hon John Halden	Hon Mark Nevill	

Pairs

Hon Margaret McAleer	Hon Sam Piantadosi
Hon Peter Foss	Hon Tom Stephens
Hon E.J. Charlton	Hon Cheryl Davenport

Question thus passed.

Sitting suspended from 3.45 to 4.00 pm

MEMBERS OF PARLIAMENT – LEAVE OF ABSENCE

Hon Margaret McAleer

On motion by Hon W.N. Stretch, by leave, resolved –

That leave of absence be granted to Hon Margaret McAleer for six consecutive sittings of the House due to private business.

THE WESTERN AUSTRALIAN TURF CLUB AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON GRAHAM EDWARDS (North Metropolitan – Minister for Police) [4.02 pm]: I move –

That the Bill be now read a second time.

The Western Australian Turf Club's financial year is determined by section 40 of the Western Australian Turf Club Act. Since 1892 the club has operated with a financial year of 1 May to 30 April. Operational difficulties arise because this financial year is different from other racing organisations and, in particular, the Totalisator Agency Board. To bring the club into line with the financial year applying to the rest of the racing industry; that is, 1 August to 31 July, this Bill amends The Western Australian Turf Club Act.

Currently that Act requires a copy of the club's annual account to be forwarded to the Registrar General. This provision is outdated and, therefore, the Bill will require the annual account to be submitted to the chief executive officer of the Office of Racing and Gaming. The Turf Club will benefit from the change to the financial year through improved efficiency in its financial management.

I commend the Bill to the House.

Debate adjourned, on motion by Hon P.H. Lockyer.

LOCAL GOVERNMENT SUPERANNUATION AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON GRAHAM EDWARDS (North Metropolitan – Minister for Police) [4.06 pm]: I move –

That the Bill be now read a second time.

The Bill addresses a number of different issues that warrant amendments to the Local Government Superannuation Act. The first matter relates to a decision made last year by the Federal Industrial Relations Commission when it granted local government employees a three per cent productivity payment. To provide for that award, the major associations of local government and the Municipal Officers Association and Municipal Employees Union agreed to establish a superannuation fund separate from the existing statutory fund. The new fund, the Western Australian local government occupational superannuation fund was subsequently created by trust deed and is administered by the National Mutual Life Association.

However, section 24 of the Local Government Superannuation Act precludes councils from contributing to any scheme other than that established by the Act. Contributions to the new occupational fund are not a problem for employees under Federal awards, as these override State legislation. However, a small percentage of local government employees, including child-care workers and some metal workers, are covered by State awards. These workers cannot legally receive their three per cent entitlement through the Western Australian local government occupational superannuation fund or any occupation specific schemes created for this purpose. It is therefore proposed to amend the Act to permit payments in respect of these employees. A retrospective clause has been added to the Bill to validate any payments made to the fund prior to the current amendments.

The second matter arises in consequence of the Federal Government's enactment of the Occupational Superannuation Standards Act – OSSA. As from 1 July 1990 funds which fail to comply with the standards will be taxed at 48 per cent per annum in lieu of the concessional rate of 15 per cent.

At present the local government superannuation scheme does not meet Federal superannuation standards in several respects. It is therefore necessary to amend the Act to –

limit the borrowing powers of the Local Government Superannuation Board to arranging temporary overdrafts with eligible banks;

ensure that the board's investments comply with Federal standards – the standards require that investments must be made on an arm's length basis except for 10 per cent of the assets which may be invested in "in–house assets";

provide for the vesting and preservation of member benefits or their portability to other complying funds; and

make other minor changes.

The Commonwealth has agreed not to tax the superannuation fund at the higher rate pending the outcome of the current amendments.

The Bill contains three further minor amendments that have been proposed by the Local Government Superannuation Board. Reference in the Act to the chairman of the board being the same chairman as the Chairman of the State Superannuation Board will be updated in accordance with the Government Employees Superannuation Act 1987. Members will have a right of appeal to the Supreme Court against decisions of the board's insurer not to pay disability benefits. This will apply to any decisions made after the present amendments come into operation. This amendment is acceptable to the National Mutual Life Association, the board's present insurer.

Finally, it is proposed to provide the board with a limited power to cancel a person's membership within three months of electing to join the scheme, where the person so requests. This will be accompanied by restrictions on re–entry to the scheme. I commend the Bill to the House.

Debate adjourned, on motion by Hon P.H. Lockyer.

CHILD WELFARE AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON GRAHAM EDWARDS (North Metropolitan – Minister for Police) [4.10 pm]: I move –

That the Bill be now read a second time.

In 1984 the Child Welfare Amendment Act was passed. It was based on a private member's Bill introduced into the upper House in 1982 by Hon Lyla Elliott. It has not been proclaimed. The Act aimed to prevent children being exploited in indecent, obscene or pornographic circumstances. The other aim was to set down guidelines for the employment of children in the entertainment, advertising and screen production industries through a system of licensing. Most industrial legislation and awards in these industries are geared to adults. Children are more vulnerable than adult employees to exploitation and have different requirements for their protection and the preservation of their health, education and welfare. The Act received the support of both sides of the House.

The Bill before the House today repeals that Act. It has similar aims to the previous Act, and I seek and anticipate the same level of support and understanding. A number of difficulties arose in the implementation of the 1984 legislation. The first was the intervention of the Child Welfare Services Review in 1984. This was a major event spanning two years in which only urgent community services legislation was proclaimed. A second problem was that this legislation was based on New South Wales provisions which have proved to be cumbersome and difficult to understand.

The success of licensing provisions rests on their relevance to the problem, speed of licence issue, accessibility of information and their potential to identify and maintain agreed standards. In the past year constructive consultations with key Government and industry representatives have taken place. These have resulted in proposals which are not only more relevant to conditions in this State, but also will assist the private sector and the Department for Community Services to operate the licensing provisions more effectively than would have been possible under the original legislation. The redrafted Bill is now simpler and easier to understand. Despite these changes to simplify and better target the legislation, it is still similar to provisions already operating in Victoria, New South Wales and Queensland.

The new Bill makes four major changes to the original 1984 Act. The first relates to the issue of child pornography, and is consistent with recent legislation concerning videotape classification and control. The next two changes deal with types of licences, and the fourth change concerns the hours within which children may work. The new Bill now gives precedence to the child pornography provisions. These now clearly refer to children from birth to 18 years who may be employed for the purpose of performing in an indecent, obscene or pornographic manner. Examples would be striptease performances by minors, or photographs showing children who have been required to pose or move in this fashion. Proposed section 108 explicitly defines the behaviour, and this will make it easier to prosecute these cases successfully. The penalties are severe. A maximum fine of $20 000 or imprisonment for three years or both is applicable for people or parents arranging or condoning such employment.

The Video Classification and Control Act already makes it an offence to make or possess child pornographic videos. A proposed amendment to the Criminal Code will make it an offence for adults to entice children to deal indecently with themselves or each other for any purpose, including the recording of such acts. These provisions, together with those introduced in this Bill, represent a strong Government commitment to stamping out child pornography and the exploitation of children for indecent, obscene or pornographic purposes. They should leave no doubt that the involvement of children in adult sexual activities, whether actual or portrayed, is unacceptable in this State.

The PRESIDENT: Order! I am asking members to stop their audible conversations while the Minister is addressing the Chair. I will not say it again.

Hon GRAHAM EDWARDS: I turn now to the licensing provisions requiring employers to seek a licence when proposing to employ children under 15 years in entertainment and advertising which have been carried over from the original Act. I remind the House that some of the children involved are very young babies; others may be employed on remote film locations for weeks at a time, and others may be performing in long running or touring

theatre productions. The new Bill is more specific about the range of employment situations covered by its provisions. These include –

live theatrical performance and entertainment;

live musical performances;

live dancing, music hall and nightclub performances;

any of the above while being recorded for performance on radio, television, film, video, disc or tape;

photographic and live modelling; and

advertising including live and recorded performance and still photography.

Occasional performances for the benefit of a school or charitable object continue to be exempted from the licensing requirements.

Following consultation with entertainment industry representatives the Bill now provides for two further types of licences to be issued in addition to licences for individual children. The first new type of licence is a group licence. It will be available in circumstances where four or more children are employed for a short time, usually a day, for advertising or similar purposes. The administrative processes needed for processing individual licences under these circumstances would be excessive. The second new type of licence is a fixed term licence. This licence will allow employers to employ children on a short term basis for a fixed period up to six months. It will be issued only to employers who have a demonstrated record of good care of child employees. Fixed term licences will obviously not be issued immediately after proclamation.

One further change from the original Bill is that the specific prohibition on child employment between 11.00 pm and 7.00 am has been deleted. It has been argued by industry representatives that an earlier start to work may be necessary in some filming situations. It is not intended at this point to change the hours which prohibit children working before 7.00 am or after 11.00 pm, but to provide for these in the regulations where they may be more easily adjusted if a problem is proved to exist. The licensing proposals have undergone considerable consultation. Resulting from this, rights of appeal to the President of the Children's Court have been negotiated and included.

The new Bill now provides legislation that can be effectively implemented and monitored and reflects the willingness of industry and Government to collaborate and consult together. The child pornography provisions are to come into effect as soon as the Bill is assented to. The licensing provisions will come into effect at proclamation. It is anticipated that the system can be put into operation as soon as the regulations are completed, and the industry is expecting this to occur.

I now come to the second group of amendments, which are also connected with the protection of young children engaged in part time employment. The provisions of the Child Welfare Act in relation to street trading were originally designed to cover the traditional employment of boys selling newspapers in the Perth central business district. It was known then as the city and it was somewhat different from the central business district of today. The original provisions allowed boys to sell newspapers at the age of 12 years until 11.00 pm; but girls, presumably as a protective measure, were not allowed to sell newspapers until they had left school. In practice few, if any, girls took up this option.

The passing of the Federal anti-discrimination and State equal opportunity Acts in 1984 confirmed that these provisions in the Child Welfare Act were discriminatory and outdated. In addition, they held children responsible for breaches of the Act and were difficult to monitor. In 1990 it is not considered desirable for young children to be selling newspapers or making letterbox deliveries until late at night. Also, recent child protection statistics suggest that boys and girls are equally at risk of molestation or assault. At the same time, the Government does not wish to cause hardship or to reduce traditional employment opportunities available to children. The proposed amendments in the Bill remove discrimination between the sexes in line with State and Federal legislation, keep the minimum age to 12 years, seek parental cooperation with and support for age restrictions, and restrict trading after 7.00 pm to children aged 15 or over.

In more detail, section 106 has been amended to prohibit all children under 12 years from street trading. It will allow children between 12 and 15 years to engage in street trading and letterbox distribution only between 6.00 am and 7.00 pm, excluding, of course, any hours when a child must attend school. Section 107 will be repealed and replaced with a provision that ensures that parents and children give correct information about children's ages to employers. Section 109 of the principal Act authorises the department to enter and inquire at premises where children are employed. This remains unchanged. However, in the case of obstruction the penalty has been raised from $20 to $1 000.

Consultation with the major publishing and distribution outlets in Western Australia has indicated that most will be unaffected by these proposals. Those that are affected have already planned to reserve daylight trading for their younger employees. Any 13 and 14 year olds currently employed at night will be phased out to reduce hardship. The new legislation and regulations may entail some extra attention to supervision and monitoring on the part of publishers and news distributors to ensure the welfare of child street traders. I invite the public and parents to support these measures and to take a protective interest and concern in young people's efforts to gain work experience and independence. Acknowledgment is due to publishers who, despite some inconvenience caused by these proposed changes, have cooperated with the Government's efforts to combine equal opportunity and child protection requirements in an effective manner.

The final addition to this Bill are two amendments of a technical nature. The first increases penalties to section 31A in line with other penalties for similar serious offences. Section 31A makes it an offence to contribute towards a child committing a criminal offence and becoming in need of care and protection. The second relates to section 91 of the Acts Amendment (Children's Court) Act 1988 and is included on the recommendation of Parliamentary Counsel.

In summary, I emphasise the Government's view that part time work for children is a valuable experience that can help them in their preparation for adult life. However, this benefit is lost if the children are assigned to tasks and responsibilities beyond their capabilities, are exploited, overworked or underpaid, exposed to danger or health hazards or are treated unfairly or with disrespect. Rather than over-legislate in these areas the Government would prefer to join with parents, employers and children themselves to develop standards and codes of practice that will help to ensure that all parties are treated fairly and responsibly.

In preparing this Bill, and for its implementation, procedures have been adapted to meet industry needs while maintaining safety, welfare and education requirements for child employees. I am confident that both employers and parents of talented school-aged children will benefit from the guidelines that have been developed, and that employment opportunities for children street-trading will not be affected.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Reg Davies.

MENTAL HEALTH AMENDMENT BILL

Second Reading

Debate resumed from 28 November.

HON BARRY HOUSE (South West) [4.26 pm]: The Opposition supports this Bill, which is the product of recommendations of a report titled "The Treatment of Psychiatric Patients at Graylands Hospital and Other Psychiatric Hospitals in Western Australia". That report, published in July 1989, resulted from a study conducted by Mr Zelestis, QC which was initiated following allegations of mistreatment of a patient at Graylands Hospital in January 1989; the investigation also encompassed other allegations of mistreatment. The Zelestis report contained 14 recommendations; 12 of those recommendations have been implemented and the remaining two are covered by this legislation.

The first of these gives the Minister of the day the power to hold investigations into any matter relating to the Mental Health Act. The legislation also defines the powers of investigation, such as the ability of a person appointed by the Minister to conduct an

investigation, to require attendance of any person, to produce documents, to access information and other such things. The legislation also provides for penalties which relate to non-compliance with those provisions. The second recommendation involves the creation of a board of visitors at the four approved hospitals; namely, Graylands, Heathcote, Lemnos and La Salle. The board of visitors has a statutory role which safeguards the rights and welfare of the patient, although not including the medical treatment, while in the institution.

The Opposition approves of the legislation, which maintains and improves the care of the unfortunate members of our society with mental illness. Society has an obligation to take care of those people, and for the most part this is done very well in Western Australia. I do not have any experience of mental institutions, but I sometimes wonder whether one might need such a place after being here for a couple of years! I have vivid memories of a film called *One Flew Over the Cuckoo's Nest*, which instilled a sense of suspicion about mental institutions in many people. I am sure that the Western Australian mental institutions are generally of a high order and perform their tasks in a very constructive way. The Opposition is encouraged by the continual assessment of the situation by such inquiries as that conducted by Mr Zelestis. The Opposition supports the legislation and commends it to the House.

HON MURRAY MONTGOMERY (South West) [4.30 pm]: The National Party supports the Mental Health Amendment Bill. I listened to what Hon Barry House said and concur with his comments. Psychiatric patients have the sympathies of the rest of the community, or if they do not they should. There are obviously many problems in this area and a mental illness is not one that anyone would want to have inflicted on him or her.

This Bill results from the report and recommendations by Mr C.L. Zelestis. It provides for the Minister to appoint someone to conduct investigations into matters concerning psychiatric hospitals and also provides penalties for people who hinder investigations and make false or misleading statements to any inquiry or who fail to produce documents.

The National Party supports the Bill.

HON MARK NEVILL (Mining and Pastoral – Parliamentary Secretary) [4.32 pm]: I welcome the support of the Opposition parties for the Mental Health Amendment Bill. The Bill ensures that patients in our psychiatric hospitals are protected. Psychiatric patients, like the old, the young and some other groups, are disadvantaged and vulnerable.

This Bill completes the Government's program of implementing the recommendations of the Zelestis report. Regulations involving a major part of that report have been implemented and all of the administrative changes that were recommended are in place or in train.

Question put and passed.

Bill read a second time.

Committee and Report

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

Third Reading

Bill read a third time, on motion by Hon Mark Nevill (Parliamentary Secretary), and passed.

EMPLOYERS INDEMNITY POLICIES (PREMIUM RATES) BILL

Second Reading

Debate resumed from 21 November.

HON PETER FOSS (East Metropolitan) [4.35 pm]: This Bill must compete with the Government chemical laboratory legislation as the Bill which does less than any other Bill brought before the House.

Hon J.M. Berinson: Which do you think will win?

Hon PETER FOSS: I think this one might just win. The supposed need for this Bill has arisen out of the fact that, for many years, the standard form of policy issued by insurance companies under the Workers' Compensation and Assistance Act, as well as containing the compulsory workers' compensation insurance, has also contained employers' indemnity

cover. It has been customary for the Premium Rates Committee, which has the statutory responsibility for setting the workers' compensation insurance rates, also to take into account employers' indemnity cover and to set a rate which takes that into account. The rate which it recommends under the Workers' Compensation and Assistance Act is a maximum rate and has a statutory effect on people who are workers' compensation insurers. There are a number of effects from being a workers' compensation insurer. One is that they must accept workers' compensation business and another is that they may not charge more than a particular premium. I am not aware of anybody who give workers' compensation insurance without also giving employers' indemnity cover.

Strictly speaking, the committee cannot bundle the workers' compensation insurance premium in with the employers' indemnity premium because its statutory authority was only to set workers' compensation insurance premiums. This Bill seeks to overcome that problem. What makes it so strange is that all it does is tell the Premium Rates Committee that it can do something which has absolutely no legal effect whatsoever. That is probably very reassuring for the members of the Premium Rates Committee! It does not appear to determine whether it can bundle the two rates together. What it has to do, as a result of this legislation, is set the workers' compensation premium which will be a statutory Government maximum premium that can be charged and it can also set, separately, the employers' indemnity premium which will not have any statutory effect; it will be merely a recommendation and, if an insurance company wants, it can charge considerably more than that. It does not require people to issue employers' indemnity cover, nor does it limit the amount that they can charge for it. It says that the committee can do it. I suppose there is something to be said for that because, if the Premium Rates Committee is having Government money spent on it and it is doing things that it is not authorised to do by Statute, it may be argued that it is spending that Government money without authorisation. This Bill gets it out of that problem.

Clause 5 allows the Premium Rates Committee to use the information that it is entitled to gain under the Workers' Compensation and Assistance Act for the purposes of recommending this premium. Again, I suppose that is another helpful thing for the committee because it knows it is using that information lawfully as opposed to perhaps using it unlawfully.

The final and most useful aspect is that it may have some effect under the Commonwealth's trade practices legislation because it could be thought that, if all the insurers were providing information to somebody and somebody put out recommended rates, that would be an undesirable arrangement under that legislation. Clause 4 of this Bill has some beneficial effects so far as that is concerned.

The Bill states that this legislation has no effect on the Workers' Compensation and Assistance Act, which is very good to know; and that further indicates that this Bill is not achieving a tremendous amount. Nonetheless, it is a worthwhile Bill and it scrapes in ahead of the Government's chemical laboratory Bill in usefulness. It will put to rest the concerns of the Premium Rates Committee about setting the premium.

It should be noted that this Bill does not authorise the committee to set an all in premium. It appears to authorise a separate premium rate. When it sets its insurance premiums it will have to show the two components separately. The Opposition has pleasure in supporting this Bill.

HON JOHN HALDEN (South Metropolitan – Parliamentary Secretary) [4.41 pm]: I thank the Opposition for its support of this Bill. It is probably not the most mind boggling Bill which has come before the House, but it puts to rest, once and for all, some of the concerns of the committee and the Government. The Bill clarifies the purpose of the committee to its satisfaction and to other people's satisfaction.

Question put and passed.

Bill read a second time.

Committee and Report

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

Third Reading

Bill read a third time, on motion by Hon John Halden (Parliamentary Secretary), and passed.

ELECTORAL AMENDMENT BILL

Second Reading

Debate resumed from 4 December.

HON P.G. PENDAL (South Metropolitan) [4.43 pm]: Occasionally in the Parliament we are asked to take on trust certain arithmetical calculations which are brought to us by the Government of the day. For example, only 24 hours ago I certainly had to take the Government on trust when we dealt with one of the payroll tax Bills, which members might recall carried with it what to some people is a very complicated set of mathematical equations, not necessarily understood by all members. Therefore, one has to use an element of trust at that point. I suggest that the Bill now before the Parliament is very much in that category. Indeed, it is even more so than the Bill to which I have just referred.

I will explain to the House my understanding of this legislation in order for members of the Opposition to be reassured and for the Interpretation Act to apply in the event that there is any ambiguity to what we are doing. I say that not because I am necessarily suspicious of the Government, but because the method that we will now use to fill casual vacancies in this House is complex to say the least. In fact, anyone who could explain the method simply would probably qualify for a Nobel Peace Prize in logic and even mathematics.

Hon J.M. Berinson: I am sure Mr Pike would if he had not unfortunately been called away.

Hon P.G. PENDAL: Fortunately the Leader of the House is stuck with me and I will take the Government on trust. I understand that under the current system if I were to be hit by a bus tomorrow –

Hon T.G. Butler: Heaven forbid.

Hon P.G. PENDAL: I know the member would be repelled by that thought.

Hon T.G. Butler: I am.

Hon P.G. PENDAL: If I were to leave the Parliament tomorrow for one reason or another it is the Opposition's understanding that I would be replaced by the person who was not elected and who is next on the list in that region for the Liberal Party. It has now come to pass that the Act is not necessarily written to achieve that end. For example, it may well be that if I were to leave the Parliament, instead of being replaced by, in my case, a Mrs Diane Airey, I could be replaced by someone from another political party, which is an unintended effect of the original legislation.

Hon J.M. Berinson: It is thought that that could happen only in one circumstance and that is where Mrs Airey, for one reason or another, was not available.

Hon P.G. PENDAL: In other words, where Mrs Airey would be classified as a non–participating candidate. I thank the Leader of the House for reminding me of that information.

The complication sets in where the next in line to take over that vacancy decides that pastures are greener elsewhere and he or she has gone overseas or interstate or has become interested in some other work and the prospect of being the next into Parliament under the casual vacancy system no longer exists. As the Leader of the House indicated, we would then require that candidate to be a participating candidate or a consenting candidate, to use the words used in the Bill and in the Leader of the House's second reading speech. To that point I can understand that we now need a new system which states that where we are confronted with the person next in line becoming a non–consenting or non–participating candidate the intention of the Act needs to be preserved to ensure that the person who fills a casual vacancy comes from the same political party as the person who has died or retired early.

To that point, I can understand what the Government is getting at. In order to assist members, I went to the Electoral Commission and asked for an arithmetical equation so that I could explain to them, and probably even to the Leader of the House, how it might occur if,

for example, we were fortunate enough to secure his resignation in the next week or two. I do not say this in an unkind way about the staff of the Electoral Commission, but even they found it difficult to explain how it would actually work and the theory which would be applied. However, I have a two page document which is headed "Rough Outline of Recount Scenarios". I am not being unkind, but I would have expected something more than a rough jab at the matter. Nonetheless, that is followed by the scenario that would apply under the amending legislation. Herein is introduced into the scheme of things the Nobel Prize classification, because I must tell the House that I cannot follow it at all.

I am aware, Mr President, that it is a practice of which you are not fond, but I seek the leave of the House to incorporate in *Hansard* both of the examples. I do so not to embarrass anyone – because it has been given to me in good faith – but in order to confirm for the record that what we are doing is what we believe we are doing.

The PRESIDENT: Hon Phillip Pendal is correct, it is not a practice of which I am fond; however, I also have read the legislation and will take the opportunity to read *Hansard* to see roughly how it will be done.

[The material in appendix A was incorporated by leave of the House.]

[See p No 8495.]

Hon P.G. PENDAL: The Bill is designed to make clear, in the circumstance where the candidate who is the next cab off the rank does not wish to be a member of Parliament, the system by which the next person from that political party or grouping will be elected and come into the House. That is the system detailed in the documents I have incorporated. I want that confirmation from the Minister that my understanding is correct to be included.

I know that the Bill deals with other matters of lesser consequence, but it is a difficulty we have when we are asked in effect to take legislation on trust. Certainly the Liberal Party has never supported the system which is now imposed on Western Australia for the election of upper House members. The position we now find ourselves in confirms the fears I had when the Bill was debated several years ago. For this reason – and I comment in a non–political way – an electoral system that people cannot understand has some dangers attached to it. It surely is a prerequisite in our society that the electoral process must be easily understood by a reasonably intelligent person. I regard myself as such a person, but I have great difficulty understanding the figures and the logic to the figures I have tabled. Given that I am sure it produces that final result, I believe the Bill is worthy of support and I signify the Opposition's intention of supporting it.

HON J.N. CALDWELL (Agricultural) [4.56 pm]: This Electoral Amendment Bill of 1990 will amend the Electoral Act of 1907. I was certainly totally confused when I read this Bill. It seems as though the draftsperson has gone mad. However, when I read the second reading speech that seemed even more complex than the Bill. Usually, if one wants more information about a Bill one reads the second reading speech. In this case it is the other way around, and I am sure that is not appropriate. One of the purposes of the Bill is to allow for a second recount in upper House elections if the first recount elects a candidate who no longer wishes to fill the vacant position.

I recall that one of the first speeches I heard in this Parliament was by Hon John Williams who looked around at the members and said he was most disturbed that there were no doctors in the House because, undoubtedly, during the terms of office of the members, one would cease to be a member for one reason or another. We obviously assumed that he meant a member would become medically unfit or even pass away and that a re–election would be necessary. I remember that very clearly and I looked at the people alongside me and wondered who would be the first to go.

Hon Graham Edwards: They have all gone.

Hon J.N. CALDWELL: It is gratifying to note that there are now two doctors of medicine in the other place. That is a great comfort, so long as that House does not adjourn while we are still working late at night.

Hon Graham Edwards: You are not talking about Dr Geoff Gallop, are you?

Hon J.N. CALDWELL: I think there are two women doctors in the other place.

Hon Doug Wenn: Yes, Dr Judy Edwards and Dr Hilda Turnbull.

Hon J.N. CALDWELL: After that speech by Hon John Williams, the National Party made sure that it nominated a doctor at the next elections.

It is absolutely essential to clear up any anomalies which arise in connection with replacing a member who has retired from Parliament or who is deceased. This amendment is really very confusing; I only hope it has the desired result. With those few comments the National Party supports this amendment.

[Continued on p 8462.]

[Questions without notice taken.]

HERITAGE OF WESTERN AUSTRALIA BILL

Standing Committee on Legislation – Report Tabling

By leave, Hon Garry Kelly presented a report from the Standing Committee on Legislation on the Heritage of Western Australia Bill.

Resolved, that the report do lie upon the Table and be printed.

[See paper No 845.]

ROAD TRAFFIC AMENDMENT BILL (No 2)

Standing Committee on Legislation – Report Tabling

By leave, Hon Garry Kelly presented a report from the Standing Committee on Legislation on the Road Traffic Amendment Bill (No 2).

Resolved, that the report do lie upon the Table and be printed.

[See paper No 846.]

DIRECTOR OF PUBLIC PROSECUTIONS BILL

Standing Committee on Legislation – Report Tabling

By leave, Hon Garry Kelly presented a report from the Standing Committee on Legislation on the Director of Public Prosecutions Bill.

Resolved, that the report do lie upon the Table and be printed.

[See paper No 847.]

ELECTORAL AMENDMENT BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

Debate adjourned until a later stage of the sitting, on motion by Hon D.J. Wordsworth.

[Continued on p 8462.]

HERITAGE OF WESTERN AUSTRALIA BILL

Report

On motion by Hon Kay Hallahan (Minister for Heritage), resolved –

> That consideration of the report of the Standing Committee on Legislation on the Heritage of Western Australia Bill be proceeded with in Committee.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Kay Hallahan (Minister for Heritage) in charge of the Bill.

Leave granted for the Committee to discuss the Bill presented by the Standing Committee on Legislation.

Hon KAY HALLAHAN: As the report of the Standing Committee on Legislation has just been distributed, I take this opportunity to say that the report is a mammoth work and I appreciate the expeditious way that members of the Standing Committee dealt with the Bill. Admittedly there was some delay because the committee was also dealing with other Bills, but once it got onto this Bill its members gave it the priority that it deserved and responded to community concern.

Hon D.J. WORDSWORTH: Is it the Chair's intention to discuss this Bill?

The CHAIRMAN: We will be dealing with the report of the Standing Committee on Legislation and we will discuss the Bill during our deliberations; that is, a Committee of the House will be discussing this Bill.

Hon D.J. WORDSWORTH: So it is the Committee stage? In other words, we will be discussing a Bill that we have not seen.

The CHAIRMAN: You are right. We are discussing the Bill as amended by the Standing Committee.

Hon D.J. WORDSWORTH: I believe that we can discuss the report, but that we would be hard pressed to discuss a Bill that has not been distributed, that is 117 pages long and, as stated in this report, the Standing Committee members have not been able to give us the reasons for their proposed changes.

Hon P.G. PENDAL: As one who had passage of the Bill for the Opposition prior to its going to the Standing Committee I understand the concern expressed by Hon D.J. Wordsworth. Nonetheless, I for one am aware, in the time that the matter has been before the Standing Committee, of the committee's major recommendations and I want to address myself to them before the dinner adjournment. I accept that with this legislation, as with any legislation, it would be preferable if we had a lot more time to deal with the issues in the Committee of the Whole. I am also a realist in knowing that we are confronted by the end of the session – within the next 48 hours – and I have to make it clear that I want to see the Bill go through.

Hon Kay Hallahan: Hear, hear!

Hon P.G. PENDAL: Having said that, I begin my remarks proper by saying that we are dealing with a watershed piece of legislation. For 16 years the solutions that have been found and incorporated in this Bill have eluded successive Governments. I am delighted that the new Legislation Committee has been able to deal with such a massive proposition and deal with it in such a productive and amicable way as to allow the Bill to proceed through the Parliament before the end of the session.

Central to the whole of the concern of the Opposition has been the question of compensation for injurious affection and, of course, that is the issue that has eluded successive Governments for 16 years. Indeed, it almost eluded us in this Chamber. Some months ago when I moved the amendments to the Government's Bill introducing adequate compensation provisions, I was told it was impossible for them to be implemented because they would jeopardise the whole Bill. At a very late stage in the second reading debate I indicated that the Opposition had a modified set of amendments that in the first instance would seek to have compensation available on a non–cash basis. Cash would still, as a bottom line, be available but the amendments would minimise the number of occasions that such cash payments would be necessary. It was a task of the Legislation Committee to ascertain whether the suggested set of amendments which I had put to the Chamber were capable of being implemented. I am delighted to know that the Legislation Committee's view is that the amendments are possible. I have to admit that we have had to give a bit and that Government members have had to compromise a bit.

Hon Kay Hallahan: I thought you would take all the credit.

Hon P.G. PENDAL: I will take the credit for about 90 per cent of it. I do accept there has been some compromise on the part of the Government, but equally and without crowing, the spirit of the amendments moved by the Opposition and then refined by the Legislation Committee mean that we will have heritage legislation for the first time in this State. It will be on such a basis that people's rights to compensation will be protected.

I was delighted to learn, as late as this afternoon, that the amendments are not only acceptable to me, and I hope to other members of the Opposition, but also to the Building Owners and Managers Association of Australia Ltd and others. I make no apology for the fact that it was BOMA's interests, representing the wider investment community, that I was seeking to protect, while at the same time ensuring that the essential ingredients for heritage legislation were not gutted from the Bill. The initial move by the Opposition and the refinement process by the Legislation Committee have achieved that. It is a watershed not only to the extent that in the next 24 hours we are likely to have legislation which has eluded us for 16 years, but also because the Legislation Committee, the new facility in this place, has been shown to be working properly when we toss to it one of the most complex pieces of law we are likely to see in a long time.

I have mentioned the emphasis the Legislation Committee appears to have given to the question of non-cash compensation. It is a question of basic equity that it has injected into the Bill the notion that if we are going to take away a person's development rights in one place, it makes a great deal of sense to replace those losses by other forms of development rights elsewhere.

It is important that we consider the role the tribunal will play in seeking to iron out any difficulties in arriving at a solution for compensation. Of course, that provision was in the Bill before it left this Chamber and it was for the tribunal to arbitrate, but the Bill provided that even before the tribunal reached the point of arbitrating it would be part of the negotiating process. That is a sensible way for the tribunal to operate. It means, of course, that if the parties involved cannot reach agreement the matter of compensation will go to the tribunal and it will not, at that point, be automatic for the tribunal to seek to use its powers of arbitration. It will be using the powers of conciliation and that adds a great deal to the merit of the Bill.

I have no doubt that we will need amending legislation to this Bill in the next few years. It is pioneering legislation, but it protects what was not protected before; that is, the legitimate private property rights of Western Australians, rights to compensation and rights in the case of the loss of development potential for a site. It will mean properly that society must pay for compensation if it believes that a building is worth saving. It will be done in such a way that it will not undermine the principles I have outlined and which I know are dear to the heart of people like Hon David Wordsworth.

A number of people have had input to this Bill including BOMA and the Association of Mining and Exploration Companies. I might add that all the desires of AMEC appear to have been met by the Legislation Committee's changes and my amendments. The pro-heritage groups also need to be commended and I refer to the Guildford Association, the Mt Lawley Association, the Fremantle Association and many others. I have no doubt that the National Trust will find this to be a Bill not only with which it will be able to live, but also, as a result of the Opposition's amendments, which will give the National Trust a place on the council as of right.

I am aware that other members wish to speak before the dinner adjournment. I congratulate the members who have helped this Chamber to achieve the breakthrough which I knew was possible and which other people were sceptical about. Hopefully, for the first time in Western Australia's history, adequate protection will be given to those buildings which most of us believe should be protected at law.

Hon J.N. CALDWELL: I speak about this heritage legislation not only on behalf of the National Party but also as a participating member of the Standing Committee on Legislation. During the second reading debate I said that I was very concerned about this legislation and feared that it probably had no hope of being concluded this session. The main reason for saying that was the differences of opinion among members about compensation. I summed up by saying I had an open mind about compensation because I was not sure exactly how far compensation should go, or whether it should be provided at all. I can relate the point of view I was expressing to that of Hon Phil Pendal; namely, that when a person is denied the right to use his property in the way that he intended and for the reason for which he bought it, he should receive some form of compensation. Yet we could not have an open ended form of compensation because that would be an absolutely unworkable and unviable proposition.

During the course of the committee's deliberations, I was very pleased to see the cooperation

between the committee members, and especially that displayed by Hon Peter Foss, who worked extremely hard on this Bill, in cooperation with the Minister and her advisers. No-one was more pleased than I to see the outcome of the compensation issue. This will not be an open ended form of compensation but will be a last resort cash settlement if all else fails; and that is exactly what should happen. It is very fortunate that the Bill went to this committee because I know that if it had not we would not now be discussing it. I am sure it would have been bogged down and heritage would not have been protected by this legislation for another year or two.

Hon PETER FOSS: I join with the previous speakers in saying that it is very pleasing to see this legislation go through. I regard it as a positive step for Western Australia. It is sad that up to now something that we have all earnestly desired has been prevented from coming to fruition by the inability to find an appropriate solution. I commend the Minister and her advisers, whom I found extremely cooperative. I am pleased that every person who was involved was positive, and I mention particularly Hon Phil Pendal, who first brought this proposal to the Parliament, and the heritage groups. It is a pity we have not been able to table a full report, but I am sure the members of the committee will agree that the heritage groups provided us with the most useful sessions of public comment that we have received on any Bill. They were positive, pertinent and extremely helpful. I hope we will be able to report more fully to the Chamber at a later stage because I believe members and the public of Western Australia need to know the comments and the input we have received from all over Western Australia. This is legislation which the people of Western Australia earnestly want, and it is a matter of considerable pleasure to me that we will now see that legislation enacted.

Hon D.J. WORDSWORTH: I can only reiterate what I said earlier about the manner in which this legislation has been brought on. Members know that I have declared an interest in this legislation because it concerns me and my family very deeply, and I and many other people who have also been farsighted enough to preserve the heritage of this State so that the people can enjoy it feel that this legislation will in effect confiscate it from us. Sure, members all say they want to preserve heritage so that future generations can enjoy it, but they have it only because someone previous has seen that our heritage should be preserved and has done something about it. We now suddenly have a Bill of this size thrust at us, and do not have a clue what is in it. I will quote from the report of the Standing Committee on Legislation so that in future people will know what is in the report. It states in point No 2 –

> The Committee apologises for the lack of reasons for the amendments contained in the Bill as reported.

In other words, one does not have a clue how the members of the committee came to their conclusions. The report continues in point No 3 –

> Having due regard to the shortage of time, there will be a limited opportunity for Members to explore the reasons and rationale for the amendments during the Committee of the whole.

In other words, we are expected to handle this Bill without our having the opportunity to fully debate it. The report continues in point No 5 –

> The Committee accepts the submissions to it that the Bill is not ideal for the 1990s and beyond.

In other words, we are being expected to accept something that is not considered satisfactory. The report continues in point No 6 –

> Time did not allow the Committee to recommend far ranging changes to the Bill. It was considered better to have imperfect legislation than no legislation.

It is rather frightening when one reads that report and considers its implications. I can say only that democracy is breaking down when this is the way a Parliament handles legislation, and I am disgusted.

Hon KAY HALLAHAN: I say to Hon D.J. Wordsworth, who I understand lives in a very special old home –

Hon D.J. Wordsworth: Special enough for you to put it on the list of heritage buildings.

Hon KAY HALLAHAN: In that case, it is a very special home. The Legislation Committee

represents members of the three parties in this Chamber, so members had their representatives, who acted on their behalf. Quite frankly, rather than a breakdown of democracy, I see this very frank document as a sophistication of and an advance for democracy because it says that this is complicated new legislation, and that the working out of it in the short term may present some problems, but nevertheless so great is the need for the legislation that we should be prepared to go with this Bill rather than wait for the perfect piece of legislation. The member has been a Minister, and he will know it is very difficult to find perfect legislation. The law is dynamic and ongoing, and that will be the case with this legislation. There is no doubt about that.

All I can say to the member as some reassurance is that nobody wants to confiscate from him, or from anybody else, the places they have lovingly cared for, restored and looked after, principally for their own enjoyment, but also for that of the community. In fact, the tenor of this Bill is that we want to encourage that voluntary restoration and conservation of our heritage.

One of the problems I had about early suggestions for compensation was that it might have led inevitably to places actually being bought by the Government and, thereby, confiscated. This Bill, with the amendments that are now before the Committee, does not go down that path. Given that people have been kind enough to say they appreciate my work and that of my officers, I say in return that I have appreciated the goodwill of all members from across all the parties who have been able to work quickly to finalise this legislation.

Hon P.G. Pendal: So you take back those things you said about me on the radio?

Hon KAY HALLAHAN: They worked quickly, but members must not get the idea that they worked superficially, because they worked very thoroughly. That may have been because other members of the community are well informed and gave good input to the committee. A very passionate, informed consideration of this Bill has taken place.

Hon PETER FOSS: I reassure Hon David Wordsworth of one thing. Hon Phil Pendal, in the second reading debate, on behalf of the Liberal Party, indicated our party's position and what we wish to see happen. It is important to realise that the Bill returned from the Legislation Committee includes all the requirements stated by Hon Phillip Pendal which are the requirements of the Liberal Party. The achievement of the Legislation Committee is that the Bill meets the requirements of the Liberal Party, the National Party and the Government. The report Hon David Wordsworth referred to is the returned Bill. One hundred and fourteen of those pages constitute the Bill referred to during the Minister's second reading speech. The amendments would take up only a few pages of the Bill.

The CHAIRMAN: Order! Before moving clause 1, I acknowledge Hon David Wordsworth's comments. If anyone wishes to discuss any clause in the Bill I have a responsibility to put the clauses one at a time and I will comply with those wishes to avoid inhibiting members' comments. I assure members that practice has been followed since Parliament in this State began and I will continue in that manner so that members will have no doubt about their rights and opportunities.

Clause 1 put and passed.

Clause 2: Commencement –

The CHAIRMAN: Order! I have been advised of some proposed amendments to clause 29A. If a member wishes to speak to any clause from clause 2 to 29 would they give me some indication.

Hon D.J. WORDSWORTH: I notice on page 4 under clause 3 that paragraph (c) is underlined. Is that an indication that a change has been made to that paragraph? Will the clauses that have been changed be put to the Committee?

The CHAIRMAN: The Committee, by leave, agreed that the Bill would be discussed as presented by the Standing Committee on Legislation.

Hon D.J. Wordsworth: Which we have not had time to read.

The CHAIRMAN: Order! The Committee granted leave to discuss the Bill. As I said, if a member wishes to discuss any clause, he will have that opportunity. The Committee has considered the original Bill on previous occasions and a final Bill has been presented by the

Standing Committee. We believe it will be beneficial for the Committee to work from the Bill presented by the Standing Committee. The underlined words indicate the alterations made by the Standing Committee. I am happy for the Committee to discuss the Bill, clause by clause, if that will satisfy the member.

Hon D.J. WORDSWORTH: I will not request that, but I wish it recorded that the Bill has little hope of being scrutinised because one has no hope of knowing what changes were proposed or of understanding why they were proposed. I suppose I must sit down and let the Committee do what it wants with the Bill.

Hon GARRY KELLY: As Chairman of the Standing Committee on Legislation, I assure Hon David Wordsworth that legislation is in place to give members the chance to scrutinise Bills. This Bill has probably been scrutinised more than most pieces of legislation. Credit should be given to the efforts of the Standing Committee for its handling of the Bill as expeditiously as possible, as the Minister has acknowledged. It is important to protect the heritage of this State and to place a Bill on the Statute books during this session of Parliament after 15 years of attempting to have that done.

The CHAIRMAN: I reiterate to members of the Committee, whether they are members of the Standing Committee or not, that I respect their rights the same as I have respected David Wordsworth's right. Hon David Wordsworth has made his protest.

Hon GARRY KELLY: The words underlined in the Bill have been inserted and the words crossed out are words to be deleted.

Clause put and passed.

Clause 3: Interpretation –

Hon W.N. STRETCH: I refer to the paragraph (c) underlined on page 4 which states –

> as much of the land beneath the place as is required for the purpose of conservation.

Does this requirement cut across the normal provisions of the Land Act whereby I understand that, prior to 1898, unlimited depth beneath a place was allowed. Since that time it has been restricted to about 20 feet. Is it now unlimited, or does the requirement override all other previous Mining and Land Acts?

Hon P.G. PENDAL: That amendment was sought by me, because it protects, particularly in a place like the eastern goldfields, those heritage properties that might otherwise be sitting on an ore body. The Association of Mining Exploration Companies suggested it should be a means of protecting heritage buildings while still having access to the minerals below them. This amendment, which comes with the association's blessing, achieves that purpose.

Hon W.N. STRETCH: Does that mean that such depth can be protected?

Hon P.G. PENDAL: Firstly, it does not impede the mining. Secondly, it preserves the soil beneath the surface to allow the building to be protected. In other words it ensures that the foundations will not fall in.

Clause put and passed.

Clauses 4 to 29 put and passed.

Clause 29A: Heritage Agreements may be referred to the Tribunal –

Hon PETER FOSS: I move –

> Page 44, line 17, subclause (4) – To delete "may" and substitute the following –
>
> shall

This amendment has been suggested by the Building Owners and Managers Association. The intent of clause 29A is to ensure that people who have been affected by a heritage listing are able to obtain this form of compensation to which Hon Phillip Pendal referred and also to have the right to have that matter determined by the Town Planning Appeal Tribunal. This clause almost indicated that after the matter was referred to the Town Planning Appeal Tribunal by an applicant there may have been some discretion by the tribunal whether it would deal with it or not. By substituting "shall" for "may" we will overcome that problem.

Amendment put and passed.

Hon PETER FOSS: I move –

> Page 45, line 17, paragraph (4)(e) – Add after subparagraph (iii) a subparagraph (iv) as follows –
>
> (iv) the need to make equitable provision for the applicant

This is to ensure the basis upon which the assessment is to be made.

Amendment put and passed.

Clause, as amended, put and passed.

Sitting suspended from 6.02 to 7.30 pm

Clauses 30 and 31 put and passed.

Clause 32: Conservation assistance –

Hon W.N. STRETCH: Many country buildings have been renovated and many owners of such buildings will face financially torrid times over the next three to four years. Is there any way in which assistance can be provided for work done to maintain these buildings?

I realise that the legislation is not retrospective, but I am referring to expenditure allocated in the past which has caused these people to get into trouble. Will their financial situation come within the ambit of this legislation?

Hon KAY HALLAHAN: Members of the Committee will be pleased and displeased to hear that the legislation is not retrospective. If someone is part of the way through some restoration or conservation work as part of an ongoing program, that person can put in a submission and arrange what is called a heritage agreement. However, that does not apply to work already performed.

Hon W.N. Stretch: It could help these people along.

Hon KAY HALLAHAN: They would be eligible for that assistance.

Clause put and passed.

Clauses 33 to 80 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Kay Hallahan (Minister for Heritage), and returned to the Assembly with amendments.

ACTS AMENDMENT (HERITAGE COUNCIL) BILL

Second Reading

Order of the Day read for the resumption of debate from 25 September.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon Kay Hallahan (Minister for Heritage) in charge of the Bill.

Clauses 1 to 11 put and passed.

Clause 12: Section 7 amended –

Hon KAY HALLAHAN: I move –

Page 5, lines 15 and 16 – To delete "(6) the following subsection –

"(7) Where any entry in the Register maintained under section 43"

and insert –

(5) the following subsection –

"(6) where any entry in the Register or on any list maintained under section 43 or section 42A"

Two minor amendments to this Bill arose as a result of the discussions on the Heritage (Western Australia) Bill. Some areas in the principle Bill were significantly amended. People on all sides of the debate were accommodating one another's position in order to get a Bill that we all believed would be workable for Western Australia. One of the additional provisions in this amendment Bill relates to the preparation by local municipal councils of municipal inventories of heritage places in their districts. The first amendment includes reference to these municipal inventories in section 7 of the Town Planning and Development Act. In effect, the amendment will require local municipal councils to have regard to their municipal inventories when developing or reviewing their town planning schemes.

Hon GEORGE CASH: The two members who were handling this Bill on behalf of the Opposition, Hon Peter Foss and Hon Phillip Pendal, are not in the Chamber owing to parliamentary business elsewhere. However, it has been confirmed that Hon Reg Davies discussed this matter with Hon Peter Foss prior to the suspension and both members are aware of the amendments and agree with them.

Amendments put and passed.

Clause, as amended, put and passed.

Clauses 13 and 14 put and passed.

Clause 15: Section 18C added –

Hon D.J. WORDSWORTH: This Bill will greatly affect any owner who has restored an historic building. Using my own home as an example, a penalty of $10 000 could be imposed if I used an excavator in my garden to do some digging.

Clause put and passed.

Clauses 16 to 29 put and passed.

New clause 18A –

Hon KAY HALLAHAN: I move –

Page 8, after line 24 – To insert the following –

Clause 18A: Section 42 amended

Section 42 of the principal Act is amended by deleting subclause (4) and substituting the following –

(4) The member appointed pursuant to subsection (2)(a) shall be the Chairman of the Appeal Tribunal.

This proposed new clause confirms what has been longstanding practice; that is, the Chairman of the Town Planning Appeals Tribunal shall be the member with legal qualifications. In discussions on the principal Act, the Building Owners and Managers Association and other industry groups indicated that the legal practitioner should be the chairperson of the tribunal, rather than one of the three other members. In view of the fact that the tribunal will have a major role in heritage matters, and although that has been the usual practice, the Government has agreed to this proposed amendment which will make it imperative that the chairman of the tribunal be the member with legal qualifications. The arrangement has been formalised in order to satisfy groups such as BOMA.

New clause put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

HON KAY HALLAHAN (East Metropolitan – Minister for Heritage) [7.55 pm]: I move –

That the Bill be now read a third time.

I wanted to make a few comments earlier in the debate on the principal Bill but I cut short my comments in order to accommodate the Committee. However, I want members to understand that we are today passing landmark legislation. This Bill will give strong protection to buildings and places of heritage significance in Western Australia. It has taken a long time to reach this point. The Bill has been 15 years in the making, but the path is often tortuous when moving into areas of new law reform. This State will have strong laws to provide protection to our heritage places, not only those in need of conservation but also those under imminent threat. In the past this State has not had the capacity to do that.

I said at the Committee stage on the principal Bill that there has been a great deal of cooperation. At some stages in the passing of these heritage Bills there has been strong debate and opposition between the two major parties. That was necessary because the Government considered that the notion that compensation should be linked to the listing of properties would have been an absolute disaster in its objective of protecting the heritage of Western Australia. We have now reached agreement that the most constructive point at which intervention should take place in order to redress a grievance is when a heritage agreement is entered into. When buildings are listed those doing the listing will focus entirely on the heritage value of the place and building, and will not be confused by the economic arguments which have occurred in other places and which have, therefore, not afforded protection to the heritage of those places. That is why I took the strong stand earlier on. The results are very satisfactory to the Government and I know they are satisfactory to the Opposition, which has claimed some credit for them. Everybody can claim credit for the outcome of this legislation. It is a victory for commonsense because there has been a great deal of cooperation on all sides.

I retain my right to weigh up the value of the Standing Committee on Legislation to which this Bill was referred. I want it recorded in *Hansard* that the members of that committee did an excellent job. They worked on the Bill very quickly, and everybody had a commitment to the heritage legislation being passed in Western Australia before the end of the parliamentary session. The committee was chaired by Hon Garry Kelly, with very considerable input from Hon Peter Foss, who worked with the chairman and my staff to arrive at legislation that is indeed very good legislation, despite the fact that it may need amendment further down the track.

The law is an evolving, dynamic process and this Bill is no different. Some people in the community will regard the passing of these heritage Bills as the end of our heritage problems. That is not the case. We are embarking on a new era of cooperation between Government departments, local government authorities, the private sector, householders with their own buildings, as well as the corporate sector with some larger interests. There will have to be a lot of tolerance and understanding so that the legislation can be effective.

I commend all those heritage groups which have worked very strenuously to have the legislation enacted in Western Australia. Many of them have applied themselves in a very thorough way. Indeed, I express my appreciation to everyone associated with this Bill and say that we now need to embark on the next phase, which will probably be more challenging than the last.

Question put and passed.

Bill read a third time and returned to the Assembly with amendments.

MINES REGULATION AMENDMENT BILL

Third Reading

Bill read a third time, on motion by Hon Kay Hallahan (Minister for Planning), and transmitted to the Assembly.

CHILD WELFARE AMENDMENT BILL (No 2)

Receipt and First Reading

Bill received from the Assembly; and on motion by Hon Kay Hallahan (Minister for Planning) read a first time.

Second Reading

HON KAY HALLAHAN (East Metropolitan – Minister for Planning) [8.03 pm]: I move –

That the Bill be now read a second time.

Two serious deficiencies have been apparent for some time in the existing system of processing young offenders in this State. One is the large number of relatively minor matters brought before the Children's Court and Children's Panel; the other is the high arrest rate.

Not only are current practices cumbersome and potentially harmful, they are also expensive. Elsewhere in Australia police departments have authority to caution young offenders when they consider this appropriate, and numbers going through the Children's Courts are much lower. Cautioning may consist of an on–the–spot talking to, or mean that the child and parents attend a police station where an admonishment is made by a police officer and a record is kept of this occurrence. Evidence from the Children's Panel, which indicates that over 60 per cent of children who appear are never apprehended for further offending, suggests that being caught and talked to can be a very effective deterrent to further offending.

This Bill, which has been developed in consultation with the Commissioner of Police, allows cautioning for all types of offences which can currently be dealt with by a Children's Panel. The commissioner will issue orders providing guidance to officers as to circumstances warranting and procedures for cautioning. Receipt of a caution will not prevent the child appearing before the panel if he or she offends at a later date. Likewise a prior court appearance would not prevent the use of a caution for a minor offence. Cautions could be used more than once. The intention is to give police sufficiently broad discretion to deal with minor matters in their entirety.

Currently the overwhelming majority of children appearing in court have experienced the arrest process with all its potential for reinforcing deviant self–image, including the possibility of having spent some time in secure custody. Police information suggests that a major reason for current use of arrest is the amount of administrative work involved in issuing summonses as well as delays in effecting service.

The court attendant's notice provided for in this Bill is a simplified summons which can be issued by a police officer without the requirement for it to be signed by a justice of the peace ordering a child to attend court on a particular day. The notice will be linked to a scheduling system at the court and will be available to all but the most serious categories of offences. As with cautioning, the Commissioner of Police will also issue orders providing guidance to officers on the use of court notices and arrest.

It may be appropriate in the longer term for police cautioning to replace the Children's Panel completely. The State Government advisory committee on young offenders will monitor the operation of cautioning and advise accordingly at a later date. The panel currently provides a relatively informal, though not inexpensive, means of dealing with first offenders other than those guilty of the serious criminal and motor vehicle offences listed under the fourth schedule of the Child Welfare Act.

However, the panel is currently available only to first offenders under the age of 16 years. This discriminates against young people who avoided conflict with the law until after their sixteenth birthday. An amendment makes a panel appearance available to all juveniles, irrespective of age. It would also reduce some of the current workload of a minor nature in the Children's Court. The final change in this Bill transfers authority from the Minister to the director general to approve absences under supervision from detention centres for events such as funerals and job interviews.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Derrick Tomlinson.

BILLS (5) – RETURNED

1. Community Corrections Legislation Amendment Bill
2. Judges' Salaries and Pensions Amendment Bill

Bills returned from the Assembly without amendment.

3. Reserves and Land Revestment (No 2) Bill
4. Criminal Law Amendment Bill

Bills returned from the Assembly with amendments.

5. Acts Amendment (Contributions to Legal Aid Funding) Bill

Bill returned from the Assembly after it had agreed to the further amendment made by the Council.

PETROLEUM (DRILLING RESERVATIONS) AMENDMENT BILL

Second Reading

HON KAY HALLAHAN (East Metropolitan – Minister for Planning) [8.10 pm]: I move –

That the Bill be now read a second time.

This Bill seeks to amend the Petroleum Act to introduce drilling reservations, a new exploration title to complement the existing five year exploration permit and special prospecting authorities. By way of background, the Minister for Mines advises that in Western Australia petroleum exploration drilling is carried out by the holder of an exploration permit, a title which obligates the permittee to carry out a specific program of work over a five year period. Historically, however, only two wells on average are ever drilled during the five year period of an onshore exploration permit. This drilling rate is inadequate to enable Western Australia to promptly assess and develop its petroleum potential, particularly at a time when national reserves are being depleted at a significant rate and the desirability of petroleum self–sufficiency is well understood.

The concept of a drilling reservation, adapted from Canadian legislation, has the potential to significantly increase drilling activity. A drilling reservation would allow exploratory drilling with a limited tenure intended to cover only the drilling period. The authority would give the explorer the right to drill a well or wells for petroleum, and facilitate the right to receive a production licence should a commercial discovery result, or a retention lease if a discovery is not currently viable. The ability to drill wells without the current encumbrance of a five year financial commitment, together with an assurance of a production licence or retention lease, would represent a significant incentive to explorers. There is a clear advantage to smaller companies lacking the capital that would enable them to apply for a five year petroleum permit. Rather than showing a capacity to carry on an exploration program over a period of years, the applicant for the drilling reservation needs to establish only the capacity to drill a well.

The award of a drilling reservation will stand primarily on its geological merit. To ensure, as far as is practicable, that drilling is technically justified, the Department of Mines will scrutinise applications to verify that each drill hole represents a valid test of a target. Drilling reservations are intended to coexist with exploration permits and the amendments provide for areas to be made available for exploration by way of either title, the award of which will depend primarily upon the geological merit of the proposals. It is further envisaged that drilling reservations will more fully complement the recently announced strategy of basin–wide releases by allowing explorers to tailor their exploration strategies to their own financial capacity and their priorities and to the circumstances of the geology of the area.

The Department of Mines, in evolving this proposal for the drilling reservations, has taken into consideration views and comments made by the petroleum exploration community. The Australian Petroleum Exploration Association supports the concept in principle, as do the majority of petroleum exploration companies in Western Australia.

I commend the Bill to the House.

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

BUILDING AND CONSTRUCTION INDUSTRY TRAINING LEVY BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Mark Nevill (Parliamentary Secretary), read a first time.

Second Reading

HON MARK NEVILL (Mining and Pastoral – Parliamentary Secretary) [8.15 pm]: I move –

That the Bill be now read a second time.

This is a Bill for an Act to establish a mandatory training levy of 0.2 per cent on the value of building and construction work. The levy will be the mechanism to raise funds to be applied for training purposes within the building and construction industry.

This Bill is fundamentally linked to the Building and Construction Industry Training Fund and Levy Collection Bill. The Bills were initiated by the building and construction industry in response to cyclical skills shortages and are designed to increase the quantity of skilled labour and improve the quality of skills in the industry. Once enacted, the Bills will be incorporated and read as one. I commend the Bill to the House.

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

AGRICULTURAL PRODUCTS AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON GRAHAM EDWARDS (North Metropolitan – Minister for Police) [8.16 pm]: I move –

That the Bill be now read a second time.

The Western Australian horticultural industry continues to be an important contributor to the State's economy. The production and sale of fresh fruit and vegetables is growing in response to population growth and overseas market opportunities. The availability of good quality and correctly described produce is important to the general population and the long term well–being of the industry. The fresh fruit industry has a predominantly domestic market orientation, with vegetables being an important export earner in addition to meeting local needs. The sale of fresh fruit and vegetables for the domestic market is not limited to, but is dominated by, the central wholesale market system located at Canning Vale. This system relies upon buyers having confidence in the quality of product offered for sale and in the correct designation of that product in the marketplace.

The Agricultural Products Act is the umbrella legislation in this State for regulating the sale of certain fresh fruit and vegetables on the local market. At the present time regulation is confined to apples, pears, citrus and stone fruit. The Act, in addition to prescribing grading and packing standards for this limited range of fruit, also provides powers for authorised persons to inspect, detain and, if necessary, destroy produce that does not conform to the relevant standards. In addition, the Act provides for penalties for non–compliance with the prescribed standards. It is an unfortunate fact of life that regulation is considered necessary in this area to deter malpractice. This malpractice, in areas such as incorrect grading and labelling, can cause long term damage to the industry as a whole. However, the present penalty system is restricted to prosecution through the courts, an often extended and cost ineffective procedure. In a broader sense, Western Australia is not alone in adopting forms of regulation in this area. The States of Queensland, New South Wales and Victoria have for many years had regulations governing the sale of fresh fruit and vegetables on their local markets.

In this context, I wish to refer to the national standards for fruit and vegetables. The Standing Committee on Agriculture, which comprises Commonwealth and State primary production departmental heads, resolved some time ago to encourage the implementation of

uniform domestic standards across Australia. This resolve, which also has the endorsement of the agricultural Ministers' body, the Australian Agricultural Council, has been taken up by all States.

The mechanism providing for uniform standards across Australia is the Commonwealth export standards which are already in place for more than 20 types of fruit and vegetables. The Bill before the House provides, among other things, for the adoption, where appropriate, of these Commonwealth standards in Western Australia. Where this is inappropriate, State–based standards, called "codes" in the Act, can continue to be prescribed. As with any system of regulation, this system can be largely ineffective if there is no cost effective method of dealing with those persons who attempt, often successfully at present, to avoid their responsibilities to their industry and to the law. I will again refer to this in a few moments. Thus, with this background, I wish to draw the attention of the House to the following key issues which are included in the Bill –

1. The expansion of the scope of the Agricultural Products Act to all fresh fruit and vegetables.
2. A change in the emphasis placed on the existing penalty system to make it more effective as a deterrent to malpractice.
3. The establishment of a trust fund to receive money from the prosecution of offenders under the Act and the use of these moneys for the betterment of the fruit and vegetable industry.

It is appropriate to explain each of these areas separately.

Expanding the scope of the Agricultural Products Act: Based on past industry consultation, the Act now provides for the Minister to formulate codes. In addition, the Act specifically provides for the Minister to prohibit sales of prescribed grades and sizes of apples, pears, citrus and stone fruit, should this be required at any time, in consultation with industry and when unfavourable seasonal conditions or other causes make this necessary. The Act is limited in terms of its scope to allow for the prohibition of certain grades for the full range of fruit and vegetables; that is, for types of product in addition to apples, pears, citrus and stone fruit.

Given the national thrust in this area, and industry support within Western Australia for a wider range of fruit and vegetables to be covered by local codes, the relevant references to "produce" in the Act will be amended by the Bill to cover all fruit and vegetables. This will be accomplished by the making of codes for all types of fruit and vegetables, either by the adoption of Commonwealth codes where these exist, or by the development of State–based ones where there is no appropriate Commonwealth code.

Industry support for these changes has been forthcoming from the Western Australian Fruit Growers Association and the Western Australian Fruit and Vegetable Industry Advisory Committee. Industry consultation has also occurred with a broad cross–section of specific fruit and vegetable grower associations, the outcome of which was unanimous support for broadening the scope of the Act.

Changes to the penalty system: The proposed amendments provide for a system of infringement notices, on–the–spot fines, for infringement of sections of the Act relating to the sale of fruit and vegetables. The current system of detaining, regrading and disposal of fruit and issuing verbal and written warnings for produce in breach of the Act has been found to be largely ineffective. Under the proposed amendments produce not conforming to the provisions of the Act will be detained from sale by inspectors and become subject to an on–the–spot fine.

Offenders who choose to defend an offence may have the matter dealt with by the courts as is the normal practice. Also, where it is later deemed appropriate, there will be power for amendment of an infringement notice by deferral of the time–to–pay period, by its withdrawal, or by its replacement with a court based prosecution procedure. The proposed amendments will allow for on–the–spot fines to have an immediate and more meaningful impact on persons offering for sale produce that does not conform to the relevant code. A similar system has been operating successfully in New South Wales for several years.

The Agricultural Products Act modified penalties revenue fund: An important change to the

existing penalty system, as reflected in the Bill, relates to the use of money derived from the infringement system. The current Act, while providing for penalties, does not specify uses for these funds and they therefore contribute to consolidated revenue, with little direct benefit to the industry. The Bill specifies that all funds derived shall be directed to an account called the "Agricultural Products Act Modified Penalties Revenue Fund". In effect, this will serve as a trust fund.

Inspection of local market produce in Western Australia is currently almost entirely funded by industry, with virtually no inspection of vegetables. Funds for the inspection of fruit are currently mostly raised through the fruit growing industry trust fund under the provisions of the Fruit Growing Industry (Trust Fund) Act. Because the scope of the Agricultural Products Act will be broadened by this Bill to include vegetables as well as fruit the Western Australian Fruit Growers Association strongly supports the view that a separate fund be established.

This would not only help offset the cost of inspection but would also allow the industry to better support other activities such as promotion and research. The Bill therefore specifies that moneys paid into the fund may be applied towards, firstly, ongoing enforcement of relevant sections of the Act; secondly, the cost of measures to prevent or eradicate pests or diseases affecting the fresh fruit and vegetable industry; and thirdly, compensation and promotion. These provisions have the direct effect of diverting funds derived from the industry back to the industry in very positive ways.

In a general sense the Bill contains housekeeping provisions to better define the words "Code", "Department" and "Director General". It extends the responsibility for compliance with a relevant code to include the person in charge of a consignment of produce and it simplifies the method of authorising and designating persons empowered to take action under the Act. It also envisages that the infringement notice system will be taken up by the infringement notice registration and enforcement procedure system to enhance the cost effectiveness of penalty recovery.

It is important to note that the Bill does not contain a commencement clause, with the result that under section 20(2) of the Interpretation Act 1984 it will come into effect 28 days after receiving Royal assent.

The Bill provides the necessary scope in terms of produce coverage for local market regulation. It will introduce a modified penalty system which will have an immediate impact on those persons who have tendencies to malpractice and will allow for funds derived from the penalty system to be channelled directly back to the industry. The amendments have the full support of the industry.

I commend the Bill to the House.

Debate adjourned, on motion by Hon W.N. Stretch.

MOTION - TOWED AGRICULTURAL IMPLEMENTS REGULATIONS

Disallowance

Debate resumed from 22 November.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [8.27 pm]: I will be asking the Opposition not to insist on passing the motion. I need to introduce an interim provision to continue the effect of the 1977 movement of towed agricultural implements directions. This is to be done by deeming those provisions to be in compliance with the regulations before the House. That is a technical description. In a nutshell, the mover of the motion has indicated five areas in the regulations about which he is concerned.

The matter concerns road safety and, as members know, I have a strong view about addressing the matter as much as possible on a non-political basis. I will, of course, be as cooperative as I can. However, I am disappointed with the way this matter has been brought before the House. If members opposite have problems with regulations, particularly such as these, which have involved much consultation and hard work and which were formed in consultation with the National Party at its request, there are better ways of dealing with them. It is not necessary to put a gun to the Minister and to tell him to withdraw these regulations or else. If members have concerns they should bring them to the attention of the Minister; in

this case me, to see whether they can be dealt with. If they cannot be dealt with, an option is available to move disallowance.

Initially, the police produced a draft which was distributed to about 20 country local authorities. In addition, it was distributed to the Narrogin traffic liaison committee, farm machinery dealers, primary producers and the Western Australian Farmers Federation, as well as, I think, the State Energy Commission of Western Australia. These groups made comments on the draft, following receipt of which a meeting was called with all interested parties to discuss the draft and the comments on it. During this process, Bob Wiese, the member for Wagin, heard about the proposed regulations and requested a copy of the final draft. He indicated that if he did not see it he would have no recourse but to see that the regulations were disallowed in Parliament. His request was agreed to and following a meeting of those interested parties Mr Wiese was given a copy of the final draft. On 6 June a meeting was arranged between Mr Wiese, one of his colleagues, and the two police officers who were drawing up the regulations. I am advised that at this meeting they indicated to the police some of their concerns, which were accommodated and written into the final draft. In light of those consultations I was surprised to see the disallowance motion brought before the House. I recognise that there are some legitimate concerns which could cause some worry until they are accommodated. However, I see these matters as relating to road safety and the ability of farmers to move implements about, particularly at this time of year, from paddock to paddock without a great deal of red tape, regulation or other burden; but, by the same token, giving fair consideration to the safety of other road users. It is my understanding that if we were to disallow this regulation it would lead to two things: It would do away with the original order referred to earlier and would in effect give very little scope for farmers to move implements without the risk of prosecution or insurance problems. I put forward a compromise, and that compromise is based upon the Opposition's not insisting on its motion. I have given a commitment that I will bring into being an interim provision to allow us to refer back to that original order.

I do not think that these matters should be allowed to drag on; they have already gone on for many years, which is far too long. We should attempt to have that interim order up by about the end of January by which time we would have had sufficient time to address the issues that have been raised. In addition to those matters which have been discussed by Hon Murray Montgomery, there has been further consultation and discussion with the police and it is my view that we can resolve the difficulties that have been raised – a couple quite easily, but some might take a little longer. With good will and people working toward the one aim these matters can be resolved and properly dealt with.

I reiterate my view that these are matters we should be able to deal without moving motions like this. I ask the Opposition not to proceed with this motion of disallowance.

Amendment to Motion

HON J.N. CALDWELL (Agricultural) [8.36 pm]: I move –

To delete the expression "1 November" and substitute the expression "16 October".

Amendment put and passed.

Motion, as Amended

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

MOTION – HEALTH (PET MEAT) REGULATIONS

Disallowance

Debate resumed from 4 December.

HON P.H. LOCKYER (Mining and Pastoral) [8.38 pm]: I seek leave to amend the motion I moved yesterday, as follows –

Line 1 – Add after the word "That" the words "regulation 24(3) of".

Leave granted.

Hon P.H. LOCKYER: Yesterday I moved for the total disallowance of the regulations; however, as I explained to the House, the bone of contention for me and my constituents was

the injection of dye into diced and minced meat. This section is one that I have sought to have highlighted tonight. In doing this it was never my intention to disregard totally the whole of the regulations because there are many sections in the Act which are necessary. However, I do not resile from my argument that the actual dyeing of pet meat is undesirable for a number of reasons. I will not repeat them because I have already explained them. However, neither my constituents nor the pet food operators that I know reject the idea of strip branding on the meat. What they do object to is the injection of dye in the meat.

The PRESIDENT: Order! The member may like to tell me what he is doing.

Hon P.H. LOCKYER: With respect, Mr President, I took the effort to write down the procedure. Rather than move for the total disallowance of the regulations, I want to move to disallow only that section to which I object, which is section 24(3) of the regulations tabled in the House.

The PRESIDENT: The member has to move that amendment to the motion.

Amendment to Motion

Hon P.H. LOCKYER: I move that the motion now read –

> That regulation 24(3) of the Health Pet Meat Regulations 1990 published in the *Government Gazette* on 16 November 1990 and tabled in this House on 21 November 1990 be, and is hereby, disallowed.

The PRESIDENT: What the honourable member should have done – and this is what any member should do if he wants to table an amendment – is print the amendment and distribute it to members so the House is informed of what he is wanting to do. What the member is actually doing is moving, as a result of the leave granted to him, that at line 2, after the word "that" the words "regulation 24(3) of" be inserted.

HON MARK NEVILL (Mining and Pastoral – Parliamentary Secretary) [8.42 pm]: I oppose the amendment and the motion generally. The motion moved by Hon Phil Lockyer yesterday was an instinctive reaction to a practice which he has opposed for some time; that is, the dying of pet meat. The motion he moved yesterday was what can be described as using a sledgehammer to crack a peanut.

The PRESIDENT: Order! With respect, the House is debating the motion that suggests that these words be added. The House will be debating the motion later.

Hon MARK NEVILL: The amendment proposed by Hon Phil Lockyer refines the motion he moved yesterday to selectively amend regulations rather than disallow all of them. I am opposed to the amendment just as I am opposed to the whole motion. The reason I oppose this motion relates to the section we are now discussing. Section 24 states that a dressed carcase of pet meat must have a continuous strip of approved colour down its side. That strip is usually a brilliant blue; in most cases an azo dye is used. That strip must be five centimetres wide and if the meat is from a horse, donkey, cattle, buffalo or camel, it has to have an additional colour marked on it.

Hon P.H. Lockyer: I have no objection to that.

Hon MARK NEVILL: Hon Phil Lockyer has said that he does not have any objection to the application of that strip of colour. The colour that is used must be indelible and marked so that it is clearly visible at all times. Section 24(3), the part of the regulation the member wishes to amend, states that the colour should be clearly visible throughout diced or minced pet meat unless the meat is contained in an hermetically sealed container weighing one kilogram or less. The member has spoken about injecting meat with dye and my reading of the regulation has led me to believe that no injection of dye is mentioned. The marking of the carcase is mentioned in the regulation but it appears that marking a carcase does not require injection of the meat; only diced or minced pet meat requires dyeing after it has been diced or minced.

Hon P.H. Lockyer: I understand that is the method they use. I understand that they actually inject the dye during the mincing and dicing process.

Hon MARK NEVILL: Most of the dyes that are used are powerful and only a couple of drops need to be used. I am advised that dye is not injected into the meat but that a drop of blue dye is added to the meat.

If someone wants to sell pet meat in hermetically sealed containers weighing one kilogram or less the meat does not need to be dyed. What this section of the regulation is saying is that if a person wants to sell minced or diced pet meat in any quantity that is not sealed it needs to be dyed. Otherwise, if a person wants to sell it in quantities that are above one kilogram and packaged in hermetically sealed containers, the meat needs to be dyed.

There are good reasons for dying pet meat. In 1988 Justice Woodward conducted an inquiry into the scandal that arose when horse and kangaroo meat was substituted for beef bound for the overseas market. That caused tremendous damage to our overseas reputation. One of the recommendations of the Woodward Royal Commission was that pet meat should be dyed as soon as practicable after slaughter so that it could not be masqueraded as beef and exported as such. All of the States in Australia acted on that and proceeded to dye their pet meat.

Some States, such as Queensland, were dyeing pet meat long before that. Western Australia and the Northern Territory were the only two States which were not. So this procedure of dyeing pet meat has been in every State in Australia, other than Western Australia and the Northern Territory, since shortly after the 1982 Royal Commission into the meat industry by Mr Justice Woodward. Western Australia did not proceed with that action, and over the years we made a number of amendments, until we reached the position we are in today.

These regulations relate to another Bill before the House, and I do not want to discuss that at any great length, but a proposed amendment to the Health Act will allow regulations to be made for the game meat industry which will allow for the human consumption of kangaroo meat. That move is timed to coincide with the introduction of these regulations in respect of pet meat. Hon Phil Lockyer is concerned that were pet meat in this State dyed, that would reduce sales. I think it has been acknowledged by the Pastoralists and Graziers Association in its correspondence with the Department of Agriculture –

The PRESIDENT: Order! It is my responsibility to ensure that the House debates correctly the questions before it. I did not want to interfere with what the member was doing because I could see the line he was taking, but the fact of the matter is that the motion before the Chair was to disallow all the regulations, to which the mover has now sought leave of the House to amend his motion to not disallow all the regulations but to simply disallow one regulation. The very narrow scope of this debate is for members to tell the House why we ought not to disallow only one regulation. In fact, the opposite to that is to disallow all the regulations. That is what the current debate is about. When we have dealt with that, members will have an opportunity to determine whether they want to dispose of the whole question. Hon Mark Nevill is talking about disposing of the whole motion, and I suggest that comes later. We really ought to be talking about why we ought not to disallow just one regulation. If you can tell me that, I will be happy.

Hon MARK NEVILL: Mr President, with due respect, I think I am talking to section 24(3) because that relates to the actual dyeing of meat.

The PRESIDENT: I know it does, but the question is not what the regulation does but whether we should disallow just one regulation or all of them. The fact of the matter is that if the House votes against the question that is now before the Chair, members will be voting in favour of disallowing all the regulations – that is what I am trying to tell you – because when we take this vote, it will not be about whether we disallow the regulations but about whether we disallow only one regulation. I think you understand that, but if we defeat the present question, we are then saying we want to consider disallowing all of the regulations.

Hon MARK NEVILL: Mr President, with your guidance I am opposed to both the amendment and the motion.

The PRESIDENT: I know you are, but you should content yourself now by simply saying, for some reason or other – and I cannot think of the reasons, and it is not my job to think of the reasons – that it is better to have all the regulations disallowed than only one of them.

Hon MARK NEVILL: I will do the illogical thing and support the amendment and oppose the motion.

The PRESIDENT: That is precisely what you have to do.

Hon MARK NEVILL: I will support the amendment, on the understanding that that will allow me to oppose the motion.

The PRESIDENT: Yes, it will, but if you talk on the motion you will not have another shot. That is the point I am making.

Hon MARK NEVILL: I do not believe there is much point in my pursuing the argument any further, and I will address it when we get to the motion.

Amendment put and passed.

Motion, as Amended

HON MARK NEVILL (Mining and Pastoral – Parliamentary Secretary) [8.58 pm]: Mr President, I mentioned earlier that Hon Phil Lockyer is not against strip marking of carcases but is simply objecting now to the dyeing – and that does not mean injecting – of diced and minced meat which is to be sold for pet food. In my view, that is essential. The member's previous motion sought to disallow all the regulations, which would, as he acknowledged by his amendment tonight, have knocked out the regulations relating to the handling and treatment of carcasses, to knackeries and processing establishments, to the identification of pet meats, retail outlets, packaging, and other such matters, and also regulations relating to the construction of different facilities. So basically the member has by the amendment narrowed down his motion to focusing on the adding of dye to diced and minced meat where it is not in an hermetically sealed package of one kilogram or less. I explained to the House previously, when speaking to the amendment, that the dyeing of pet meat was a recommendation which came out of the Woodward Royal Commission into the meat industry, where horse meat was substituted for our beef exports. That did enormous damage to our meat export trade. All of the States except the Northern Territory and Western Australia moved to have regulations controlling pet meat which required it to be dyed blue. Hon Philip Lockyer has opposed the dyeing of pet meat for a number of years, for a number of reasons which I do not believe are very strong, and in recent times other factors have made the arguments that he has put forward even weaker.

Hon Philip Lockyer said that dyeing pet meat will result in lower consumption and this will put at risk the control of kangaroo culling in the pastoral industry. The experience all over Australia is that if there was any drop in sales it was in the very short term and has not really affected the long term sales. The simple fact is that the sales of blue dyed kangaroo meat in Queensland and other States have continued at the same sorts of levels since these regulations were brought in.

Hon Philip Lockyer also complained that animals would find dyed meat objectionable. The evidence is to the contrary – the pets are still eating it, it is still being sold and in fact in Queensland they were selling dyed meat 20 years ago and there are no problems. As well, to my knowledge dogs are colour blind anyway, so I do not think they would know the difference between red, blue, green or any other colour meat. The dye in the meat has no effect on their consumption of it.

Another factor we must consider is that the Health Amendment Bill (No 2), which is currently on the Notice Paper, allows regulations to be made in respect of game meat. I have here a copy of those draft regulations which will allow the human consumption of kangaroo meat. The regulations the subject of Hon Philip Lockyer's motion and the regulations to allow the human consumption of kangaroo meat will come into force at about the same time. Any reduction in the pet meat market due to dyeing – if in fact there is a reduction, and the research shows that if there is it is a fairly temporary phenomenon – will more than likely be made up by the extra consumption that will result from the regulations which allow kangaroo meat to be used for human consumption. Another important factor is that if we are to allow kangaroo meat to be used for human consumption it is essential that we be able to differentiate between that meat and pet meat; otherwise people will not know which kangaroo meat has been hygienically slaughtered and which has not. Therefore these game meat regulations are jeopardised by the fact that pet meat could quite easily be substituted for game meat.

I do not think the other matters mentioned by Hon Philip Lockyer were solid arguments. His reaction has basically been fairly instinctive, as was shown by the original motion he moved. Things have changed. There is no evidence to show that pet food consumption will drop as a result of dyeing it. It is essential to keep this dyeing provision in the regulations because of the game meat regulations which will allow kangaroo meat to be used for human

consumption. I do not believe Hon Philip Lockyer's argument that this will affect Aborigines is all that significant, because we all know that the majority of Aborigines in remote areas go out and shoot a kangaroo, skin it, cook it and eat it. I think the percentage of Aborigines who buy kangaroo from pet meat factories is very small, and the Aborigines who go and shoot their own kangaroo will not change their ways. The few people who buy pet meat for human consumption will be affected, but with the regulations concerning game meat coming into force those people will now be able to buy properly processed kangaroo meat for their own consumption and it is important that is differentiated from pet meat.

In conclusion, these regulations complement the game meat regulations, and it is important in that case to differentiate between kangaroo meat for pet use and that which is for human consumption. These regulations relate only to diced and minced meat – they will not affect a kangaroo shooter in the bush at all but only the retail outlets, and in my view they will not affect the Aboriginal population. In Queensland they have been dyeing pet meat for 20 years; the pets are still eating it, it is still being sold and there are no problems, according to the research that I have been able to undertake. Quite frankly, I think the factors have changed enough for Hon Philip Lockyer to reconsider a view that he has long held; that is, that humans consume pet meat. I do not believe a good argument has been put forward. I appreciate that he has narrowed his motion down to the part of the regulations that he finds offensive, but I strongly urge the House not to disallow the regulations.

HON P.H. LOCKYER (Mining and Pastoral) [9.07 pm]: I appreciate the comments made by Hon Mark Nevill, a member of this House for whom I have a high regard. However, I do not accept his arguments in a number of areas.

Firstly, as to the proposed health regulations he has said will be brought to this House concerning the consumption of game meat, that was one of the very reasons I moved this motion. I have no doubt that certain pet food processors will naturally move into the area of game meat so as to make it a more productive area. What will happen, of course, is that instead of the poor old blackfellow paying only 50¢ per kilo for his kangaroo meat as he does at the moment, he will pay $2.50 or something like that to keep in line with those people who find it trendy to buy properly prepared game meat. As I have said before, not one blackfellow has ever died from eating meat from the bush, so let us put that argument aside.

I do not accept the argument that the consumption of dyed meat makes no difference to pets. I say that not only does it affect the pets eating it, but also it affects the proprietor of the pet who goes to purchase that meat. Hon Mark Nevill cannot tell me that an elderly lady who has a little pet chihuahua and who goes in to buy nice red kangaroo meat for it will suddenly buy the dyed yellow and blue meat, because she will not. She will go to buy the cans that she sees on television, where they cut it up and show nice pieces of chunky meat in it. That is what she will buy instead of kangaroo meat.

I concede that moving to disallow the whole regulation may have been something of a knee jerk reaction. However, I did it deliberately because I do not agree with such regulations; I do not believe in legislating by regulation, particularly on a matter like this. It just so happened that by chance I picked up this regulation. There are Ministers in this House who are totally honest.

Hon Graham Edwards: Totally!

Hon P.H. LOCKYER: If I were a Minister and I wanted to sneak in something by regulation, it would be done when everybody was busy.

Hon Jim Brown: Do they still have the green line brand in Carnarvon?

Hon P.H. LOCKYER: Yes. I have no objection to strip branding at all. That is why I narrowed the motion to the section with which I do not agree. I have long held the view that no good is done by dyeing meat; it is detrimental to the industry at a time when the kangaroo shooting industry is teetering on the brink of destruction.

The industry has had to suffer high fuel prices, and its operators cannot cut down on the kilometres travelled each evening they go out to shoot. The shooter has suffered the increase in the price of ammunition and now has to compete with low mutton prices; he has difficulties selling his product. The shooter must also overcome the problem of the pastoralists who are forever on his back complaining about the increasing number of kangaroos competing with pasture stock.

At the beginning of my comments I urged the House to disallow this regulation as it would be an impediment to the kangaroo shooting industry.

Hon Mark Nevill: Dyeing meat is not onerous.

Hon P.H. LOCKYER: The member has a contrary view to mine. With the deepest respect, I believe I am right. Hon Mark Nevill believes he is right. He stated that no Aborigines buy kangaroo meat from processing factories as they shoot the animals themselves. I say that Aborigines buy such meat from the processing factory.

Hon Mark Nevill: Which ones?

Hon P.H. LOCKYER: I will give the member a list tomorrow. However, the health inspectors will probably head straight to the processing factory, and the matter will probably then go to the local shires who will then be on the back of the health inspectors. It is said that this is an area we should not be worrying about.

Hon Mark Nevill: It is not a problem.

Hon P.H. LOCKYER: It is a problem because if the pet food processor is guilty of knowingly selling meat for human consumption he will be in more trouble than a one arm fiddler with crabs!

Hon Mark Nevill: Maybe he makes more money through selling meat for human consumption.

Hon P.H. LOCKYER: The problem is that he cannot sell such meat for human consumption. The member alluded to a Bill which will not be considered by the House –

Hon Mark Nevill: It is before the House.

Hon P.H. LOCKYER: It is not on the list of priority Bills, and that means it will come before the House in March of next year.

Hon Mark Nevill: It is Order of the Day No 16.

Hon P.H. LOCKYER: Does the member want me to read out the number of priority Bills?

Hon J.M. Berinson: That is not really necessary.

Hon P.H. LOCKYER: Referring to the regulation in question, the pet food industry was not adequately consulted regarding the part of the regulation concerning dyed meat. The regulation is a large one which deals with many matters, such as knackerys and strip branding.

Hon Mark Nevill: A knackery is a place for exhausted worn-out politicians.

Hon P.H. LOCKYER: Concessions must be made by all sides, and the Hon Mark Nevill would be the first to agree with me. I will not take up the time of the House because the Leader of the House is glaring at me.

Hon J.M. Berinson: Looking at you in the friendliest way!

Hon P.H. LOCKYER: Yes, as he always does.

This subject has been close to my heart over the almost 11 years that I have been a member of this House. This is not a good regulation; it does nothing for the industry. It is no skin off the nose of the health authority to have it removed. I urge the House to disallow this section of the regulation.

Question put and a division taken with the following result –

Ayes (12)

Hon J.N. Caldwell	Hon Murray Montgomery	Hon D.J. Wordsworth
Hon George Cash	Hon N.F. Moore	Hon W.N. Stretch
Hon Reg Davies	Hon Muriel Patterson	*(Teller)*
Hon Max Evans	Hon R.G. Pike	
Hon P.H. Lockyer	Hon Derrick Tomlinson	

Noes (11)

Hon J.M. Berinson	Hon B.L. Jones	Hon Bob Thomas
Hon Cheryl Davenport	Hon Garry Kelly	Hon Doug Wenn
Hon Graham Edwards	Hon Mark Nevill	Hon Fred McKenzie
Hon Tom Helm	Hon Sam Piantadosi	*(Teller)*

Pairs

Hon Barry House	Hon T.G. Butler
Hon Margaret McAleer	Hon Tom Stephens
Hon Peter Foss	Hon John Halden
Hon P.G. Pendal	Hon J.M. Brown
Hon E.J. Charlton	Hon Kay Hallahan

Question (motion, as amended) thus passed.

R & I BANK BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan – Leader of the House) [9.19 pm]: I move –

That the Bill be now read a second time.

I have pleasure in introducing this Bill. The Bill represents a major Government initiative in the continued commercialisation of the Rural and Industries Bank. It provides for the incorporation of the Bank under the Companies (Western Australia) Code and a framework within which the competitive strengths of the bank will be enhanced. The Bill will underpin the prominent role of the bank in providing Western Australians with a wide range of financial services informed by local knowledge and employment opportunities through to the most senior executive levels in Western Australia.

Members of this House are aware that the drive to commercialisation commenced in 1987 when the Government decided to conduct a thorough review of the Rural and Industries Bank of Western Australia Act 1944. That was the first review of the bank's legislation in 43 years since a previous Labor Premier, Frank Wise, revised the bank's legislation and created the Rural and Industries Bank from the former Agricultural Bank of Western Australia.

The review in 1987 recognised the need for the bank to be responsive in its structure and operations to the demands and disciplines in the deregulated banking industry in Australia. The 1987 review resulted in the Government introducing a new Act. The Rural and Industries Bank of Western Australia Act 1987 was a major step in the development of the bank and incorporated the following principles –

(a) that the bank should conduct its affairs with a view to promoting the balanced development of the State's economy and to the maximum advantage of the people of Western Australia;

(b) that the bank should operate in accordance with accepted principles of financial management; and

(c) that the bank should operate in conditions as comparable as practicable with those in which its private sector counterparts operate.

The development and commercialisation of the bank has continued since then and has been guided by those three principles.

Highlights of this process include –

(a) the completion of the transition to a fully external and non-executive board, apart from the managing director, with the resignation of all four original executive directors, and the appointment of additional external directors;

(b) the appointment of one of Australia's most highly respected bankers, Mr Warwick Kent, as managing director;

(c) the restructuring of senior levels of management on the initiative of the new managing director, including the appointment of strong external expertise to general manager and other senior positions;

(d) extension of the detailed commercial review of recognised weaknesses in corporate lending to all aspects of the bank's operations;

(e) the definition of new and more commercial objectives and strategy, including the refocusing of the bank's resources and efforts away from areas of low return to allow greater emphasis on the bank's competitive strengths; and

(f) further definition and entrenchment of the bank's independence as a commercial banking entity and the pursuit of the "Western Australian objective" as defined by the new board of directors in 1988.

The emphasis on commercialisation and profitability of the bank has been a direct response by the Government and the bank's board to the more competitive environment following financial deregulation in the mid–1980s. Financial deregulation removed progressively a number of special fixed advantages that State banks once had over commercial competition. It introduced to Australia more banking competitors and removed constraints on competitive strategies among established Australian banks. It has been followed by a vast expansion of the range of banking products made available to customers and in the cost of presenting the minimum acceptable range of products.

The structure of the bank as reflected in the 1944 Act, and the constraints and ethos that had seen the bank grow in earlier years into Western Australia's premier financial organisation, was recognised by the Government and the bank as not being suitable in all respects to the more rigorously competitive banking industry. The strength, efficient delivery and local knowledge of the retail network of the bank was and continues to be a great asset in the new environment. The Government and the bank acknowledged that the old structures were not adequate in the face of greater competition. The introduction of the 1987 Act and the progress on commercialisation over the past three years has been necessary to strengthen the bank for effective operation in this new environment.

Commercialisation of the bank has not been without its difficulties. The new board has been vigorous in its determination to bring fully to account mistakes from earlier periods. This was reflected this year in the large provision for doubtful debts as weaknesses in staffing, procedures, and the quality of assets were identified and corrected in an environment of deteriorating business conditions. While this has been a painful process for the bank and the Government, it has been a necessary part of the commercialisation process and a responsible approach to ensuring the bank's return to profitability.

The next major step in the commercialisation process was the decision by the Government earlier this year, on the advice of the bank's board, to incorporate the bank under the Companies Code. This incorporation of the bank offers a number of immediate and long term benefits to the bank and the State as follows –

(a) Accountability: The report of the Auditor General to Parliament last year highlighted the need for increased accountability from the management of State–owned businesses and suggested this be achieved by imposing controls similar to those imposed on public companies. Under this phase of the commercialisation process, the business undertaking of the bank will be transferred to a public company limited by shares established under and governed by the principles in the Companies Code. That new company will be 100 per cent owned by the State. The provisions in the code will clearly impose additional requirements on the bank and its management and provide additional safeguards that the affairs of the bank will be conducted on a strictly commercial basis.

(b) Efficiency Measurement: The new company will have a more normal capital structure consisting of issued ordinary shares and subordinated long term debt which is comparable to that of the bank's competitors. This will facilitate comparison of the bank's performance against that of its competitors.

(c) Ministerial Responsibility: The incorporation of the bank will further define and clarify the relationship of the State to the bank. In addition, incorporation will enhance the community's understanding of the bank's independence. While the State will continue to be the ultimate owner of the bank, it will be demonstrably clear that the Government's role is as a shareholder and it will not be involved in the day to day operations of the bank and it will not set the business policy of the bank.

(d) Capital Adequacy: The restructuring of the bank and its assets will significantly improve the capital adequacy position of the bank in the medium to long term. In the past, the bank's strong capitalisation has depended on the Reserve Bank's acceptance of floating rate notes, guaranteed by the Government, as tier 1 capital. Incorporation of the bank allows the rearrangement of the capital of the bank, to provide a balance of equity and longer term debt that is closer and more readily comparable to standard commercial structures.

The capital base of the bank after incorporation, following absorption of the 1989-90 loss and the redemption of the capital stock, will represent some 10 per cent of its risk weighted assets. Based on estimated risk weighted assets at 31 March 1990 of $6 258 million, total capital will be targeted at $625 million. Tier 1 capital will represent six per cent. This will comprise approximately $375 million of issued ordinary share capital. Tier 2 capital will represent four per cent. This will comprise $250 million to be provided by way of the issue of capital securities, such as term subordinated debt and general provisions. Those ratios are well in excess of those that the Reserve Bank requires all Australian banks to achieve by 1992.

(e) Capital stock: The bank recognised that the structure of the capital stock, issued in 1986 as a form of equity in the bank, was not ideal. In the context of rearranging the capital base in preparation for incorporation, the bank offered to repurchase the capital stock. The bank has received acceptances for over 90 per cent or $55 million of the outstanding capital stock on issue. If the remaining 10 per cent is not repurchased prior to the Bill's coming into force provision has been made in the Bill to continue this arrangement for the future administration of that capital stock. However, no new capital stock in that form will be issued by the new company.

(f) State Revenue: A significant feature of the commercialisation process and incorporation of the bank is that the revenue derived by the State from its investment in the bank will not be affected. The State will continue to receive an amount equivalent to income tax assessed on the same basis as if the new company were liable to pay income tax. In addition, the new company will pay a dividend to the State. The dividend will be set by the Treasurer on recommendation of the board of the bank.

Before turning to the main features of the Bill it will be of assistance to members if I first summarise the existing structure of the operations of the bank and outline the new structure which will be implemented by this Bill. The structure of the bank under the 1987 Act has the following principal features –

(a) the State owns 100 per cent of the bank through the statutory corporation known as The Rural and Industries Bank of Western Australia;

(b) the statutory corporation holds all the assets and liabilities of the banking business. This includes all the shares in the various subsidiaries of the bank such as Perpetual Finance Corporation Limited and, through R & I Investment Holdings Pty Limited, all the shares in Primary Industry Bank of Australia Limited;

(c) the statutory corporation also has a branch office in London and several international representative offices; and

(d) the State guarantees the financial obligations of the statutory corporation.

The incorporation of the bank will change this structure. The new structure, and the process by which it will be implemented, can be summarised as follows –

(a) the existing statutory corporation known as The Rural and Industries Bank of Western Australia will be continued, but with a restricted role as a special purpose statutory holding corporation and with a new name, "R & I Holdings";

(b) a new company will be incorporated under the Companies Code. The new company

will be wholly owned by the State through R & I Holdings and will be known as "R & I Bank of Western Australia Ltd". For ease of reference I have referred to the new company hereafter as "R & I Bank Ltd";

(c) the Bill will give effect to the transfer of the assets and liabilities of R & I Holdings to R & I Bank Ltd. This includes all the shares in the subsidiaries of the bank;

(d) R & I Bank Ltd will issue to R & I Holdings approximately 375 million ordinary voting shares. The exact number of the shares will be agreed with the bank's board following the audit of the accounts of the bank at the date of the statutory transfer of the business undertaking of the bank;

(e) R & I Bank Ltd will issue to R & I Holdings capital securities, such as subordinated debt, which, together with general provisions, will provide tier 2 capital of approximately $250 million;

(f) the London branch and representative offices of R & I Holdings will be transferred to R & I Bank Ltd;

(g) the State will continue to guarantee the financial obligations of R & I Holdings and will extend the same guarantee to R & I Bank Ltd. The Government has decided, in line with the bank's commercialisation, to provide in the Bill a discretion for the Treasurer to charge R & I Bank Ltd a fee for the provision of that guarantee. No decision has been made as to when a fee arrangement will be implemented or the amount of any such fee. The timing of the introduction of the fee and the amount of any fee will be determined in consultation with the bank's board;

(h) the new role of R & I Holdings will be to –

  (i) hold 100 per cent of the issued shares in R & I Bank Ltd. This ensures the State owns 100 per cent of the new company;

  (ii) hold capital securities issued by R & I Bank Ltd for capital adequacy purposes;

  (iii) receive dividends from R & I Bank Ltd; and

  (iv) receive the income tax equivalent charge of R & I Bank Ltd and, in turn, pay its net income to the Treasurer for the credit of the Consolidated Revenue Fund or the General Loan and Capital Works Fund; and

(i) the role of R & I Bank Ltd will be to conduct the business of the bank on and from the date the Bill comes into operation on the same basis as R & I Holdings prior to that date.

The Government and the bank welcome the challenge of commercialisation. The bank has great inherent strengths, which are enhanced through incorporation, and it has corrected historical weaknesses. The incorporation of the bank, together with the current commercialisation strategy, is designed to expand new and old strengths in the years ahead.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Max Evans.

ELECTORAL AMENDMENT BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

HON D.J. WORDSWORTH (Agricultural) [9.33 pm]: An Electoral Amendment Bill always causes a certain amount of consternation to members of Parliament and political parties. This legislation affects all members and the Government of the State.

The Bill before the House will amend the manner in which replacement candidates are elected to this House. It is interesting to note that when the original legislation was before the House we were assured by the Government that it would work. Some years down the track someone has suddenly found out that it does not work. Hon John Caldwell was a little worried about a doctor looking over his shoulder – I suggest to him that he should be careful about this Bill.

Why has it suddenly been discovered that the original legislation does not work? I am sure the Government was trying to work out how the legislation would operate if there were a by-election. It is interesting that the Government has been able to tell us who would be the next candidates for the different regions. The information is contained in the papers which were tabled.

Hon J.M. Berinson: All those cases are expressed to be hypothetical.

Hon D.J. WORDSWORTH: Were they?

Hon J.M. Berinson: Yes. Hon Phil Pendal explained that he asked us to provide him with a copy of what would be expected.

Hon D.J. WORDSWORTH: They illustrate that the information that was already contained in the results from the last election would probably give a very good indication of what would be the situation. Perhaps someone was scribbling on a piece of paper and suddenly realised that the legislation would not work. It is very curious that suddenly the Government realises that the Electoral Act, which we were assured a few years ago would work, will not if a candidate decided that he or she would not stand.

Hon J.M. Berinson: Don't you think a party which has lost a member should be in a position to have one of its other members replace that person?

Hon D.J. WORDSWORTH: I thought we had existing legislation which allowed that.

Hon J.M. Berinson: Further consideration has indicated a weakness in it.

Hon D.J. WORDSWORTH: How many years did it take to find that out.

Hon J.M. Berinson: It is better late than never.

Hon D.J. WORDSWORTH: By chance someone has looked at the legislation and found that it will not work.

Hon George Cash: Nothing is done by chance.

Hon D.J. WORDSWORTH: The Leader of the Opposition is quite right. The legislation is before the House to correct this anomaly. Obviously the Government, as it is inclined to do, has been studying the Electoral Act. It is rather interesting that the words used by the Leader of the House in his second reading speech were that the Act, as it stands, has the potential to produce unintended results. The Government governing with 48 per cent of the vote is producing unintended results and I do not know in what way the Act can be amended to restrict the vote of the people.

Hon J.M. Berinson: Are you advocating one–vote–one–value?

Hon D.J. WORDSWORTH: Many other areas have a potential to produce unintended results and that is one of them. Hon Phil Pendal sought from the Government an assurance that a party which loses one of its sitting members will have the new member elected from that party.

Hon J.M. Berinson: I do not know that he asked for an assurance of that. He asked for an assurance that this Bill was designed to produce that result.

Hon D.J. WORDSWORTH: It is one and the same thing, to a certain extent. My understanding of the second reading speech by the Leader of the House is that he considered that aspect and found it required a referendum.

Hon J.M. Berinson: A referendum would be required for an amendment to the Act which directly said that at any time a member retired for any reason his party could nominate a replacement.

Hon D.J. WORDSWORTH: The Government has, indeed, considered the legislation.

Hon J.M. Berinson: Everything that would be preferable; and my memory is that both Opposition parties have previously indicated they would support that.

Hon D.J. WORDSWORTH: I agree with the Leader of the House that that is what the Opposition thought it had. However, the figures can blow out and show something completely different. Now we have a set of figures presented to this House which does just that and, hence, we have this legislation, which I assume is only intended for a short time

because the Government will present to the Parliament further legislation at another time. Of course, that remains to be seen. I hope that this time the Government has it right.

We were told by the Government that the existing legislation was better than what we had previously. Now we find it was not what we wanted in the first place. It is obvious that the research was not undertaken properly when the legislation was originally introduced into the Parliament. After 20 years in this place and having had experience of the Electoral Act I do not have very much confidence in it. I refer to the experience of a person in the Legislative Assembly sending out letters to everyone in his electorate and finding that four hundred letters are returned with the notation on each of them that the person is not known at that address. We were told before the last election by the Premier of the day that the election would be won by a handful of votes and in a handful of seats. In this handful of seats there were 400 floating votes in each. If one cared to follow up the addresses of those 400 one would find that many of those addresses did not exist or the people who were supposed to live there did not live there. I asked a question in this House to the effect that surely the Electoral Office sent letters and when those letters were returned with the note "not known at this address", further inquiries were made, bearing in mind that the office was entering those people on the electoral roll. I received the reply that so many of those letters were returned to the office that it was unable to follow them up. The whole system is a sham and any party which wishes to use that knowledge could do so. It would not be hard for a party to move a few supporters into a key seat. If 400 voters in that seat are not known at the address for which they are enrolled and the seat is decided by a handful of votes, if the system is not rigged, it certainly could easily be rigged.

We are relying too much on the honesty of the parties to maintain the system properly. It is rather frightening that so many applications made to the Court of Disputed Returns, on the basis of allegations about an election which was held more than two years ago, have not yet been heard. Perhaps the parties have decided that they could each lose seats and, therefore, it would be better not to test those cases since the election results would not be turned around to the extent that the Government would lose office. None of those cases has been heard to date. What do the public think about a system in which appeals have been made to the Court of Disputed Returns but the cases have not been heard more than two years later? It is a challenge for us. At least the public would have the satisfaction of knowing whether there were any grounds for appeal. The Government is getting the backwash of this in relation to the WA Inc affair. Everyone assumes this is part of WA Inc, and perhaps it is not. Perhaps some Government members are now realising that a Royal Commission might be better for them because it will clear up some of these matters.

There should be some finalisation of the appeals to the Court of Disputed Returns. A former member in this Chamber who stood for an Assembly seat collected a lot of information about what he considered was an injustice, if not an impropriety, in the electoral process. However, he never had the $20 000 or $30 000 required to take the case to the Court of Disputed Returns. Plenty of money has been made available by way of legal aid for the trials of other people who were unable to pay their court fees and yet no money has been made available to enable further inquiries to be made into the electoral system, which obviously is in need of such inquiry. In the case to which I refer a door to door inspection was made, and records kept of the people who were not at certain addresses and the addresses which did not exist. That information was prepared for the court but the case has not been heard.

In the Swan Valley major changes were made to the boundaries and when many electors went to the polling booth to vote they found they were disfranchised. They were told that they were not on the electoral roll and, therefore, could not vote. They were not told that because of the boundary changes their names had been placed on a different electoral roll and that they were eligible to apply for an absentee vote. These facts have been recorded and a QC from the Eastern States when examining what had happened in that electorate and in others indicated that the same pattern had been repeated all over Australia.

I raised these matters in debate on the Electoral Amendment Bill because I believe that in future the playing field will not be level. I am not talking about the past and I cannot say that it has been used for any party's benefit previously; however, it would be easy to make such use of it in the future.

HON J.M. BERINSON (North Metropolitan -- Leader of the House) [9.46 pm]: If I do not

respond to the many matters raised by Hon David Wordsworth, it is only because the Bill we are considering is of itself of very limited scope. It goes to the particular problem which Hon Phillip Pendal raised, and I am happy to respond to his invitation to confirm that his understanding of the purpose of the Bill is correct. His explanation was precisely to the point and I am happy to confirm that, as requested.

Question put and passed.

Bill read a second time.

Committee and Report

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

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Leader of the House), and passed.

RESERVES AND LAND REVESTMENT BILL (No 2)

Assembly's Amendments

Amendments made by the Assembly now considered.

Committee

The Deputy Chairman of Committees (Hon D.J. Wordsworth) in the Chair; Hon Kay Hallahan (Minister for Lands) in charge of the Bill.

The amendments made by the Assembly were as follows –

No.1

Clause 2

Page 1, line 7 – To insert after the word "Act" the following –

, except section 15,

No.2

Clause 2

Page 1, after line 8 – To insert the following –

(2) Section 15 shall come into operation on such day as is fixed by proclamation.

No.3

New Clause

Page 7, after line 7 – To insert the following –

Reserve No. 30082 (Hamersley Range National Park)

15. Reserve No. 30082 –

(a) containing 617 346.978 3 hectares;

(b) set apart for "National Park – Dales Gorge"; and

(c) vested in the Authority,

is amended by excising –

(d) an area of 9 305.382 8 hectares comprising Windell Location 121; and

(e) an area of 3 951.649 1 hectares comprising Windell Location 122.

Hon KAY HALLAHAN: I move –

That the amendments made by the Assembly be agreed to.

The Minister for Transport in another place moved these amendments.

Members will be aware from recent media statements that the Government decided to excise the Marandoo iron ore tenement and an associated infrastructure corridor from the Hamersley Range National Park. Hamersley Range strategic planning requires these areas to be excised now to enable program development with production of iron ore to be under way by early 1994.

Marandoo deposits are critical to Hamersley Iron Pty Ltd's continued viability, with its high grade deposits at Tom Price expected to be depleted within 10 years. Iron ore from Marandoo will be blended with ore from Tom Price and Paraburdoo, thus extending the life of the Tom Price operation. Access to Marandoo must be guaranteed to maintain the current level of mining operations and the company's share in Japanese and European iron ore markets.

The Iron Ore (Wittenoom) Agreement Act of 1972 predated the Hamersley Range National Park and provides the company rights to develop the Marandoo and other tenements within the park, and secures an access corridor west of Marandoo. However, Hamersley Iron is not prepared to expend funds on feasibility studies until it has the reassurance given by excision from the national park. However, it is inappropriate to excise areas from the national park until the necessary studies have been concluded. Accordingly, commencement of clause 2 was amended to provide for the Marandoo excision to be proclaimed at the appropriate time, which represents a reasonable compromise.

The service corridor will be used for access, rail link and services. It has been extended eastward beyond Marandoo to provide a link with the Giles Mine, Rhodes Ridge and Yandicoogina iron ore deposits via the shortest rail route possible. A corridor width of one kilometre has been adopted to provide flexibility in designing the optimum routing of services. The corridor is to be reserved and vested in the National Parks and Nature Conservation Authority and managed as a section 5(g) Conservation and Land Management Act reserve, in association with the national park. Not all the Marandoo mining tenement is to be excised from the park. Excision is to be confined to that portion of the tenement lying south of the infrastructure corridor. Hamersley Iron has undertaken to surrender portions of the tenement which are not required for mining operations and this will include severances to the north east and north west. Following a review of the needs of the Marandoo operation and of all iron ore tenements within the national park, further parts of the Marandoo tenement will be surrendered for reinclusion in the park, along with other tenements. A future reserves and land revestment Bill will attend to reinclusion of areas consequent to this review of the company's real needs. To a large extent this clause seeks to confirm existing rights while at the same time providing for economic access to longer term development prospects. Marandoo is a very significant development. And especially as it will secure the ongoing involvement of the State's major iron ore miner at present rates of production, it is of particular importance to the State's economic activity and employment.

There will be a very careful environmental assessment of the proposed mining operation and services installation within the infrastructure corridor, with the impact on the national park being minimised. Reservation of the corridor will ensure control is exercised by Department of Conservation and Land Management, and the arrangement with Hamersley Iron will see areas released to the park which are presently committed to mining. The clause represents a commonsense balance between mining, the State's economic interests and responsible conservation. I therefore move that the Bill as amended be supported by members.

Hon N.F. MOORE: The Opposition supports the proposition contained in these three amendments. It is appropriate that I speak about the three at the same time. The Government is to be congratulated for making this decision to excise this area of land from Hamersley Range National Park. Members who took an interest in this matter when it was announced will recall the rather hysterical reaction of some of the conservation groups in our community, but it was a decision which was absolutely necessary for the future well-being of one of our major companies in Western Australia, Hamersley Iron. Members will be aware that Hamersley Iron operates at Tom Price and Paraburdoo, and at Karratha and Dampier on the coast.

The iron ore deposit at Tom Price is being rapidly depleted, and without additional resources from the Tom Price area that mine will be exhausted within about 10 years. The company needs to operate a new deposit in the vicinity of Tom Price so that the ores can be mixed and

complement each other. The result will be that the town of Tom Price will continue, which is very important, bearing in mind the enormous development cost of that town. Because Marandoo is relatively close to Tom Price, the workers at Marandoo will reside in Tom Price, and that will effectively utilise the infrastructure which exists at that town. This excision is vital to the future of the Marandoo deposit, which itself is vital to the future of Hamersley Iron.

Marandoo is an underground deposit of iron ore which was pegged by Hamersley Iron prior to the Hamersley Range National Park being extended into that area, so it was always set aside as a potential mine site. Regrettably since it was set aside as a mining reserve, Hamersley Range National park was extended to include the Marandoo area.

The proposal before the Chamber is to excise an area of some 9 000 hectares, which is Windell location 121, and that area represents the area of land excised as a corridor for transport purposes, in this case for a railway and other associated transport needs. That corridor will enable an extension of the Tom Price to Dampier railway line into the national park to the Marandoo iron ore mine, which is vital to this project.

While the decision is being made to excise that part of the national park, it has sensibly been decided to continue the excision of that corridor to the eastern side of the national park to enable the future development of the Yandicoogina deposit by Hamersley Iron. I expect that the Newman Mining Company will also develop a deposit at Yandicoogina, and I presume that will be the subject of legislation next year. Interestingly, Hamersley Iron and Mt Newman both have reserves at the same place. It is a very rich iron ore area. It makes sense to excise that part of the park so that any future extension of the railway line can take place without the necessity for this Parliament to pass legislation to excise more parts of the national park. In a sense the Government has taken a big bite of the problem now and getting it out of the way so that future arguments will not be necessary.

That is Windell location 121, and the other is Windell location 122, which is 3 900 hectares representing the location of the Marandoo deposit itself and will be the mine site. The location of the mine site and the transport corridor are situated in that part of the national park which to me has very little conservation value. Having spent a fair amount of time in the Hamersley Range National Park and having been extremely impressed by some of the magnificent land forms there, I consider that the section of the park under debate has little scenic or conservation value. Were the Government to bring in a Bill which would make a mess of Dales Gorge or some of the other gorges in the Hamersley Range National Park I would be the first to reject it. This part of the range is south of the gorges and is situated in a flat and unimpressive part of the national park. It is close to Mt Bruce, and that has its own attractions, but the actual area of the mine is not something that ought to have been included in a national park in the first place.

One final matter is the potential that the project offers for tourism in the Hamersley Range National Park. Members familiar with the national park will know that the gorge country is south of the range, whereas Wittenoom and the main access roads are to the north. It would be very helpful from a tourism point of view were the road system south of the Hamersley Range upgraded to provide better access to the Hamersley Range gorges.

I understand that Hamersley Iron proposes to build a road from Tom Price directly to Marandoo, a distance of about 40 kilometres, which will be used to transport workers to and from the mine site at Tom Price. That does not leave a great distance, probably 80 or 100 kilometres, from Marandoo, south of the range, to meet the new Newman–Port Hedland highway. If that road of 100 kilometres could be built by the Government to extend the road that Hamersley Iron will build, a magnificent tourist area in Western Australia would be opened up and would provide access to the more attractive Hamersley Range National Park. Tom Price would become the major tourist centre for that part of Western Australia and Paraburdoo would be the airport for people flying in and out. It is a magnificent area. Anyone who has not been to the Hamersley Range National Park should visit the area, particularly the gorges on the south side. This legislation has the potential to improve access to that part of the country. Good access restricts people to certain parts of the park and in that way protects those parts which should be protected.

I am enthusiastic about the proposal. It is a continuation of Hamersley Iron's relatively long history in the Pilbara. This project is vital to its future. I commend the Government for

having the intestinal fortitude to tell the greenies to get lost on this occasion and to bring in such legislation to enable access to the national park. I commend the motion to the Chamber.

Question put and passed; the Assembly's amendments agreed to.

Report

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

TOBACCO BILL

Committee

The Deputy Chairman of Committees (Hon Muriel Patterson) in the Chair; Hon Kay Hallahan (Minister for Planning) in charge of the Bill.

[Leave granted for the Committee to consider the Bill as amended by the Standing Committee on Legislation.]

Clause 1: Short title –

Hon KAY HALLAHAN: The Government is very pleased that the legislation has advanced to this stage. It is a very important piece of legislation for the well-being of the Western Australian community. The Government accepts the proposed amendments in the report of the Standing Committee on Legislation. Some of those amendments will be beneficial. However, some others are accepted reluctantly. The Government will not contest the proposals of the committee because the community stands to benefit from the implementation of this legislation. It will result in a reduction in the use of tobacco products, and a subsequent reduction in health hazards for the citizens of this State.

We accept the proposals contained in the Standing Committee's report. We look forward to the endorsement of the Bill and its being expeditiously dealt with by the other place.

Hon DERRICK TOMLINSON: The Legislation Committee received a great deal of evidence on this Bill and as was indicated in its report that evidence divided itself into two distinct groups. Those from the medical profession were arguing on the basis on what is now a fairly comprehensively accepted relationship between cigarette smoking and certain diseases, particularly of the cardiovascular system. Both the clinical and epidemiological evidence of that relationship is generally accepted in Western communities.

The other evidence that the committee examined was whether there was a relationship between the advertising of tobacco products and the taking up of smoking. As we indicated in the report, the evidence is at best equivocal. Even those medical professionals who were able to argue very convincingly of the relationship between cigarette smoking and cardiovascular disease particularly, could not argue with the same conviction about a relationship between cigarette advertising or tobacco products advertising and the taking up of smoking. We were then left with a justification of the Bill. The policy of the Bill had been accepted by this House in the second reading, and therefore it was not within the province of the Standing Committee on Legislation to adjudicate on policy.

We have accepted the principle that where policy is adopted by the House the committee is guided by that policy and may only consider the details of the Bill within the context of that policy and on the basis of evidence presented to us. However, for the purpose of this Bill, since it was directed toward a health measure, to discourage people from smoking and in particular to discourage young people from the taking up of smoking, we were obliged to bend our minds to the justification of the Bill. While we were not convinced of the evidence of a relationship between cigarette advertising or tobacco products advertising and the taking up of smoking, we did accept the proposition that there was an increasingly widely accepted community attitude against smoking. It does represent a major preventable cause of disease in our community, and that was a justification of the Bill. There were aspects of the Bill which caused considerable concern, and those are the subjects of the amendments that are contained in the report, some of which the Minister has already indicated the Government will accept reluctantly, others which the Government is somewhat more inclined toward.

It is necessary to make the point that this Bill contains two disparate sections. One is the provision to control and regulate the advertising, promotion and sale of tobacco products; the other is the establishment of a Health Promotion Foundation. While there is a known link

between cigarette smoking and illness, or certain kinds of disease, that is the only tenuous link between the two disparate parts of this Bill. The second part of the Bill establishes the Health Promotion Foundation, which is more directly related to legislation enacted in this place a year ago; that is, the tobacco licence levy. It is from that legislation that the income is derived which is to be directed toward the Health Promotion Foundation.

When we asked why these two disparate concepts were linked in a single piece of legislation, the answer was that it was politically sensible because the Health Promotion Foundation was very attractive to certain sectors of the community. The attractiveness of that clause of the Bill made it easier to gain acceptance of the other part of the Bill. While I accept and recognise the intelligence of the political strategy, I must challenge the notion that a single piece of legislation might deal with two propositions which are only remotely related. At one stage it was proposed in the committee that the Bill be referred to the House for separation. That did not receive the full support of the majority of the committee and did not proceed. However, it was the judgment of the committee that as soon as possible the Health Promotion Foundation should be legislated under its own Act, and that is the strong recommendation of the committee. We would hope that whoever is in Government in the next couple of years will accept the wisdom of the recommendation.

Hon J.N. CALDWELL: This Bill caused the Legislation Committee more headaches and in some ways more heartaches than any other piece of legislation presented to it. At many stages the committee members wished they had never heard of tobacco.

Hon Kay Hallahan: Hear, hear!

Hon J.N. CALDWELL: Many people who are dying of ailments caused by smoking wish they had never heard of tobacco. However, we did persevere and the end result is gratifying, although as has already been mentioned some areas can be rectified in the future.

Hon Derrick Tomlinson touched on two areas of this Bill which the committee recommended most strongly should be separated. It would be easier to deal with legislation if it did not deal with two different areas, in this case where it is eliminating advertising of cigarettes and cigarette products and trying to connect that to a foundation which is giving out money. That caused the committee members some concern and eventually we came to the conclusion that as soon as possible this legislation should be dissected into two separate Bills.

That would probably happen when there is a review of the legislation in three years' time. Concern was expressed by the different parties about certain aspects of the Bill and I am pleased to advise the Committee that only one clause was not agreed to unanimously by the Legislation Committee. The Legislation Committee did its job well in dealing with a Bill as controversial as this to disagree on only one clause. The National Party is pleased that the country people will be looked after by this legislation. A representative from the country local authorities will be on the foundation. As a result of this legislation we have seen some very colourful advertisements in the Press in recent weeks. As Hon Derrick Tomlinson said the Legislation Committee did not have concrete evidence to prove that people were attracted to smoking by cigarette advertisements. It is a very difficult thing to prove and one would have to isolate a group of people to find out whether advertising did attract them to smoking.

The National Party is very pleased that this legislation has reached this stage.

Hon PETER FOSS: As a member of the Legislation Committee I would like to make a comment about the report. The committee does not think it is its best report, but that is due to a number of factors. Everything that could have gone wrong with this report's being drafted, did go wrong. We had staff, typing, drafting and other problems and it shows up in that the committee did not include all the evidence it wanted to in the report.

The Legislation Committee heard a considerable amount of evidence and its experience indicates that it will not hear that sort of evidence in the future. It will make sure that people understand more clearly what is the committee's role. Many people thought it was the committee's role to decide whether cigarette smoking should be banned. Of course, that was not the committee's role. The committee was bound by the policy of the Bill as is set out in clause 1.1 of the report and it could not change that. The only reason the committee looked into the question of cigarette smoking being banned was that it felt that unless it understood the reasons for the ban it could hardly determine whether the particular clause of the Bill achieved those reasons. Assuming the committee was going to ban cigarette smoking it had

to consider what was the best way to do it – how wide or narrow it should be; what was the role of exemptions; and what was the reason for the legislation.

The committee had presented to it a fairly large amount of emotive evidence. It is clear that in future it will not be much good the committee's hearing emotive evidence. That is not its role except to the extent that it is relevant to the point being considered. For instance, in the racial hatred Bill it was relevant to hear emotive evidence because we were dealing with the effect of racial hatred on people's emotions. However, how one feels about the banning of cigarette advertising is of no relevance at all. The committee was addressing its attention to the reason for banning cigarette advertising and the degree to which that ban should go.

I wish to clarify a matter which seems to have been misunderstood; that is, the committee found no evidence of the direct effect of taking up smoking as a result of the advertising of tobacco products. Clause 6.1 of the committee's report states that there was little objective evidence to indicate that there was a direct relationship between advertising and the taking up of smoking. It is clear that if a person who is not a smoker opens a newspaper and sees a tobacco advertisement he will not take up smoking. Nor do we think that it is the constant viewing of those advertisements which causes people to take up smoking. The committee, in clause 6.7, said it had no doubt that cigarette smoking can prosper in the absence of advertising and decline in the presence of advertising. It is not the advertising per se and directly which causes people to take up smoking. The committee believes that matters such as role models and peer pressure are what cause people to take up smoking.

The reason that tobacco advertising is relevant is to the extent that it can influence people's idea of what it is to be adult. It is not a direct relationship, but there may very well be an indirect relationship. It is not a matter of people looking at cigarette advertising and it is not even the concerted effort of regular cigarette advertisements which causes people to take up smoking. The Legislation Committee believes it can be one of the things which changes a person's mental image of what being an adult is which may lead to people taking up smoking. It is one of the things which can be put into the general line of effects which cause people to have that image – there are many other things such as films and other people. Members are aware of the influences in everyday life which affect what they do by way of peer pressure and by following a role model. The committee does not deny that it can be a factor in framing that image and that that image can be a factor in the taking up of smoking. However, it could not find a direct link between smoking advertising and the taking up of smoking. It is an area which, in view of the confusion which seems to have arisen, we could emphasise a little more.

Another thing which was most interesting was the contest we found on the financial side. It is probably one of the reasons we felt that the Bill should be split in two. We had some delightfully inconsistent arguments put to us and they were almost impossible to reconcile. Those arguments were about how the money should be carved up and on what basis it should be assigned. That was an area on which it was very useful to take public submissions, and they helped clarify it in our minds. Members will note from the Bill that this is the area where most of the amendments have been made, and that is because of the submissions we received. On the one hand, we had people saying that horse racing was an industry and not a sport; therefore, it should not receive its money from the allocation for sport. We had the horseracing industry agreeing that it was not a sport, but on the other hand saying, "We want our money and there is no–one on the council who will make sure that we get our allocation." It is interesting, when we put a honey pot down in the middle of the floor, to see the number of people who gather round it, all with different and competing claims.

The holding of public hearings is very useful when trying to get to the nub of how that distinction should be made. I hope we have done that, but I am sure it will not be to everyone's satisfaction because the figures that have been chosen – 15 per cent for this, and 30 per cent for that – are purely arbitrary, as is also the amount of money that will go into the foundation. So arbitrary slabs of money will go into it and arbitrary slabs of money will come out, and a few people on the board will have the right to decide where that money will go. I suspect it will be an interesting exercise to be on that board.

One of the matters that concerned us was whether it might be better to say, "Blow the problems with the political side of things. It may be simpler to give a Government department the job of handing out the money rather than giving that job to this foundation."

Hon Kay Hallahan: What a good idea!

Hon N.F. Moore: Would you agree with that?

Hon PETER FOSS: I must say that we had two reasons for thinking that. The first is that the more quangos one establishes, the more money seems to disappear into administering them. Ultimately, Governments should hand out money. I do not think money should be handed out by all sorts of other people. That was reflected in the concern that was expressed about the hypothecation of revenue and the setting up of a trust fund. The demands on the revenues of this State are extremely heavy compared with the amount of money that is being produced, and that situation will not get any better; it will get worse. It is very important that the moneys of the State be put into those areas where they will do the most good for the State. That is a decision that has to be made annually by Governments, and this form of hypothecation removes from Government that decision making process and sets it up in a way that may be completely random at the time that eventually it is used.

Hon MAX EVANS: I have found since this Bill has gone to the Legislation Committee that there have been many misunderstandings about the interpretation of the Victorian and the South Australian legislation and also about the interpretation of what has gone wrong and the influence that legislation may have on what will happen in this State, but most of that misunderstanding has now been sorted out.

As Hon Peter Foss said, we have the needy and the greedy. Those people who are concerned about the health of the community are firm in their convictions. A number of letters have been received from people in that category about cigarette smoking and its effect on health, and asking how quickly can they get their hands on the money. Two prominent medical friends of mine wrote letters asking how soon would they get the money. Only one or two arts organisations wrote letters. The letters were mainly from sporting organisations. It is a good idea to cut out culture from the Bill, otherwise conflict could have been caused later.

Hon Kay Hallahan: I do not agree.

Hon MAX EVANS: I was made responsible for the committee halfway through its deliberations. I commend it for its work. The members of the committee have not had an easy job. I know the Minister was quite outspoken; she did not want to go to the committee.

This legislation was not well drafted. The first part about tobacco smoking was well drafted because it had been around for a long time. However, the Health Promotion Foundation legislation was put together fairly quickly to try to take the best of the Victoria and South Australian Acts and to eliminate the worst of those Acts in order to get a better Act for Western Australia. In doing that, the Government could not decide what to do with the racing industry. It was decided in South Australia to leave the racing industry out of the Health Promotion Foundation's operations and to give it access to a special fund, but this Government did not seem to be prepared to do that and to make up elsewhere for the loss of sponsorship moneys. It seems only fair, if that industry will lose the benefits of tobacco sponsorship, to make restitution somewhere. As I understand it, one of the reasons this legislation did not go through previously was that those persons who would have lost tobacco sponsorship would not have had it made up from any other source and would just have lost the money. Victoria was the first State to have the great idea of increasing the tobacco tax and giving people a bit of money to entice them to agree to their legislation.

There was some reference in the second reading speech to horseracing not being of much interest to children, but there is nothing in the Bill to say that the horseracing industry will be represented on the board or the advisory committee. My concern was that it might be decided that horseracing would not come within the scope of the foundation; therefore, the 11 persons on that committee could say they did not believe they had to worry about horseracing, and horseracing would be prohibited from getting any tobacco sponsorship money because it was not an event of national or international significance. That would be a big financial impediment to the horseracing industry. That industry employs a large number of people, and many of them are not employable in any other industry. The committee has put right that situation, and has recognised horseracing, pacing, dogs, motor cars and motorcycles.

I am pleased that the Bill includes a reference to advisory committees. The people on those committees will provide a wealth of knowledge to enable the board to make better decisions. There will be advisory committees for the arts, sport and horseracing.

The Bill provides that there will be grants of money to compensate for the loss of tobacco sponsorship. There has been no amendment to state specifically that grants can be made for capital expenditure. However, the Minister made it clear in her response to the second reading debate that capital expenditure grants can be made by the foundation. We understand that South Australia is looking at the need to amend its legislation to make it clear that capital grants can be made. It will be within the wisdom of the foundation to do that. This could well be the case with health research, where people may prefer capital grants rather than revenue grants because many research people are at universities and hospitals and require large sums of money for capital expenditure. I believe that would be covered under the Acts Interpretation Act and that the members of the foundation could make capital expenditure grants for medical research purposes.

Last year an amount of revenue of $5 million was lost. I believe the organisations that will benefit from this legislation will be more than happy that this year – and I have not checked the receipts and payments lately to see if the tobacco revenue is on target – it looks as though the Government will receive $11.4 million from tobacco licence fees, compared with an estimated amount last year of $9 million. So the Government has not done too badly; it will receive an additional $2.4 million in revenue than was considered likely at this time last year.

My concern now is for the foundation to be set up quickly so that it can get its act in place to properly administer these grants for sporting organisations, arts, youth, health and horseracing. The foundation has a very big task ahead of it. Its members will want all the wisdom of Solomon to carry out that task. I hope they will administer the money wisely because it will reflect on the foundation, the Government and the Parliament if it is not done in that way. If we go back some years when a huge amount of money was raised by the instant lottery fund, we started off with a high amount, and people's expectations were raised and they expected a bit more every year. My concern is that there will be lot of money in a short period of time but it will not grow at that rate in future years.

In fact, with all we are told with respect to cutting out cigarette advertising and sponsorship of sport and cultural activities, the sale of cigarettes will plummet and soon we will be back to a lost revenue of $140 million because the Quit campaign has been so successful that no-one will smoke and we will have a big loss of money. I do not know where we will find the money to support these bodies, but I am not worried about that because I think the Western Australian Health Promotion Foundation will be there for a long time.

I commend the Standing Committee on Legislation for the work it has done.

Hon Garry Kelly: We did 210 hours of committee person work on this Bill.

Hon MAX EVANS: I congratulated the committee and said the work it did was very good. I do not think the Legislative Assembly members realise the amount of work the Legislation Committee is doing. That committee has made a terrific impact on the whole parliamentary system of Western Australia. The Minister was very gracious in her commendations of the committee's work on the Heritage of Western Australia Bill. I do not expect her to be gracious about its work on this Bill, as she did not want the Bill in the first place, but I believe that committee has done a good job. Hon Joe Berinson has also commended the committee's work on other Bills.

Hon N.F. MOORE: Since I have been in this House there have been a number of occasions on which the Government has endeavoured to ban the advertising of tobacco products and the Bill has always been defeated in the past. This is the first occasion on which the Bill has passed the second reading stage.

The arguments that have been used in the past to oppose the abolition of the advertising of tobacco products are very well stated in the preliminary statement to the Legislation Committee's report. I would suggest that the committee's preliminary statement indicates quite clearly that the Bill should not have been passed through the second reading stage. The Bill has been brought in to ban the advertising of tobacco products because it has been suggested to us that the advertising of tobacco products leads to people smoking. Yet here we are told by the Legislation Committee, which took evidence from a wide range of sources, that –

> . . . the evidence of a direct causal relationship between advertising and the taking-up of smoking is, at best equivocal. . . .

> . . . advertising in isolation from all other factors shaping young people's lives has not been shown to be a primary cause in their decision to begin smoking.

These are the sorts of recommendations of the committee. I refer again to the report, this time to item 6.7, which reads in part –

> The Committee has no doubt that cigarette smoking can prosper in the absence of advertising and decline in the presence of advertising.

In my view, therefore, according to the report of the committee, the basic premise upon which the Bill has been introduced is flawed and that there is no need to ban the advertising of tobacco products if we want to prevent people smoking, because the committee is saying there is no relationship between the two.

I acknowledge, as does the committee, that smoking is a very serious health hazard and should not be promoted. The only way to stop people smoking is to ban smoking, not to ban the advertising of it. Since this report tells us that there is no direct relationship between advertising and people taking up smoking, I wonder why we need to bring in a Bill of this sort.

Hon Kay Hallahan: Exactly. It is a very odd determination.

Hon N.F. MOORE: The committee's conclusion is that, and I quote from the preliminary statement –

> . . . any decision to ban all forms of tobacco advertising, including sports sponsorship is purely a political decision.

It is not based on any factual evidence that suggests one should give it up for health reasons. It is being done for political reasons, and the chairman of the committee has his signature attached to that.

Hon Garry Kelly: I do, and I stand by it. You should read the whole report. If you do you will see that statement is qualified by what is said later on. You obviously have not read the whole report.

Hon N.F. MOORE: I have read the report.

Hon Garry Kelly: Not the whole lot.

Hon N.F. MOORE: Of course I have – I would not be standing here if I had not. The committee says things in different parts of the report and then writes them slightly differently somewhere else, then somewhere else it puts in a clause which qualifies that.

Hon Garry Kelly: That is not true.

Hon N.F. MOORE: People reading the report will read the preliminary statement and the recommendations, which is all that most people do read of reports; but the bottom line of this report, if one reads just pages 1 and 2, is that there is no direct relationship between the advertising of tobacco products and the taking up of smoking of tobacco products. As I mentioned earlier, the report also says that smoking can prosper in the absence of advertising, as happens in China, and it can decline in the presence of advertising, which I gather happens in the United States.

I have always been opposed to legislation to ban the advertising of tobacco products. I believe that if the product is legal to be sold it should be legal to be advertised. It is a basic principle I support. I was prepared to accept the second reading of this Bill in the expectation that the Legislation Committee would, after studying the Bill, come up with the sort of report that it has. In my view the report has, in a sense, vindicated the view I have expressed about this issue for many years, so my mind has not changed.

What we have now is a Bill which does two things: Firstly, it bans the advertising of tobacco products when it does not need to; secondly, it sets up the Western Australian Health Promotion Foundation, which will just be a slush fund for handing out money to various organisations that the Labor Party thinks need assistance prior to the next election.

Hon Garry Kelly: I think that is very unfair on those who constitute the foundation.

Hon N.F. MOORE: If that does not happen in Western Australia it will be the only State in which it does not happen, and if that is the case I will be the first to apologise if it is being

used properly. However, until that happens I must remain cynical. I have seen the way this Government has operated in the past, I have seen the way money is dished out by quangos, I have seen where it goes, and it invariably goes to places for political purposes.

In conclusion, I want to mention the part of the report that has to do with vending machines and the recommendation that they should be banned. It is quite ludicrous to have legislation in this House which bans vending machines in public places. It would have an enormously detrimental effect on a fairly big industry in this State. Enough people are going broke as it is without our passing legislation to say that all those people operating vending machines can no longer do so. Some of them will go out of business. When one considers all of the hotels, licensed clubs, sporting clubs and so on throughout this State which have cigarette vending machines it is quite obvious that to ban them in those public places would have a severe impact on a section of the economy which operates in that field.

Hon Mark Nevill: Does this enlightened logic apply to contraceptives?

Hon N.F. MOORE: The quality of the interjection does not match the quality of the speech.

I hope that during the Committee stage we will remove this decision the Legislation Committee has made to ban vending machines. It is quite ludicrous and would have a serious impact on the financial circumstances of quite a number of people in our community.

As a result of the report of the committee I am reaffirmed in my view that this legislation is unnecessary and I will be voting against it at the next stage of the Bill.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Hon Kay Hallahan (Minister for Planning).

[Continued below.]

SITTINGS OF THE HOUSE – EXTENDED AFTER 11.00 PM

Wednesday, 5 December

On motion by Hon Kay Hallahan (Deputy Leader of the House), resolved –

> That the House continue to sit beyond 11.00 pm in order to consider Order of the Day No 10, not to its conclusion, and Orders of the Day Nos 4, 11, 20 and 21 to their conclusion.

TOBACCO BILL

Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon Muriel Patterson) in the Chair; Hon Kay Hallahan (Minister for Planning) in charge of the Bill.

Clause 1: Short title –

Progress was reported after the clause had been partly considered.

Hon GARRY KELLY: I wish to take up some points raised by Hon Norman Moore in his comments on this Bill. As the Chairman of the Legislation Committee I take issue with the member about his statements on the extracts taken from the preliminary report of the committee. I am told that they were very selective quotes.

Hon N.F. Moore: I would have read the whole thing out, but I did not have time.

Hon GARRY KELLY: The member stated that I said that this is a political Bill. Every Bill which comes into this Chamber is political – we should not detract from that fact. Everything we do and every piece of legislation we consider is political.

The report states in paragraph two of the preliminary statement –

> The Committee acknowledges that the evidence of a direct causal relationship between advertising and the taking–up of smoking is, at best equivocal.

I do not deny that statement. The report also states that the advertising of tobacco products at various sporting and cultural events or whatever creates a climate of acceptance for the

product. It is very important not to take extracts from the report in isolation on which to hang a line of opposition to its arguments. The sentence which I have quoted is not very strong in that all it says is that the evidence is "at best equivocal"; it does not say that the committee denies the proposition in total.

It is safe to say that the advertising of cigarette products in an unbridled fashion leads to an acceptance of, and indulgence in, the products. That is not to say that individuals will rush out after a sponsored event to find the nearest deli and buy a packet of cigarettes and take up smoking – no–one suggests that at all. The trend of the evidence is quite clear: If society allows tobacco products to be advertised in an indiscriminate manner, it will lead to a general increase in the uptake of cigarette smoking by the general population.

Hon Reg Davies: We were saying the same thing about the homosexual legislation, were we not?

Hon GARRY KELLY: The member may have been, but nobody was listening.

The tobacco industry has a fairly sophisticated method of promoting its product, and adopts a sophisticated approach to combating the inroads that the antismoking lobby is making into the personal habits of the population. It goes without saying that if tobacco products had recently come onto the market, undoubtedly serious prohibitions would be enforced.

Hon Derrick Tomlinson: If they recently came onto the market, the deleterious effects would not be known for a some time; that is the time between taking up the habit and that of the ill–effects occurring.

Hon GARRY KELLY: Perhaps my positioning of the relative cause and effect relationship may be in error. If the use of tobacco was about to be contemplated by society, it would decline to legalise its general availability.

Hon Derrick Tomlinson: I think you should leave the conjecture and get back to the facts.

Hon GARRY KELLY: Maybe the member is right. The cost of smoking and the cost of tobacco related illness have to be addressed by society. The problem will not be solved overnight. I apologise for not being here earlier in the debate, but the suggestion that one of the options is to ban tobacco smoking completely is ludicrous. It is not an option. Tobacco smoking has been accepted by society for a long time. The committee's report states that tobacco smoking has been tolerated by society for a long time and to outlaw it overnight would create criminals overnight and would invite the same sort of reaction that occurred in the United States between 1919 and 1933 during the prohibition – on alcoholic beverages – in which otherwise law abiding citizens broke the law with gay abandon even though the law they broke was enshrined in the Constitution of the United States.

We cannot ban it; it is not socially possible and would be socially deleterious. The committee's report is a sensible, pragmatic and reasonable approach to a public health problem. It seeks to address a serious public health issue and I commend the measure to the House as a reasonable response to that problem. The Bill entails taking revenue from the product which is causing the social ill and using some of that revenue to educate people and to promote healthy activities in an effort to reduce the impact of the use of tobacco products in society and I recommend that the Committee adopt the recommendations contained in the report.

Clause put and passed.

Clauses 2 to 10 put and passed.

Clause 11: Vending machines –

Hon MAX EVANS: The Opposition will not proceed with its amendments to this clause.

Hon KAY HALLAHAN: The Government is delighted to see the good sense of the Bill restored.

Clause put and passed.

Clauses 12 to 41 put and passed.

Schedule put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon Kay Hallahan (Minister for Planning), and returned to the Assembly with amendments.

APPROPRIATION (GENERAL LOAN AND CAPITAL WORKS FUND) BILL

Second Reading

Debate resumed from 4 December.

HON MAX EVANS (North Metropolitan) [11.06 pm]: The Opposition supports this Bill. The purpose of this Bill is to appropriate funds from the General Loan and Capital Works Fund to finance items of capital expenditure. The capital expenditure program proposed for this year totals $1 387 788 000. Of that amount, $285 366 000 is to be appropriated by this Bill from the General Loan and Capital Works Fund. The proposed allocations of the $285 million are set out in the Bill including $32.737 million to the Department of Corrective Services, $55.04 million to the Ministry of Education, $42.786 million to the Health Department, $12.31 million to the Department of Land Administration, $13.63 million to the Police Department, $20 million to the Western Australian Government Railways Commission, and $35.115 million in loans to non-Government schools. The source of those funds is from Commonwealth general purpose capital grants totalling $22.4 million, Commonwealth specific purpose capital grants $39.7 million, the Western Australian Treasury Corporation $152.7 million, the State development fund $365 000, loan repayments $22.1 million and an amount brought forward from July last year totalling $48 million. It is anticipated that it will all be expended with no amount being carried forward. It is interesting that the $160 million brought forward last year from the previous year allowed for a capital expenditure last year under this category of $378 million against this year's figure of $285 million.

The Bill should be read in conjunction with the Supplement to the Capital Works Estimates which gives a very good summary of the capital expenditure of the Government during the year. However, due to the hour, I do not propose to elaborate on many of these items as I wished because there are a number of differences between the figures for last year and the figures for this year. One important factor is the proposed capital works expenditure for Homeswest of $191.8 million. This amount has increased each year mainly due to underexpenditure. It will be interesting to see whether the Government spends the amount it has budgeted in this financial year or carries the funds forward into the following year. The Government provides a good profile of increased capital expenditure but often it has not carried out that work by the end of the year. I understand how difficult it must be to spend that much money wisely in one year.

Rather than go through the normal process of a long debate on this Bill with members speaking for as long as they like on any subject, the Opposition indicates its support of the Bill at this stage.

Debate adjourned, on motion by Hon W.N. Stretch.

LOAN BILL

Second Reading

Debate resumed from 4 December.

HON MAX EVANS (North Metropolitan) [11.11 pm]: I support this Bill, which will authorise the borrowing of a sum of $175 million for public purposes. When I received this Bill consisting of one piece of paper I telephoned the Under Treasurer to ask what the funds were for. He said that the funds were not for specific items of expenditure at this stage. The Bill states in clause 3 that –

> It shall be lawful for the Governor, from time to time, to borrow sums of money, including borrowings from the Western Australian Treasury Corporation, not

exceeding in the aggregate the sum of one hundred and seventy five million dollars as may be required for public purposes.

Clause 4 states how sums borrowed will be applied as follows –

All sums authorized by this Act to be borrowed shall be paid to the Treasurer and shall be credited to the General Loan and Capital Works Fund.

Clause 5 relates to the principal, interest, and other expenses of borrowings payable out of the Consolidated Revenue Fund and states –

The principal moneys, interest and other expenses of borrowings under the authority of this Act shall be payable out of the Consolidated Revenue Fund which is appropriated accordingly.

The Opposition supports the Bill.

Question put and passed.

Bill read a second time.

Committee and Report

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

Third Reading

Bill read a third time, on motion by Hon J.M. Berinson (Leader of the House), and passed.

HOUSING AGREEMENT (COMMONWEALTH AND STATE) BILL

Second Reading

Debate resumed from 29 November.

HON REG DAVIES (North Metropolitan) [11.15 pm]: The Opposition supports the Housing Agreement (Commonwealth and State) Bill. Therefore, I do not intend to take up the time of the House in debating the intricacies of the Bill. The Bill seeks to ratify the Commonwealth–State Housing Agreement 1989. The enabling legislation has been passed by the Federal Parliament, and the Premier of Western Australia has already entered into an agreement. Therefore, the matter is predetermined.

However, this is important legislation in that it will have a significant effect on the future housing policy and finance in this State in the coming 10 years. The Commonwealth–State Housing Agreement covers a 10 year period. In the first four years of the agreement a guaranteed level of funding is promised. In recent years the Commonwealth has given a low priority to housing; for example, the level of funding for 1989–90 was set at $97.9 million. The agreement specifies that funding will be maintained in nominal terms for the first four years only. In the second reading speech the Parliamentary Secretary said –

An equal amount, at least, will be provided in each of the next three years –

The second reading speech also included forecasts for those three years. It appears to me from a quick calculation of the forecast figures that, after allowing for inflation, there will be a decline in real terms. The situation will then be reassessed after the first four years. This means the Minister must go begging to Canberra and, by negotiation and in a consultative process, reach agreement for funding on a triennial basis.

History has demonstrated that the Federal Government is not always absolutely true to its word. If members cast their minds back, they will recall the conditions attached to the $12 million grant for road funding earlier this year. It included various prescriptions on how the money was to be spent. This is a possibility against which the State should somehow try to protect itself. I also signal concern that much lower funding might be a reality after the initial four year period. I certainly subscribe to the objective of every Australian having access to secure, adequate and proper housing; of course, reflected by their capacity and ability to pay. If this Bill alleviates housing related problems by providing equitable delivery of assistance in this area, it is worthy of support. However, the Opposition has some concerns about the direction of housing in this State. It is of serious concern that the waiting list is growing longer and the funds for the various types of housing are running out. There

are people in appalling circumstances unable to be given what is known as priority consideration because there are no available options. I get many Homeswest complaints and it is very difficult to tell people that they must get in line for the next four or five years. The waiting list for Homeswest is around the 16 000 mark at the moment. That is just about double what it was in 1983. In seven years the rental waiting lists have doubled.

Many people in my electorate complain about the waiting time for maintenance. Those who are particularly concerned are the elderly and those who live on their own. They are particularly concerned because they want maintenance carried out, mainly for security reasons. To add to their burdens massive increases in Homeswest rents occurred in September this year. With the current economic crisis forcing many tenants below the poverty line, the timing of these increases was not opportune. Those who are unemployed and the elderly have been hardest hit by the increases. There are certainly some concerns at the direction housing in Western Australia is taking.

I said at the outset that the Opposition is prepared to support the Bill if it will assist to get people quickly into housing in Western Australia. We believe that the agreement between the Commonwealth and the States should be ratified. I signal our support for the Bill.

HON J.N. CALDWELL (Agricultural) [11.22 pm]: The purpose of the Housing Agreement (Commonwealth and State) Bill is to ratify the Commonwealth State Housing Agreement of 1989. The agreement has been formally approved by the Prime Minister and the Premier. Enabling legislation has been passed by the Federal Government and needs to be ratified by the Western Australian Government.

This Bill provides that grants will be provided for 10 years ending on 30 June 99. The agreement guarantees moneys for the first four years and after that the agreement will be negotiated triennially. That is one of the weaker points of this Bill because we do not know what we will get from the Commonwealth Government after that. There may be some catch up in the amounts given to this State by the Commonwealth; I hope so. This Bill will provide strict reporting conditions.

It is pleasing to see that we as an Opposition are working in unison because we have picked out the same points where finance is drying up in real terms. I worked out that about 2.5 per cent is being added to the Commonwealth's assistance to the State for the first two or three years. With inflation running at over seven per cent, we are missing out on five per cent each year. If that continues over 10 years, it will amount to quite a considerable sum of money. Not only that; this State will be hard hit trying to make up that shortfall. I wonder if the Parliamentary Secretary handling this Bill thinks the State will make up that shortfall.

In the second reading speech mention is made of assistance towards rental housing in mortgage and rent relief areas. There is also mention of crisis accommodation, local government and community housing, as well as other areas. In the coming year or two crisis housing will be hit. If a person runs out of work, or is put off, he will need a lot of assistance. More and more people will come into that category in the future, especially next year.

Another area I have come to deal with in the country is a lack of maintenance to State housing. I wonder whether any of this money will go towards the maintenance of housing. I may be asking difficult questions, but we may find the answers. The maintenance of State housing in my area is practically non-existent. All funds seems to have dried up, so the maintenance of houses has gone on holiday. This is very disappointing. Some of the places are weatherboard and have been painted, but they are now very dilapidated. Some have not been looked after for at least 10 years and no maintenance has been done on them at all. The inhabitants of those houses say, "We are paying $60–odd a week rent; why should we do the maintenance?" I guess that is fair enough. There should be some negotiations with these people who rent these homes; perhaps they could be paid to maintain them, especially if they are out of work. It would be a few dollars in their pockets.

The National Party is in agreement with this Bill. We only hope that it gives some benefit and improves or assists the housing situation in Western Australia.

HON JOHN HALDEN (South Metropolitan – Parliamentary Secretary) [11.25 pm]: I thank the Opposition for supporting this Bill. I understand that basically two questions were

asked of me. One was in regard to maintenance. It is my understanding that the moneys supplied by the Commonwealth–State Agreements are not to be used for maintenance; they are to be used for things such as the purchase of new accommodation, existing accommodation, or accommodation for the rental market. Those funds can be used in limited ways for purchase assistance in other ways in the market.

In regard to the five per cent reduction in funding, as was stated in the second reading speech by Hon Tom Stephens, the Federal Government proposal is to look for accountability and efficiency. The States are committed to try to find the shortfall. The Federal Government is looking to the State to be involved in innovative schemes for the maximisation of housing which involves schemes such as Keystart and private sector involvement through the banking and superannuation sectors. Although there are no details, from the lack of comments I do not think it will be very long before Homeswest will have to look at new arrangements for financing in conjunction with the private sector.

Both speakers for the Opposition expressed concerns about funding after the four year guarantee. It is difficult to know what we will get from the Federal Government after four years. I do not know that agreements with the Federal Government last much longer than three or four years, and this is a fairly reasonable one with the dollar value written down for a four year period. There is also a mechanism to establish negotiations for the amount of money to be paid after that period of time. To be honest and realistic, that is probably the best we can hope for from any Federal Government of any political persuasion currently. It is a fair option. It has caused some problems with the Government accommodating the requirements which have been put forward, but the Government has entered into the agreement and the community has accepted the sorts of decisions and relocations of the burden of paying rent in the rental market owned by Homeswest.

I commend the Bill to the House and thank members for their support.

Question put and passed.

Bill read a second time.

Committee and Report

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

Third Reading

Bill read a third time, on motion by Hon John Halden (Parliamentary Secretary), and passed.

RETAIL TRADING HOURS AMENDMENT BILL

Second Reading

Debate resumed from 4 December.

HON GEORGE CASH (North Metropolitan – Leader of the Opposition) [11.30 pm]: This Bill amends the Retail Trading Hours Act. The second reading speech states that the purposes of the Bill are generally to expand the trading opportunities for small businesses; to bring service station hours more into line with general retail activity; to provide opportunities for more flexible but not extended general shop hours; to enhance retailer protection during tenancy negotiations; and to expand community representation on the advisory committee that had been constituted under the original Bill.

Members who have taken an interest in the Retail Trading Hours Act, which came into effect during 1988, will be aware that a retail shops advisory committee was established and that as part of the original Act the committee was directed to conduct a comprehensive review of the operations and administration of the Act when it came into effect on 1 September 1988. The committee duly conducted that review and reported. Many of the recommendations of the committee were put into effect by way of administrative change.

The Bill before the House tonight generally concentrates on proposed changes to the fuel trading hours. The proposal that service stations be required to open on Saturday afternoons between the hours of 1.00 pm and 6.00 pm has caused some discussion within the community. It is interesting that the various surveys I have seen appear to have been very

biased in their presentation. They have been presented in such a way as to gain the desired result. Placing those surveys to one side, the community in general – by its own admission – is well served by the current service station hours.

At the moment service stations are open 61 hours a week. The Bill will expand those hours to include Saturday afternoon trading. It has been stated that this legislation is a precursor to complete deregulation of hours for service stations. Members would not be surprised to find that many of the service stations in the metropolitan area have through the Motor Trades Association made representation to the Government to ensure that the Government fully understands the problems that would be caused should the Bill in its present form be agreed to by this House. I refer particularly to the extension of the trading hours.

I have received correspondence from the Motor Trade Association, particularly from its Executive Director, Graham Short, who has diligently represented service station operators within the metropolitan area. Of the 527 operators in the metropolitan area about 75 per cent belong to the Motor Trade Association; therefore it is fair to say that when the MTA speaks on the subject of extended trading hours it speaks with considerable authority and force on behalf of its many dealer clients. From the correspondence I have received from the association it is clear that service station operators do not believe there is any need to increase their operating hours. Indeed, representations from members of the community – that is, the consumers – indicate that they are presently well served by the existing 61 hours available under normal trading times of service stations, and by the additional hours provided by the roster service system under which many service stations are placed on roster each night. Indeed, the community is well served by the additional hours available between 10.00 pm and 7.00 am in the metropolitan area.

I wish to comment generally on the effect of this legislation on service station operators –

Hon John Halden: Was that correspondence from the Motor Trade Association?

Hon GEORGE CASH: Yes. I am happy to furnish the member a copy. The MTA has made strong representations to the Minister, Mrs Henderson, on this matter over a long time.

Members will be well aware that the comments I make are based on facts. I refer again to those 75 per cent of service stations in the metropolitan area that are members of the Motor Trade Association and many other service station proprietors who support the actions of the MTA in respect of extended trading hours.

Hon John Halden: Can you tell me the date of that letter?

Hon GEORGE CASH: I will quote from a number of letters and I will provide members with copies if they wish. I will quote from a Press release headed "New trading hours planned will result in closures", and without reading the whole document it expresses the view of the MTA and service proprietors in the metropolitan area that the proposal as put forward by the Government will be the last straw which will inevitably result in the closure of a number of service station sites throughout Western Australia. The Government claims that it is trying to provide a better service for consumers by extending the hours that service stations should be open. It is suggested by the MTA and service station operators that I have spoken to that the reverse is likely to occur. If this Parliament were to agree to extended trading hours, more than likely a considerably number of service stations would be forced to close owing to the current economic situation. I will show that it will cost the average service station operator in the metropolitan area approximately $200 in expenses to open for that additional five hour period on Saturday afternoon; that is, from 1.00 pm to 6.00 pm. Only a certain number of litres of fuel is sold in any one week and the additional number of hours that service stations will be required to remain open on Saturday afternoon will not generate any greater sales than currently exist.

Pressure for service stations to open for the additional hours on Saturday afternoon is not coming from the operators themselves or from consumer demands; it is coming from those multinational companies which are the suppliers of the fuel to the service stations. Of course, there is no great expense to the fuel companies in requiring their service station operators to open the additional hours. It is very much a competitive situation between the major multinational oil companies, and it is not designed to help the service station proprietors.

In getting a better understanding of how the service station industry operates, it is important

to recognise that service station operators must observe a maximum retail price and that the margin they derive from the sale of their product is set by the Minister. Based on the current maximum retail price of 82.9¢ a litre, the maximum retail margin is 6¢ a litre and that represents approximately 7.2 per cent on the gross price. Considering the retail price of 82.9¢ a litre and then taking out the 6¢ a litre that the retailer gets – and that is a theoretical maximum, and I will show later that they do not get anywhere near that in practice – the balance of funds is made up of a State Government fuel franchise levy of 5.7¢ a litre. Members will be aware that the levy has been increased very significantly in recent years. The other 71.2¢ a litre is distributed between the Federal Government and the oil companies for the part that they play in the production and distribution of fuel. For those that question what part the Federal Government plays, it does nothing; it just clings to the backs of producers in Australia, and like a leech it sucks the blood or the profit from those producers by way of taxation. It allegedly distributes that taxation throughout the community by way of its policies.

I said earlier that the service station operators can get a maximum profit of 6¢ a litre, because that is the current margin set by the Minister. In fact, if one looks at the operating accounts of various service stations it can be seen that the actual profit they are deriving is between 3.5¢ and 4.2¢ a litre. Some of the figures are conflicting and in some documentation that was provided to me by the Motor Trade Association it was said that the costs of distributing fuel could be as high as 3.5¢ to 4.2¢ a litre, and yet the service station operators to whom I have spoken have said that that is their gross profit. In some cases, where operators do not have a huge volume of throughput, their profit per litre is even less than that. If they are getting less than 3.5¢ a litre profit, and we work out the various costs associated with running their service station, many service station operators in Perth are running the fuel distribution side of their business at a loss. That is, the margins that are available to them do not cover their expenses and they have to rely on other areas within the business such as the retail shop or mechanical repairs to make up some of the losses that they incur in the distribution of fuel.

If this proposal to extend trading hours comes into effect there will be a significant increase in costs for service station operators. I have suggested that that additional cost will be in the order of $200 a week, or $10 000 per annum. I ask members to consider the impact that an additional burden of $10 000 would have on any business, let alone one that is already losing money in the distribution of fuel. At the moment there are those in the community who are claiming that by extending the trading hours of service stations there will be an opportunity to reduce the cost of fuel to the consumers. A comment to that effect appeared in this morning's paper. The source of that comment was one of the major oil companies in Australia and clearly it has a vested interest in selling that proposition. If they can cause the service station operators to open longer, their proposition is that the fuel will be cheaper and from that they may be able to generate some support for their proposal.

Again I argue that the proposition advanced by the oil companies cannot be sustained. It is nothing more than garbage, and an attempt to try to win over to the argument some unsuspecting consumers, the users of their product. Clearly an analysis of trading costs of service stations will show that if they are required to open the additional hours that this Bill provides it is more than likely that there will be a greater cost burden passed on to the consumer.

The consumer, in the end, will be the dead set loser; there is no way in the world he will be the winner. I am surprised that the Government is backing the multinational oil companies to the extent that it is clearly doing. The multinational oil companies have tremendous financial resources available to them. They are able to pay for the services of public relations consultants to fly around Australia to lobby members of Parliament and, indeed, Governments to try to get the way of the multinationals. From time to time this Government claims to be supporting the little person. I emphasise the word "claims" because if one compares what the Government says with what it does it is clear that it is not helping the little person. It is imposing tremendous cost burdens on small business operators. It is a surprise to me that the Government wants to back the huge multinationals and, indeed, disadvantage the consumers because that is what will happen if the House agrees to the increase in trading hours.

This legislation, because of the number of service stations involved, will impose an additional cost on the consumer. A significant number of service stations are currently

losing money on the fuel distribution side of their businesses and the proposed extension of trading hours will enable the oil companies to substantially rationalise the number of service station sites throughout the metropolitan area. The mere fact that we might lose 100, 150 or even 200 service station sites is of no consequence to the oil companies. As I stated before, the oil companies will sell the same number of litres they normally sell on a weekly or monthly basis regardless of how many service stations there are. It will not interest them one bit if 200 service station sites throughout Western Australia are forced to close over the next few years as a consequence of the rationalisation that would occur because of the introduction of extended trading hours.

The Minister said that service station operators will not be obliged to trade the additional hours as proposed under this Bill. It is fine for the Minister to make that claim. I recall that when we were debating retail trading hours generally a few years ago the Government was trying to sell the proposition that the additional hours were really optional and the trader could work out how long he wanted to open his business. It was stated at the time that the additional hours would not cause any great harm to a trader.

I refer members to the major shopping centres in the metropolitan area – Karrinyup, Carousel and Garden City. Members who have a knowledge of the retail industry know that if a tenant of one of those centres refused to open for the number of hours required by the managing agent or the owner he would be indicating to the managing agent or owner, firstly, that he did not want to extend his lease and, secondly, that he obviously did not want a very harmonious relationship with the managing agent or the owner. For those members who say that people cannot be intimidated to do certain things, I invite them to go through each of the major shopping centres which I have cited on a Saturday afternoon and take note of how many shops are open and how many are closed. I can guarantee now that every one of the shops will be open, because if they are not the message to the tenant would be that he should leave the keys on the counter the following Friday. Managing agents and owners are not interested in having tenants who do not open during the regular trading hours for shopping centres.

The same thing will happen with service stations operators if we force them into the additional trading hours. Whether service station operators lease their premises from private owners or oil companies, they are required to sign a franchise agreement. I will quote a section of a BP franchise agreement which deals with trading hours to demonstrate to members to what extent the oil companies will go in forcing their operators to toe the line. The agreement reads –

> Subject to the requirements of any law to the contrary, to keep the Outlet open to the public during the hours of the day set out in the Second Schedule. BP is entitled to vary those hours by written notice to the Franchisee and the hours set out in the Second Schedule will be deemed amended accordingly.

The long and the short of those few lines is that if a BP franchisee distributes BP fuel and has signed an agreement with that clause in it, BP has the right to write to him at any time to extend the hours of trading he is required to stay open as long as the hours are not contrary to any law.

I am prepared to acknowledge that the Government has decided to insert in this Bill a clause that would make void the section of the agreement which requires the franchisee to open for longer than the law permitted. This clause demonstrates the length that big oil companies will go to screw the service station operators. Members who are not aware of that have only to drive to any of the service stations in their area and ask the operator how he is getting on in this very tough economic climate. I can guarantee the answer will be that he is not making any money at all and that this legislation will send him down the drain.

I should also make the point that this Bill comes to the House contrary to a commitment to this House by the former Premier, Peter Dowding. When he was Minister for Consumer Affairs Hon Peter Dowding made the point, and in fact confirmed it in writing to the Motor Trade Association on 1 February 1989 – and he was Premier at that stage of the game – that any review of the Retail Trading Hours Act would not include an extension of service station trading hours. I am amazed that the Government can now look at all the correspondence which passed between various people at that stage and draw some other conclusions in respect of the agreements that were then given. My understanding was that there would be no change in service station trading hours until about 1993. It astounds me that the

Government can justify coming into this place with this Bill, although it is fair to say that many of the Bills which the Government brings into this place astound me! That is why the Opposition in the Legislative Council is fortunate at times to have the numbers to enable it to put right some of the clearly wrongful acts that the Government is trying to perpetrate.

Some people in the community would ask whether, if the Opposition is not prepared to agree to the extended trading hours for all service stations, would it be prepared to agree to some sort of extension to the current petrol roster system. I again rely on the advice of the Motor Trade Association of Western Australia, which tells me that at the moment at least 48 service stations are open on weekends on a roster basis, and that after 28 March, when the current roster schedule expires, the number of weekend roster stations is likely to increase to 60, and perhaps to more within the next 12 months. So clearly an adequate number of weekend roster stations are available but, more than that, the service station operators are keen to see additional weekend rosters become available. That suggests that any person who claims he has difficulty obtaining fuel on a weekend is not trying particularly hard because there are plenty of roster stations and there will be even more in the future.

This is the sort of Bill about which one could talk for a considerable time, especially if one refers to the disastrous financial plight of some service station operators due to the current economic conditions, but also because of the very substantial impositions placed on operators by oil companies. I do not intend to take that course of action tonight. It is now after 12.00 midnight –

Hon Murray Montgomery: It is now morning.

Hon GEORGE CASH: Yes; Thursday morning. There is no need for me to go into more detail. We have made the case that we do not believe there is a need at this stage for extended service station trading hours, although there is no doubt in my mind that in the future there will be a move towards greater deregulation of service station trading hours, and perhaps in the years to come we may even see 24 hour service station trading hours. However, that is something for the future.

One thing that this Parliament must take into account when it considers the legislation that is before it is the social and economic impact of that legislation. In the difficult economic times that even Hawke and Keating are now prepared to acknowledge we face, I put it to the House that now is not the time to extend service station trading hours. There is no need for it and, more than that, the service station operators have banded together through the Motor Trade Association and are keen to work with the Government to improve the availability of roster stations around the metropolitan area. I believe that will be adequate for the time being.

HON MURRAY MONTGOMERY (South West) [12.05 am]: This Bill is divided into two areas: First, the provision that an additional number of people will be able to work in owner–operated businesses; and, second, service station trading hours. The latter area has given rise to a great deal of debate within the community, and for that reason that is the area that everyone has concentrated on in this debate.

The cake is only so big. We cannot make the cake any bigger. We have to divide it up between the operators which provide petrol from retail outlets. Unless people start driving around in circles, we cannot make them buy any more fuel. People usually allocate a certain amount of their weekly budget to buy fuel for their motor vehicles, and that is it. It does not matter whether they buy that fuel on Monday or on Saturday morning; they will buy only so much. If we extend trading hours by five hours on a Saturday afternoon, people will still buy only so much fuel. Those people who are involved in the retailing of petrol will still have the same amount of income over a week, whether they trade the additional five hours on a Saturday afternoon or only up to 1.00 pm. The metropolitan area is well served with roster stations and has been for the last 30–odd years. If there is a reason for asking for additional outlets or for additional trading hours, I am sure additional outlets could be provided within the service station roster hours, outside the 61 hours normally traded by the retail outlets of fuel.

Geraldton provides a very good illustration. Outside the retail trading hours which are provided over a weekend, about 8 000 litres of fuel are traded. There are usually two roster stations in Geraldton, so that is the equivalent of 4 000 litres per station. Twenty five

stations in Geraldton retail fuel, and if they were each to try to grab a slice of that 8 000 litres, I am sure they would all go broke very quickly; at 6¢ a litre, that represents about $20 that each service station would get for the additional time to try to retail and grab the trade for that additional fuel. The roster system at least provides a viable proposition for those service stations which are on roster, rather than having 25 very unviable roster stations.

That illustrates just where retail trading hours seem to have gone somewhat astray. It is not really looking at whether we have fuel stations but whether the multinational fuel companies will be here tomorrow. Perhaps the Government should consider making sure of the divorcement of the fuel companies from the retail sector and that there are profitable margins in the retail trading of fuel. In doing all of that, because the Government will start to deregulate right across certain areas, perhaps it should even deregulate the labour market within the fuel retailing area. We seem to be talking about deregulation in many of these areas and that is something with which people must come to grips at some stage. Once deregulation occurs somewhere, we must look at deregulating elsewhere and I am sure that will create many other problems when someone tackles it.

This Bill which the Government is trying to have passed by this House would be best left alone. I do not say that in the future there might not be an appropriate time to deal with it but certainly in today's economic climate now is not the right time. Fuel retailers say there has been a decrease in the amount of fuel people are buying. If that is the case, if we try to deal with it now we will have small businesses going out of business and I am not sure the Government will receive a pat on the back for that. As well, those people who work in the fuel retailing industry will be put out of work, as will the small businessman himself. For those reasons we should acknowledge that now is not the right time to introduce this legislation.

HON JOHN HALDEN (South Metropolitan – Parliamentary Secretary) [12.12 am]: The debate on this Bill has concentrated on the issue of service station hours, but a number of other matters are dealt with in the Bill and I understand from private discussions that there will be support for a number of those measures, including the increased trading opportunities for small businesses, the more flexible general shopping hours, the enhancement of retailer protection during tenancy negotiations and the expansion of the advisory committee, which will be further expanded by the amendments I propose to move during the Committee stage.

Firstly, I refer to the comments of Hon George Cash when he talked about the margin of 6¢ per litre. There is no doubt that there has been a debate in regard to that margin but it is quite a healthy margin when one considers the margins in other States and Territories. For the purpose of the record I will read through them. In Sydney the margin is 6¢, in Melbourne it is 4¢, in Brisbane it is 5¢, in Adelaide it is 4¢, in Perth it is 6¢, in Hobart it is 8¢, in Canberra it is 5¢ and in Darwin it is 7¢. On that basis one could say that Perth retailers are actually doing quite well.

Hon George Cash: It is clear you are not in touch with reality. It is easy to quote those figures and then try to state that our metropolitan area is the equivalent of Melbourne and Sydney. It is not, and we operate in totally different circumstances, as I think you would agree.

Hon JOHN HALDEN: Yes.

Hon George Cash: But, more than that, clearly you are not buying your petrol at many local service stations.

Hon JOHN HALDEN: I do not know where I would buy it if I did not.

The PRESIDENT: Order!

Hon JOHN HALDEN: Hon George Cash fails to mention one important point about the difference between the distribution market in Western Australia and those in other States; that is, the number of outlets in a number of States has greatly reduced, as I understand it, and therein lies the opportunity for the profit margin. It is not a situation that can be overlooked, nor glossed over. The number of outlets is a very difficult issue for any industry to confront but I am sure all of us are aware of other industries where issues such as profitability and long term survival have been raised and where decisions have had to be made. Sooner or later this industry will face those decisions, as have other industries.

Hon George Cash: Are you predicating the rationalisation of a number of sites?

Hon JOHN HALDEN: It is inevitable and I do not think anyone would argue about that.

Hon George Cash: Do you agree that the Bill would lead towards that and cause it to occur?

Hon JOHN HALDEN: I will come to that.

Hon Murray Montgomery: Would you not agree that divorcement would be the first opportunity to do that?

Hon JOHN HALDEN: It could be.

Hon Murray Montgomery: Therefore you are tackling it at the wrong end.

Hon JOHN HALDEN: I will make the speech, then members can ask questions.

The DEPUTY PRESIDENT (Hon Garry Kelly): Order! Questions can be asked during the Committee stage, not now.

Hon JOHN HALDEN: Hon George Cash repeatedly referred to the issue of service stations being required to stay open. He then referred to a letter which had most definitely an element of coercion in it. Then, in a passing sense, he referred to the Bill and said that, of course, in the Bill these sorts of actions would be prohibited. It is very important that we do not just pass over that matter. Hon George Cash highlights an issue of concern and it is addressed in this Bill in an appropriate way, in a way that it has not been addressed before, and in a way that it needs to be addressed now.

The Government's intention in that area is very strong and clear, and it is again a statement of the Government's good intent with regard to protecting service stations, to use the words of the Leader of the Opposition, from the bully-boy multinationals. I am sure the Leader of the Opposition also referred to past Premier Dowding's giving a commitment. In fact that commitment was given in regard to the review in 1989 and in that review there was no increase or review of petrol trading hours. That situation has now altered. Obviously this is 1990 and this is a subsequent review, and that commitment has been superseded by the passage of time.

Hon George Cash: There is a fair bit of ambiguity in that, and you rely on a particular bias. I understand why, but the industry happens to believe it was given good faith advice that there would not be a review. Clearly things have changed.

Hon JOHN HALDEN: I understand Hon George Cash's point but I must put it to him that with my bias or bent I understand the situation to be as I described it to the House. There may well be confusion but on a closer examination of the matter by all parties involved my interpretation may well prove to be the one that is more accurate.

The issue raised by Hon Murray Montgomery in regard to Geraldton's 25 service stations leads me to think that perhaps it is an automatic argument for rationalisation when a town the size of Geraldton has 25 service stations. However, I want to address the issue of the roster system and what options those 25 service station proprietors would have. Under this Bill they have the option of applying to the local government authority, which can apply to the department, and I presume the Minister, for exemption from the extended trading hours and go back to the roster system.

Hon Murray Montgomery: What I was trying to say is the cake is so big you cannot make it any bigger.

Hon JOHN HALDEN: I understand the point. The member's concern is accommodated by the legislation.

Hon Murray Montgomery: The Parliamentary Secretary has missed the point. I said that the cake was so big that it is easier to use a small group to illustrate the point, rather than a group in Perth containing so many dealers.

Hon JOHN HALDEN: That probably comes back to the other issues I have discussed. Perhaps we can discuss the point further at the Committee stage.

The issues that remain and require serious consideration are those of margins, divorcement, wages and franchise. On the issue of margins, I am able to give the House a guarantee that the Minister will set up an independent review consisting of three members, one representing

industry, one the consumers and an independent chairperson to address the margins appropriate and existing within retail service stations.

Hon George Cash: When will that committee be set up and when is it expected that it will report?

Hon JOHN HALDEN: I understand that it will be set up as soon as practicable. As to when it will report, we will negotiate at the Committee stage.

The issue of divorcement was raised by Hon Murray Montgomery. The difficulty when people ask the State Government about divorcement is that divorcement is not something for which the State Government is legally responsible. The matter is covered in the Federal Petroleum Retail Marketing Franchise Agreement Act. Again, I have an undertaking from the Minister that if the Bill is passed she will make a submission as soon as practicable to the Federal Government to have the matter reviewed. I stress that there is nothing more at State level that we can do other than make such a submission with honesty and integrity. The Minister gives that commitment.

The third issue is wages. The commitment is that the Government will instruct the retail industry to negotiate directly with unions; and that the Government should have no part in such negotiations. Should agreement be reached, the parties should take the matter to the Industrial Relations Commission for ratification. The Government seeks to play no part in that process.

Turning to franchise, I have copies of correspondence sent to the Minister today by BP Oil and The Shell Company of Australia Limited. Before discussing that correspondence, I emphasise that the House should consider those commitments seriously, and the impact they will have on the industry. The correspondence contain commitments regarding pro rata payments for unexpired leases, the buy back of petroleum products; the oil companies will pay for advice and assistance for proprietors who have decided to leave the retail petrol industry. The extent of such assistance is detailed in the correspondence.

[The material in appendix B was incorporated by leave of the House.]

[See p No 8497.]

Hon JOHN HALDEN: It is important to emphasise the central theme of the correspondence; that is, that the industry – represented by those two companies – have supplied written commitments to support people leaving the industry. One letter details the pro rata payments of unexpired leases, the buy back of petroleum products and assistance in specific areas for people leaving the industry.

If the real concerns of this House are the issues of rationalisation or divorcement, and margins, I am offering to the industry guarantees and an option to be taken up as quickly as possible. The difficulty with legislation of this kind is trying to find a balance. It will never be easy for any Government to find a balance between the industry, the consumers, and the selling body. That interplay must be regulated in some way by Government; that has been the history of this industry whether people believe in deregulation or not. Changes are about to be made to the regulations in a sensitive and reasonable way. Many issues and concerns have been raised both in this place and the community. They too have been addressed in an appropriate way. The special points raised by members opposite have been answered so members should consider carefully how they vote both at this stage and at the Committee stage.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

Committee

The Deputy Chairman of Committees (Hon D.J. Wordsworth) in the Chair; Hon John Halden (Parliamentary Secretary) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Section 5 amended –

Hon GEORGE CASH: I oppose the clause. This is a critical clause because it gives the

Minister almost unlimited rights. It takes away from the Parliament the opportunity to have a say in respect of certain decisions because regulations will no longer be required. The clause will decide just what the Minister can and cannot do in considering the extension of trading hours. We have stated our opposition to the extension of trading hours at this stage, and I ask the Committee to support the deletion of this clause.

Hon JOHN HALDEN: I am advised that the powers regarding this matter already reside in the existing Act. Legal opinion has indicated that it is not an absolute power which applies to retail activity covered by the Act, and the proposed amendment would purely give the Minister a flexibility regarding the exemptions. I cannot see that Hon George Cash is doing any more than extending what is already in place – he is making a mountain out of a molehill. Legal opinion states that the power does not exist.

Hon GEORGE CASH: It does exist. I thank the Parliamentary Secretary for his comments, which clearly indicate that his advice is that the power already exists for everything contained in clause 5 to already be carried out by the Minister. That is a clear admission that clause 5 is not necessary, and supports the argument that I have put forward – although for different reasons – that the clause should be deleted.

Hon JOHN HALDEN: The point raised by Hon George Cash has been raised by a number of people and has been debated by a number of legal officers, and the reason for the amendment is to put the matter beyond any doubt. I have in my possession a letter from Gordon Grey, a legal officer, which is addressed to the Minister; it relates to the Retail Trading Hours Act and the relationship between section 5 and sections 14(2) and 14(3). It reads: "I have been requested to provide an opinion as to whether the Minister's exemption power as contained in section 5(1) of the Retail Trading Hours Act should be used to exempt the filling station from the exemption imposed by sections 14(2) and (3) of the Act. Having looked at the Act, I find no provision either in section 14 or elsewhere which restricts or otherwise limits the operations of the exemption of power with respect to any other section of the Act, including section 14. I understand that some concerns have arisen over whether or not exemption power contained in section 5 applies to sections 14(2) and (3), which concern has arisen out of the wording of section 14(a) of the Act. I do not believe that the restrictions to the Minister's powers to make orders under section 14(a), namely the requirement that there be a recommendation from the representative body which in any way restricts the application of the exemption power as contained in section 5, section 14(2) and (3). I trust that this opinion serves your purpose."

Clearly the intention of this amendment is to clarify existing powers to end this debate. It is appropriate that in a review matters such as this should be clarified.

Clause put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon D.J. Wordsworth): Before the tellers tell I give my vote with the Noes.

Division resulted as follows –

Ayes (12)

Hon J.M. Berinson	Hon B.L. Jones	Hon Doug Wenn
Hon Cheryl Davenport	Hon Garry Kelly	Hon Fred McKenzie
Hon Graham Edwards	Hon Mark Nevill	*(Teller)*
Hon John Halden	Hon Sam Piantadosi	
Hon Tom Helm	Hon Bob Thomas	

Noes (13)

Hon J.N. Caldwell	Hon P.H. Lockyer	Hon Derrick Tomlinson
Hon George Cash	Hon Murray Montgomery	Hon D.J. Wordsworth
Hon Reg Davies	Hon N.F. Moore	Hon W.N. Stretch
Hon Max Evans	Hon Muriel Patterson	*(Teller)*
Hon Peter Foss	Hon R.G. Pike	

Pairs

Hon T.G. Butler	Hon Barry House
Hon Tom Stephens	Hon Margaret McAleer
Hon Kay Hallahan	Hon P.G. Pendal
Hon J.M. Brown	Hon E.J. Charlton

Clause thus negatived.

Clauses 6 and 7 put and passed.

Clause 8: Section 12 amended –

Hon JOHN HALDEN: This clause allows the Minister to change the hours so that retail outlets can open. That discretion is in no way draconian or excessive. I give as an example a country town which wants to celebrate a festival or some particular occasion, and in doing so decides that it wants to close the retail outlet on Wednesday afternoon and have the traditional Thursday night opening, but transfer the hours lost from Wednesday to Friday night. It is not an excessive power; it simply allows an opportunity for particular locations to behave in certain ways and to seek the appropriate permission to do that. That is a fairly reasonable request and I cannot come to grips with why the Opposition feels as it does.

Clause put and negatived.

Clause 9: Section 13 amended –

Hon GEORGE CASH: I will be asking members to vote against this clause. Members who have the Bill in front of them will be able to see that the clause provides for service station or filling stations to open after 1.00 pm on Saturday afternoons. I repeat that the Opposition is opposed to the extension of trading hours and I ask members to vote against the clause.

Hon JOHN HALDEN: I direct my comments to Hon Murray Montgomery who specifically raised the issue of Geraldton. This Bill covers issues of concern to Geraldton and allows for retail outlets to go to their local government authority and to seek to have trading hours on Saturday afternoon. I cannot see how the member can now not support this clause.

Hon MURRAY MONTGOMERY: When I raised the issue of Geraldton it was as an illustration; I could have used any other town as a correlation between litres of fuel sold and the number of fuel outlets. We oppose the extension of Saturday afternoon trading hours and therefore this part of the Bill is superfluous.

Clause put and negatived.

Clause 10: Section 14 amended –

Hon GEORGE CASH: I will be asking members to vote against this clause, which deletes extended trading hours on Saturday. It also deals with an agreement, and I will cite a case about a BP franchise agreement, with an oil company which requires the operators to open in excess of 61 hours a week – that term in the covenant or contract would be null and void. As we have already stated we are not in favour of extended trading hours, so there is no need for this clause, be it null, void or otherwise.

Hon JOHN HALDEN: This is central to the issue of extended hours of Saturday trading in the service station industry. I tried to be logical, and address the matters raised in the second reading debate. There are safeguards and they have been read to the Chamber and members are aware of them. I find it difficult, having given those safeguards about the very issues that concern members, that they then say that they cannot support this matter. There is considerable public pressure for the extension of trading hours. It has been suggested by members opposite that there is not, but I have the Minister's file which contains volumes of correspondence in support of it. If we look at international and interstate experience the realities are that we will go down that road in this industry. We also see a number of other features in the industry, and we have spoken about them tonight, but that is in the longer term. I cannot see any reason to delay the day of inevitability concerning the extension of trading hours.

Hon MURRAY MONTGOMERY: I cannot let that statement go unchallenged. If we are to look at this clause and the extent of trading hours or the deregulation of trading hours, obviously we should start looking at deregulating the whole of the labour market.

Hon Max Evans: Hours and wages!

Hon MURRAY MONTGOMERY: That is what Mr Halden is asking for in the reverse situation; we cannot have one without the other. At this stage the Opposition is saying that it should be left untouched, but if the Government wants to put on pressure to deregulate the service station industry we will put pressure on it to deregulate the labour market.

Hon GEORGE CASH: I was pleased to hear Hon John Halden make his statement in respect of this clause because I have interpreted what he said to mean that the Bill is not really about extending trading hours per se on Saturday afternoon, it is about carrying out the wishes of the oil companies in instituting a rationalisation of service stations in the metropolitan area, but more than that, probably in the country as well. I advise members that I have a copy of a letter dated 5 December 1990 addressed to the Minister for Consumer Affairs which reads –

> Dear Minister,
>
> I confirm my earlier advice that it is Shell's policy, in the event that it becomes necessary to close one of our franchised and leased outlets to seek with the leasee dealer involved the best possible time to effect that closure in all the circumstances, and at the time of closure to –
>
> . refund to that dealer the balance of any franchise fees paid to Shell by that dealer,
>
> . repurchase all petroleum stocks, and to
>
> . provide at Shell's cost financial counselling with respect to that dealer's re–establishment in some other business venture if she or he so wishes.
>
> Yours Sincerely,
>
> F.J. Daly.
>
> Chairman's Representative, W.A.
>
> The Shell Company of Australia Limited

It is signed by the chairman's representative in WA. That is a classic case of Shell acknowledging that it sees substantial rationalisation in the industry. Using the word "rationalisation" is the nice way of saying that it will wipe out a couple of hundred service stations in the metropolitan area.

The other letter from which Hon John Halden quoted and which is to be incorporated in *Hansard* is from the Australian Institute of Petroleum. The first paragraph states that the objective of the letter is to enable the proper management of the transition to deregulation with optimum outcome for all concerned. At the moment, the optimum outcome that would be achieved were we to agree with this Bill would be to the benefit of the oil companies and to the cost of the service station operators. The letter then goes through the details of a package of what will be offered to a service station operator if he ends up having to close because of the "rationalisation program", which is what this Bill is all about. Those letters clearly indicate what this Government is about. It is backing the oil companies against the service station operators.

I have stated to the House that we support the Government's move to set up a review committee to consider margins. I commend the Government for that and I thank it for its offer. I know the service station operators will be pleased to accept that offer as long as it commences and is completed in a very short time and does not go on forever.

I appreciate the comments by Hon John Halden on divorcement that while it is not a State matter the State is prepared to do something to precipitate action in that area. I think it is a very significant factor in the situation and it is important that it be dealt with. The other very important matter is the need to deregulate labour costs. We cannot do one without the other. We cannot mix oranges with apples and pears and onions; it must be a package deal. I believe the industry will accept some changes if it is properly consulted in due course and if the changes form a total package. The industry will not accept the Government's ramming through a Bill in an attempt to tell these operators that they are to open on Saturday afternoon because the oil companies have knocked on the Government's door and told it of the benefits, and the Government has accepted it.

Hon JOHN HALDEN: Reference to "disguised rationalisation" by the Leader of the Opposition is taking it a long way too far. I am sure that members opposite know better than I that market forces are rationalising the industry anyway.

Hon George Cash: The market forces are controlled by a very small group of multinational companies which I am surprised you back so strongly.

Hon JOHN HALDEN: I do not back them strongly. I cannot allow to go unchallenged the suggestion that this is about rationalisation in the industry.

Hon George Cash: It is about rationalisation because Shell has said that it is prepared to give counselling to the people it sends broke.

Hon JOHN HALDEN: As a safety net, there are certain guarantees. It is appropriate, as that was the concern of members opposite, that the safety net should be put in place. I do not think it is fair to say also that this Bill has been rammed through; there has been a considerable period of consultation. Files that I have read go back to the beginning of this year. As it is now December, it is not fair to say that the Bill has been rammed through.

Hon George Cash: Look at a letter that I have from the Western Australian Council of Retail Associations dated 7 November in which it complains bitterly that that association was not asked to consider service station hours as part of the review in which it was asked to participate.

Hon JOHN HALDEN: I have been advised of the extent of the consultative process. There were five meetings with representatives of the Motor Trade Association, two meetings with the Australian Institute of Petroleum and one meeting with representatives of the Independent Fuel Retailers, and there has been correspondence with community and consumer groups, the industry, and with organisations representing motorists and the tourist industry. I therefore reject the assertions by Hon George Cash.

Hon George Cash: The WA Council of Retail Associations is one of the groups that is meant to be advising you and you won't even consult it. I know you have been dealing with the oil companies. We have established that.

Hon JOHN HALDEN: The Leader of the Opposition can make cheap points but it will not help the debate. There has been consultation. There is a demand to extend the hours and there is ongoing rationalisation within the industry. We know that and safety nets have been suggested. I move –

Page 7, line 26 – To delete "Where".

Hon GEORGE CASH: I ask the House to vote against the amendment as, on the defeat of Hon John Halden's amendment, I will seek to have the clause deleted in its entirety. That will clean up the matter.

Hon JOHN HALDEN: The amendment refers to the general provisions and it provides a safeguard for those service station operators who choose not to open during the extended trading hours period.

Amendment put and negatived.

Clause put and negatived.

Clause 11: Section 16 amended –

Hon JOHN HALDEN: I move –

Page 8, lines 5 and 6 – To delete ", other than a filling station,".

Hon GEORGE CASH: The Opposition supports the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 12: Section 17 amended –

Hon JOHN HALDEN: I move –

Page 8, line 10 – To delete "12" and substitute "15".

Page 8, line 13 – To delete "11" and substitute "14".

Page 8, after line 13 – To insert the following subparagraph to stand as subparagraph (ii) –

(ii) by deleting "one person" in subparagraph (i) and substituting the following –

"2 persons" ;

Page 8, line 26 – To delete "3" and substitute "4".

Page 8, line 29 – To delete "4" and substitute "5".

Hon GEORGE CASH: The Opposition supports the various amendments to clause 12. I ask the Parliamentary Secretary to explain the reason for the amendments and to outline the composition of the committee.

Hon JOHN HALDEN: The membership of the committee will be increased to 15 and will comprise one person who is a permanent head or an officer of the Public Service of the State, nominated by the permanent head, who shall be chairman of the committee; 14 persons shall be appointed by the Minister – two persons shall be appointed on the written nomination of the body known as the Western Australian Council of Retail Associations; one person each from the Western Australia Chamber of Commerce and Industry and the Retail Traders Association; four persons shall be appointed on the written nomination of the body known as the Shop Assistants and Allied Employees Association of Western Australia; five persons shall be persons who, in the opinion of the Minister, are representative of consumers; and one person shall be a person who, in the opinion of the Minister, represents the tourist industry.

Amendments put and passed.

Clause, as amended, put and passed.

Clause 13 put and passed.

Clause 14: General amendment –

Hon GEORGE CASH: Mr Deputy Chairman, will you confirm that sections 8, 9 and 10 of the table will no longer apply.

The DEPUTY CHAIRMAN (Hon D.J. Wordsworth): That is right.

Clause put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon John Halden (Parliamentary Secretary), and returned to the Assembly with amendments.

LOCAL GOVERNMENT AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 28 November.

HON P.H. LOCKYER (Mining and Pastoral) [1.08 am]: This is an important piece of legislation and no doubt members have been waiting with bated breath to hear what I have to say. They will be pleased to know that I have condensed my speech to 30 minutes.

From the outset I advise that the Opposition will support the second reading of the Bill only because it will be necessary at the Committee stage for it to move a number of amendments, some of which I have asked the Clerk to circulate; they will be available later today. The Opposition agrees to the proposals within the Bill referring to the holding of specified area rates in reserve funds; the functions and powers of the Local Government Auditors Board; and the recognition of the Western Australian Municipal Association.

The proposal that councils be required to conduct annual inspections of swimming pools and surrounding gates will need to be discussed at length in the Committee stage. The

Opposition does support the concept of inspections of swimming pools. The Bill amends the parent Act by requiring biennial inspections of swimming pools. The Opposition does not believe that that impost should be foisted on people and it is of the opinion that a four-yearly inspection would be much more practical.

It is proposed that the owners of pools should be required to return to the local government authority annually when they pay their rates an inspection form indicating that they have inspected the fencing surrounding the pool and the locking mechanism of the gate. Further, every four years an inspection shall be made of the pool, and spot inspections will be made from time to time. It is proposed that local councils shall inspect all pools by 1 July 1992. The Opposition is concerned that that may be too difficult, and bearing in mind the massive number of pools in the metropolitan area it will be an enormous task.

I understand that Hon Tom Stephens is in charge of the Bill and no doubt he will indicate how local authorities will be expected to carry out this massive task. The Bill provides that a charge equivalent to the estimated average cost of inspections planned for a given financial year may be levied on pool owners. The Opposition is concerned that no maximum or minimum amounts have been specified in the Bill. The penalty for failure to meet necessary safety standards will be increased to $5 000. That seems sufficient deterrent against people not properly fencing their pools. I shall be interested to hear from Hon Tom Stephens how that penalty of $5 000 was arrived at.

It was indicated in the second reading speech that it is not intended that farm dams be included in the provisions of this Bill. The agricultural industry was concerned that the provisions might apply to farm dams; I seek confirmation from the Parliamentary Secretary that farm dams are exempt.

A further amendment in the Bill has been introduced following a number of charges pertaining to postal votes which have been laid against successful and unsuccessful candidates in local government elections. As a former local government councillor and shire president, I am aware that for many years all councillors obtained applications for postal votes and sent as many as they could to electors in the hope that it would assist them to be elected. Such prominent figures as John K. Watts have already appeared before the courts to face charges relating to postal voting procedures, and it was unnecessary for that to happen. Reference is made to these charges in the second reading speech which states –

> As a result of these unfortunate events, a working group was convened at the Minister's request to conduct an urgent review of postal voting procedures with a view to identifying deficiencies and correcting them in readiness for the 1990-91 May elections.

I am happy to note that the Government does not propose to make it illegal for candidates to distribute applications for postal votes, but candidates will be required to ensure that electors are given a copy of prescribed voting instructions so that they are aware of their voting rights. The Bill will make it illegal for candidates to fill out forms on behalf of electors, but they may still give people application forms. Candidates who contravene these requirements will face one year's imprisonment or a fine of $1 000 and automatic disqualification if convicted of this offence.

Further amendments in the Bill will allow councils to retain in a reserve fund revenue raised from specific area rates beyond the year in which the rates are raised. That will overcome the problems faced by councils who can levy an additional rate on canal properties but who have been required in the past to spend the money in the year in which it is raised.

The Bill also provides for recognition to be given to the Western Australian Municipal Association, which is the peak organisation representing local authorities in this State. WAMA is recognised as an appropriate authority, and it objects strongly to the regulation introduced earlier tonight which the Opposition has moved to disallow.

Some amendments will be moved to this Bill at the Committee stage. With those few words, I indicate the Opposition's support for the second reading.

Debate adjourned, on motion by Hon Murray Montgomery.

ROYAL COMMISSIONS AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON J.M. BERINSON (North Metropolitan – Leader of the House) [1.17 am]: I move –

That the Bill be now read a second time.

This Bill seeks to amend the Royal Commissions Act 1968 to strengthen the powers of Royal Commissions to gather evidence and conduct inquiries. While the Government is mindful of civil liberties concerns, members will appreciate that for Royal Commissions to be able to produce comprehensive reports it is essential for the current legislation to be amended in the manner proposed.

The amendments are not confined to the Royal Commission which the Premier recently announced, but will apply to the conduct of all Royal Commissions.

The Bill has three principal aspects. Firstly, the Bill removes any privilege against self–incrimination. That is, it will remove the right to refuse to answer questions asked by the Royal Commissioner, or to refuse to produce books or documents required by the Commissioner, on the ground that they may incriminate the witness.

Secondly, any refusal to attend the Commission when summoned, or to answer questions or produce documents or books, or the publication of evidence given or documents produced to the Commission, when the Commissioner has directed that they should not be published, will be treated, under this Bill, as a contempt of the Supreme Court and dealt with by the Supreme Court accordingly. This replaces the present provisions whereby such offences would be prosecuted in a court of summary jurisdiction with a specified penalty.

There is no fixed penalty for contempt of the Supreme Court. The Bill therefore recognises the seriousness of failure to comply with, or breaches of, orders made by a Royal Commission.

Thirdly, the Bill provides that the commissioner will be able to conduct hearings in private at his or her own discretion. This is particularly with a view to avoiding prejudice to court actions or other inquiries. The only exception to this is that a witness's legal counsel is entitled to be present while that witness is actually giving evidence.

The remaining clauses of the Bill are consequential drafting amendments to implement those three principal aspects which I have outlined.

The Bill will come into operation on the day on which it receives assent. I commend the Bill to the House.

Debate adjourned, on motion by Hon Derrick Tomlinson.

BILLS (2) – ASSEMBLY'S MESSAGES

Messages from the Assembly received and read notifying that it had agreed to the amendments made by the Council to the following Bills –

1. Government Railways Amendment Bill
2. Pearling Bill

BILLS (2) – RETURNED

1. Child Support (Adoption of Laws) Bill

   Bill returned from the Assembly with amendments.

2. Family Court Amendment Bill

   Bill returned from the Assembly without amendment.

ADJOURNMENT OF THE HOUSE – SPECIAL

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

That the House at its rising adjourn until 10.30 am today, Thursday, 6 December.

House adjourned at 1.22 am (Thursday)

APPENDIX A

WESTERN AUSTRALIAN ELECTORAL COMMISSION

Rough Outline of Recount Scenarios

1. Under present legislation the following could happen if a non-participating candidate precedes a consenting candidate in a group.

   Using the example of South Metropolitan with Mr Phil Pendal being the vacating member and Ms Diane Airey a non-participating candidate.

Quota—30,790

Griffiths Member	Pendal Vacating	Airey Non Participating	Harste Consenting	Hardwick Consenting	
76037	525 Distribute vacating member	346	125	263	
76037 + pref. elected	—	346 + pref.	125 + pref.	263 + pref.	1st Count
Transfer surplus on		45000 approx. "elected"	"	"	3rd Count
Transfer surplus on			14700 approx below quota count would continue (greater than 20 counts) until a consenting candidate is elected—there is no guarantee that Harste will be elected.	"	5th Count

2. Under the Electoral Amendment Bill (No. 2) 1990 using the above assumptions as to the vacating member and non-participating candidate in your group, the following would be the outcome of a recount:

Griffiths Member	Pendal Vacating	Airey Non Participating	Harste Consenting	Hardwick Consenting	
76037	525 distribute vacating member	346	125	263	
76037 + pref. elected	—	346 + pref.	125 + pref.	263 + pref.	1st Count
Transfer surplus on		45000 approx. "elected"	"	"	3rd Count

At this stage this recount is terminated and a fresh recount commences with non-participating candidate considered as a vacating member:

Griffiths Member	Pendal Vacating	Airey Non Participating	Harste Consenting	Hardwick Consenting	
76037	525 Distribute vacating member and non-participating candidate (Airey)	346	125	263	
76037 + pref. elected	—	—	125 + pref.	263 + pref.	1st Count
Transfer surplus on			45000 approx votes greater than quota–elected	"	3rd Count

APPENDIX B

BP OIL

FACSIMILE MESSAGE

To:	Office of Minister for Consumer Affairs	Robyn Murphy
From:	Retail Branch – Perth WA	Austin Brown

Robyn

Please find attached assistance package proposed by the A.I.P. It is marked "Draft" because it was for discussion with the Minister, but it has already been approved by the AIP.

Certainly as far as BP is concerned we would be prepared to negotiate an enhanced package with individual dealers who approached us in an effort to quit their site. Other oil companies may be prepared to do the same, however you will appreciate that I am unable to make any commitment on their behalf.

If I can be of any further assistance, please call me.

Australian Institute
of Petroleum Ltd

Draft Copy

CONFIDENTIAL

Proposed "Deregulation Restructuring" Package
for WA Dealers – to take effect on the
Abolition (Prospective) of the Roster System

OBJECTIVE

To enable the proper management of the transition to deregulation with optimum outcome for all concerned.

ELIGIBILITY

Decline of 15 percent volume of motor fuels (petrol and distillate) sold in the six–month period following abolition of the roster system, compared with six times average monthly volume at the same time during the 12 months preceding abolition.

Applications must be lodged within three months of conclusion of agreed period.

DETAILS OF PACKAGE

A) For Franchisees and Branded Owner Dealers

1. All petroleum–related trading stock will be repurchased by the supplying company at the closure of the business.

2. The supplying company will, on an individual basis, meet the immediate actual real costs of terminating the business.

3. In–house counselling will be offered to each dealer to ensure that he has full understanding of the company's stance with respect to himself and/or his site.

4. The supplying company will arrange, at its own cost, external financial and other relevant counselling to assist the dealer to seek/identify new opportunities for business or employment, and to prepare for such opportunities. Counselling will include advice on taxation, small business management, marketing, and similar related matters.

B) Franchisees

1. a) The franchisor company will reimburse on a pro–rata basis any franchise fee the franchisee paid to that company in respect of the site eligible for assistance, such reimbursement to cover the unexpired part of the franchise period.

   or

   b) Where, in respect of a site eligible for assistance, the franchisee has paid a franchise fee to a third party, the reimbursement available from the franchisor company will not exceed an amount calculated as though the circumstances outlined in (a) had applied.

2. The franchisor company will, where feasible, transfer the franchisee to another more viable site under that company's brand.

C) Case Review

Each case will be reviewed by the supplying oil company, on an individual basis, involving senior marketing management as required.

DISPUTE RESOLUTION

OILCODE – The voluntary code of practice and administration rules for agreements in the petroleum industry – October, 1989 – will be available for resolution of any disputes between AIP member companies and their dealers in connection with this Deregulation Restructuring package.

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27 August 1990

The Shell Company of Australia Limited

Cloisters Square
200 St George's Terrace
P.O. Box M934
Perth 6001

5th December 1990.

The Minister for Consumer Affairs,
Parliament House,
PERTH.

Dear Minister,

I confirm my earlier advice that it is Shell's policy, in the event that it becomes necessary to close one of our franchised and leased outlets to seek with the leasee dealer involved the best possible time to effect that closure in all the circumstances, and at the time of closure to:

- refund to that dealer the balance of any franchise fees paid to Shell by that dealer,
- repurchase all petroleum stocks, and to
- provide at Shell's cost financial counselling with respect to that dealer's re-establishment in some other business venture if she or he so wishes.

Yours sincerely,

F.J. Daly.

Chairman's Representative, W.A.
The Shell Company of Australia Limited.

QUESTIONS ON NOTICE

KIMBERLEY REGIONAL PLAN – PUBLIC DOCUMENT

1146. Hon P.H. LOCKYER to the Minister for Police representing the Minister for North–West:

(1) Is the Kimberley regional plan a public document?

(2) If not, who presently has access to the plan?

(3) Is it possible for members of Parliament to be given access to the document?

(4) If not, why not?

Hon GRAHAM EDWARDS replied:

The Minister for North–West has provided the following reply –

(1) The Kimberley region planning study is being prepared for public release by the Department of Planning and Urban Development in conjunction with the Department of Regional Development and the North West.

(2) A draft copy was circulated to the four Kimberley local government authorities and members of the Kimberley regional development advisory committee. These agencies were part of the formal community consultative process used from the beginning of the study.

(3)–(4)

When the report is released for public comment in early 1991, copies will be made available to members of Parliament.

FIREARMS – LICENCES
Application Processing Time

1168. Hon P.G. PENDAL to the Minister for Police:

(1) Is it correct that it can take up to six months, or more, for the processing of an application to license a firearm?

(2) If so, why are such long periods of time involved in the processing?

(3) What is involved in the processing of such an application?

Hon GRAHAM EDWARDS replied:

(1) Yes. However, such a delay would be very unusual.

(2)–(3)

Processing of an application involves police being satisfied about matters personal to the applicant and matters relating to the firearm as required by the Firearms Act.

If the member has a specific concern and provides me with details, I would be happy to take up the matter with the commissioner.

WATER AUTHORITY OF WESTERN AUSTRALIA – WATERFORD FORESHORE MANAGEMENT PLAN
Open Wood Lined Drain Recommendation, Canning River – Wetlands Preservation

1173. Hon P.G. PENDAL to the Minister for Police representing the Minister for Water Resources:

I refer to the foreshore management plan for Waterford and ask –

(1) Is the Minister aware of the recommendation in the plan that an open wood lined drain be continued through Bodkin Park to the Canning River so that the freshwater flushing of the wetlands may be minimised, thus assisting in the area's preservation?

(2) Does the water authority intend to continue this open drain, as recommended in the plan, in an attempt to preserve the wetlands?

(3) If so, does the authority intend to liaise with the City of South Perth to implement the open wood lined drain, again as recommended in the plan?

(4) If so, when?

(5) Is the authority aware that any work on the open drain needs to be confined to the western side of the reserve as the eastern side is currently less disturbed, has higher conservation value than the western side and must therefore be treated with great care?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following reply –

(1) No. I am unaware of the foreshore management plan for Waterford.

(2) The Water Authority open drain which conveys flows from the urban area of Waterford to the Canning River has earth berms on either side which are of sufficient size to contain all but infrequent storm events. The flooding of the wetlands by the Canning River would occur more frequently than flooding from the Water Authority's drain.

(3) The Water Authority has not been approached by the City of South Perth to construct a timber lined open channel.

(4)–(5) Not applicable.

BANANAS – ECUADOR
Importation Opposition

1198. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Agriculture:

(1) What steps are being taken by the State Government to oppose the proposal to investigate the possibility of importing bananas from Equador?

(2) Will the Government advise the Australian Quarantine Information Service and the Federal Minister for Primary Production of the great fear in the industry with regard to the diseases Moko and Black Sigatoka?

(3) Can the banana industries in Kununurra and Carnarvon rely on the State Government's support for their opposition to the project?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following reply –

(1)–(3) The proposal to investigate the possibility of importing bananas from Equador is a preliminary one, taking the form of a discussion paper circulated to industry by the Australian Quarantine and Inspection Service (AQIS).

AQIS is seeking comments from industry on the technical aspects of this preliminary risk assessment. The Minister is very aware of growers' concern in this State regarding the proposal and will convey this concern to the Federal Minister.

POLICE DEPARTMENT – STUDENT DRIVER EDUCATION PROGRAMS

1208. Hon GEORGE CASH to the Minister for Police:

What student driver education programs are conducted by the Police Department?

Hon GRAHAM EDWARDS replied:

The Police Department conducts a student driver education program known as the Youth Driver Education Scheme. The objectives of this scheme are –

1. To develop the skills to overcome the behavioural problems of young people on roads.

2. To develop responsible attitudes towards safe driver behaviour.

3. To promote youth awareness of road safety concepts.

The Western Australian Police Youth Driver Education Scheme was first introduced in February 1988. Following widespread publicity of the scheme, a total of 73 high schools (including some in country regions) have expressed a desire to become involved in the scheme.

During 1990, of the 157 high schools throughout the State, 73 have been serviced by members of the community education section, community affairs branch and, of the remainder, a large number have indicated they are interested in participating in 1991. A total of 2 124 students are involved.

It is expected that this scheme will be further expanded following the establishment of the road trauma trust fund, which formed part of legislation that was approved recently by both Houses of Parliament.

POLICE OFFICERS – LEINSTER
Increase Consideration

1213. Hon P.H. LOCKYER to the Minister for Police:

(1) Is consideration being given to increase the strength of police officers at Leinster by one?

(2) If not, why not?

Hon GRAHAM EDWARDS replied:

(1)–(2)

Staffing requirements at Leinster and industrial developments within the subdivision are currently under review. The review will identify future policing needs in the area.

MANGOS – COMMERCIAL TREE PLANTING INQUIRY
Export Markets

1215. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Agriculture:

(1) Has any investigation been undertaken by the Department of Agriculture with regard to the number of mango trees planted for commercial purposes in both Western Australia and other parts of Australia?

(2) If so, do the projections show that there will be a large increase of production?

(3) What are the prospects of more export markets for WA mangos?

Hon GRAHAM EDWARDS replied:

The Minister for Agriculture has provided the following reply –

(1) Yes.

(2) Yes. Australian production will increase from 28 000 tonnes to 53 000 tonnes over the next five years.

(3) Western Australian mangoes are currently marketed successfully in South East Asia and an export development plan for that market is in place to ensure markets for this State's increase in production.

MARINE AND HARBOURS DEPARTMENT – REGIONAL OFFICES
Budget Allocation Expenditure

1234. Hon MURRAY MONTGOMERY to the Minister for Police representing the Minister for Transport:

(1) Have any regional offices of the Department of Marine and Harbours already spent, or almost spent, this year's Budget allocation?

(2) If yes, how will these regional offices operate during the remainder of the current financial year?

(3) Where will the necessary additional funding come from?

(4) What funds were allocated to each of the regional offices in this year's Budget and what were the actual amounts received from the Consolidated Revenue Fund by each of the regional offices in 1989–90?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response –

(1) No.

(2)–(3)
Not applicable.

(4) A schedule of revenue received at Marine and Harbours' regional offices for 1989–90 together with initial expenditure allocations for 1990–91 is being prepared for the honourable member's information.

SPORT AND RECREATION MINISTRY – RESTRUCTURE

1235. Hon MURRAY MONTGOMERY to the Minister for Police representing the Minister for Sport and Recreation:

(1) Has the Ministry of Sport and Recreation been restructured?

(2) If the answer is yes, what are the savings in FTE's that have been achieved?

(3) Have the levels of senior staff within the Ministry been upgraded?

(4) If yes to (3), which positions, by how much and at what cost?

Hon GRAHAM EDWARDS replied:

The Minister for Sport and Recreation has provided the following response –

(1)–(4)
A restructure of the Ministry of Sport and Recreation is currently being implemented. However, the answers to the member's questions would only provide a partial understanding of the restructuring process. I believe that it would be beneficial for the member to receive a comprehensive briefing on the restructure by myself and the executive director of the ministry. This would allow the answers to his questions to be placed in the context of the overall objectives and outcomes of the restructure.

I trust that he will advise me if he wishes to accept this invitation.

SEWAGE – POINT PERON SEWAGE OUTLET
Ocean Discharge Breakdown

1241. Hon P.G. PENDAL to the Minister for Police representing the Minister for Water Resources:

(1) Has any breakdown taken place in the Point Peron sewage outlet in the last two years to the extent where raw sewage has been discharged into the ocean?

(2) If so, will the Minister list the dates on which this has taken place?

(3) What has been the cause of the breakdowns?

(4) What has been the effect of the illegal discharges?

(5) What steps are being taken to ensure there is no repetition of the breakdown?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response –

(1) No.

(2)–(5)
Not applicable.

TAIWANESE BUSINESS PEOPLE – KUNUNURRA VISIT
Ord River Area Helicopter Inspection

1247. Hon P.H. LOCKYER to the Minister for Police representing the Minister for North-West:

(1) Is it correct that a recent visit of Taiwanese business people to Kununurra were taken on a helicopter inspection of the Ord River area?

(2) Who met the costs of the aircraft?

(3) How much was involved?

Hon GRAHAM EDWARDS replied:

The Minister for North-West has provided the following response –

(1) Yes.

(2) Taiwanese.

(3) Not applicable.

WATER AUTHORITY OF WESTERN AUSTRALIA – KUNUNURRA OFFICE
Air Charter Cost

1248. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Water Resources:

(1) What has been the cost of air charter incurred by the Kununurra office of the Water Authority of Western Australia since 1 January 1990?

(2) What was the cost in 1989 for the same office?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response –

(1) $92 822.07

(2) $92 357.40

POLICE – RECRUIT COURSE
Average Length

1258. Hon REG DAVIES to the Minister for Police:

What is the average length, in weeks, of a Western Australian police recruit course?

Hon GRAHAM EDWARDS replied:

Twenty two weeks. Also, police officers continue to receive ongoing in-service training throughout their careers on a formal and informal basis.

POLICE – RECRUIT COURSE
Next Commencement Date

1259. Hon REG DAVIES to the Minister for Police:

What is the commencement date for the next Western Australian police recruit course?

Hon GRAHAM EDWARDS replied:

17 June 1991.

POLICE – RECRUIT COURSE
Graduation Statistics

1261. Hon REG DAVIES to the Minister for Police:

Will the Minister advise what proportion of the 180 recruits from the current police course are expected to graduate?

Hon GRAHAM EDWARDS replied:

Ninety-nine per cent.

HARDING DAM – WATER QUANTITY

1262. Hon N.F. MOORE to the Minister for Police representing the Minister for Water Resources:

What is the current quantity of water in the Harding dam?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response –

(a) Current storage figure is 28 million cubic metres.

(b) Capacity of the dam is 63.8 million cubic metres.

ROADS – TOM PRICE–RIO TINTO GORGE
Sealed Road Construction

1263. Hon N.F. MOORE to the Minister for Police representing the Minister for Transport:

(1) Is a sealed road to be constructed from Tom Price to the Rio Tinto Gorge?

(2) If so, when?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response –

(1)–(2)
The Main Roads Department's Pilbara Road strategy identified the need for a road link between Tom Price and Rio Tinto Gorge. Initially this new link would be to a good standard gravel stage. The Government is yet to set a date for the project at this time.

FISHING – "MARIA LOUISE KAY"
Trawling Licence, Onslow Area

1264. Hon N.F. MOORE to the Minister for Police representing the Minister for Fisheries:

(1) Is it correct that a trawling licence is being granted to the *Maria Louise Kay* to operate in the Onslow area?

(2) If so, are there any restrictions on the licence?

Hon GRAHAM EDWARDS replied:

The Minister for Fisheries has provided the following response –

(1) The *Maria Louise K* is owned by a company which qualifies to have two boats operate in the Pilbara fish trawl fishery. The *Maria Louise K* will be permitted to fish in the Pilbara fish trawl area if the company decides to use it to operate on one of its licences giving access to the fishery.

(2) This will be a matter of further consideration once the company has finalised its decision on the vessel's use in the fishery.

SWAN BREWERY SITE – IMPASSE
Daily Cost

1265. Hon P.G. PENDAL to the Minister for Planning:

(1) What is the approximate daily cost to the State due to the impasse that has developed at the Swan Brewery site?

(2) For how long has this cost applied?

(3) For how long is the cost expected to apply?

Hon KAY HALLAHAN replied:

(1) The current average monthly holding cost for the Swan Brewery conservation project is $61 000.

(2)–(3)
The holding period commenced in April 1989 when Interstruct ceased work on site as a result of site bans imposed by the Construction, Mining and

Energy Workers Union. The bans are currently in effect, as is a Supreme Court injunction preventing work on site, issued in October 1989. The Government applied to the Supreme Court on 30 November 1990 for lifting of the injunction. A decision is expected shortly.

WATER TANK – CONCRETE WATER TANK, BOOTENAL
Lowest Tender Price

1266. Hon GEORGE CASH to the Minister for Police representing the Minister for Water Resources:

(1) What was the lowest tender price received when tenders were called in 1989 for the construction of a concrete water tank in Bootenal?

(2) Was this tender accepted?

(3) If not, why not?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response –

(1) Tenders were called for either a concrete or a steel tank, and the lowest conforming tender price was $1 320 000 for a steel tank.

(2) None of the tenders were accepted.

(3) The reason for not accepting any of the tenders was that the Water Authority had, at that time, a surplus of Perth based labour, and could not justify the borrowing of additional capital funds to advance new works in the metropolitan area purely to generate a requirement for the labour. Given the circumstances it was considered appropriate that the authority should maximise the use of available resources by completing the works as a day labour project. A number of subcontracts were let to private enterprise, relating to supply of materials and services.

WATER AUTHORITY OF WESTERN AUSTRALIA – CONCRETE WATER TANK, BOOTENAL
Construction Confirmation

1267. Hon GEORGE CASH to the Minister for Police representing the Minister for Water Resources:

(1) Will the Minister confirm that the Water Authority of Western Australia constructed and erected the concrete water tank at Bootenal after rejecting all tenders from the private sector because "the Authority had a surplus of Perth based labour"?

(2) How many Perth based WAWA employees were working in Geraldton on the project?

(3) Were the Perth WAWA employees and their families relocated in Geraldton for the duration of the project?

(4) If so, what was the cost of relocating these employees?

(5) Are the employees still located in Geraldton?

(6) If not, have they subsequently been relocated back to Perth and if so, at what cost?

(7) Does the quoted total project cost of $2.2 million include the relocation costs of the Perth based WAWA employees?

Hon GRAHAM EDWARDS replied:

The Minister for Water Resources has provided the following response –

(1) Yes.

(2) A construction gang of 11 men was employed continuously for the duration of the project with other trades and specialists such as

surveyors and welders working on site as required, and generally for short periods.

(3) The employees were located in Geraldton for the duration of the project, but not their families.

(4) Accommodation/travel costs $100 365.

(5) No.

(6) Yes. Costs included in answer to question (4).

(7) Yes. The $2.2 million is the total cost of the project and includes such items as earthworks, pipework control systems and other ancillaries including relocation costs.

PORTS AND HARBOURS – PORT HEDLAND HARBOUR
General Wharf Area Additions

1286. Hon P.H. LOCKYER to the Minister for Police representing the Minister for Transport:

(1) What additions are being made to the general wharf area of the Port Hedland Harbour?

(2) What benefits will these alterations bring?

(3) What is the cost involved?

Hon GRAHAM EDWARDS replied:

The Minister for Transport has provided the following response –

(1) No additions are currently being undertaken.

(2)–(3) Not applicable.

QUESTIONS WITHOUT NOTICE

GOVERNMENT BORROWINGS – OVERSEAS BORROWINGS SEPTEMBER 1990
Schedule of Lenders

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

I refer to recent reports of Government borrowings amounting to $1.015 billion from overseas sources during September 1990.

(1) Will the Minister provide a schedule setting out the lender or lenders of the various amounts borrowed during September, the interest rate, and the period of the loans?

(2) Will the Minister provide a schedule setting out similar particulars for funds borrowed from overseas sources during 1990?

Hon J.M. BERINSON replied:

I thank the Leader of the Opposition for some notice of this question. The Minister has provided the following response –

(1) The borrowings of $1.015 billion referred to in the question appear to be the borrowings of all States for September 1990 as reported by the Australian Bureau of Statistics.

I have attached schedules detailing all overseas borrowings undertaken by the Western Australian Treasury Corporation settled in September.

It will be seen that the corporation issued US$224 million of paper in September in the Euro commercial paper market. This involved a net increase of US$1 million in borrowings as the bulk of these issues replaced maturing debt. The second schedule comprises Australian

dollar Asian commercial paper where the corporation issued $143.5 million, a net increase of $90.4 million.

These issues are placed in the market by the dealer panel on each facility. The names of the dealers are shown on the schedules against issues they placed.

(2) I will forward information for the other months of 1990 as soon as possible.

[Leave granted for the schedules to be tabled.]

[See paper No 844.]

LEGISLATIVE COUNCIL – BUDGET AMENDMENT

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

(1) Has the Leader of the House considered the amended budget of the Legislative Council and made the request for further funds?

(2) Can he give the House any assurance of what may be received as a result of that request?

Hon J.M. BERINSON replied:

(1)–(2)

I have advised the Government of the request, but it has not yet been attended to. I have also asked the Clerk of the House to provide me with a breakdown of the figures which make up that request. I understand it is now available. I should receive it either today or tomorrow.

TREASURER – ANNUAL STATEMENTS
Tabling Delay

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

During the Estimates debate we discussed the fact that the Treasurer's Annual Statements had not been tabled. Is the Leader of the House aware that they have still not been tabled in the Parliament, and only one sitting day remains?

Hon J.M. BERINSON replied:

As the honourable member will appreciate, I represent the Treasurer in a representative capacity only. I am not aware of the position of the annual statements to which Mr Evans refers.

Hon Max Evans: They have not been lodged.

Hon J.M. BERINSON: I am not sure what the honourable member is asking should be done.

Hon Max Evans: I am asking if you are aware that they have not been lodged.

Hon J.M. BERINSON: I was not aware, but as the honourable member assures me that is the case I can only accept that it is the case. I am not in a position to comment on that as it is not part of my own ministerial responsibilities.

SWAN BREWERY SITE – HIGH COURT ACTION
Taxpayer Costs

911. Hon REG DAVIES to the Minister for Planning:

(1) What was the cost to the taxpayer of Western Australia of the Government's involvement in the High Court of Australia action in relation to the old Swan Brewery site?

(2) What were the expenses associated with the hiring of the 12 lawyers who represented the Western Australian Government in this case?

Hon KAY HALLAHAN replied:

(1)–(2)

I suggest the honourable member place those two questions on notice.

VIDEO TAPES CLASSIFICATION AND CONTROL AMENDMENT BILL – OTHER STATES AND TERRITORIES LEGISLATION

912. Hon REG DAVIES to the Minister for The Arts:

Will the Minister inform the House which States and Territories have passed legislation along the lines of the proposed Western Australian legislation, such as the Video Tapes Classification and Control Amendment Bill, to conform to the national requirements?

Hon KAY HALLAHAN replied:

My recollection is that some States have passed it, and in other places people are in the process of doing so, as we are here. I shall have that matter researched and let the honourable member know. I hope we will be in a position within the next 24 hours to achieve the legislation in this State.

HERITAGE LEGISLATION – COMPLETION CONSIDERATION

913. Hon J.N. CALDWELL to the Minister for Heritage:

Can the Minister inform the House whether she intends to complete the heritage legislation this session?

Hon KAY HALLAHAN replied:

I am happy to advise the member that there have been discussions. I am sorry that with his interest in this matter I have not had a chat with him, but we are hoping to deal with it before the dinner break tonight. If the member asks that question in an hour's time we may be able to say that it will be on its way to the lower House. The Bill will have to be reprinted overnight, and it will then be on its way to the Legislative Assembly. There is a spirit of goodwill which should allow it to advance to that stage.

COURTS – CLOSED CIRCUIT TELEVISION LEGISLATION

914. Hon REG DAVIES to the Attorney General:

In reply to a letter of 20 February this year to the member for Scarborough, the Attorney General said he released a statement on 20 January indicating that he would be introducing legislation in the autumn session of Parliament to permit closed circuit television to be used in Courts of Petty Session and in Supreme and District Courts. Now that the autumn session has concluded and the summer session is in its final stages, when does the Attorney General intend to introduce this important legislation?

Hon J.M. BERINSON replied:

The question has turned out to be less straightforward than I expected. It has become the subject of further consideration by the Law Reform Commission and also by the judges of the Supreme Court. I am expecting the outcome of those considerations reasonably soon, but given the past experience to which Hon Reg Davies has referred, I am not prepared to nominate a date for its introduction.

Hon Reg Davies: Next autumn session?

Hon J.M. BERINSON: I am prepared to accept that as a suggestion by Hon Reg Davies, but I am not going to put myself in the same position next year as I have apparently done this year. What I can say is that the matter is regarded as a serious issue, and funds have already been allocated for the provision of equipment when eventual decisions are made.

SMITH, MR ROBERT – TELEPHONE TAPPING TRIAL

Aslan Telephone Tapping – Government Payment, Police Inquiry

915. Hon P.G. PENDAL to the Minister for Police:

Is there any reason why, two weeks after my original questions on whether the Aslan phone taps were paid for by the Government, the Minister is not able to say whether the matter is under active investigation by the police?

Hon GRAHAM EDWARDS replied:

That question is currently on notice.

FINANCIAL INSTITUTIONS DUTY REGULATIONS – AMENDMENTS
Defence Service Home Loans

916. Hon REG DAVIES to the Leader of the House representing the Minister for Finance and Economic Development:

I understand that the Minister for Finance and Economic Development recently announced that he would amend the Western Australian financial institutions duty regulations to exempt FID payments by recipients of defence service home loans. Can the Minister indicate when the legislation will be introduced?

Hon J.M. BERINSON replied:

I have had no advance notice of the question, and I am not aware of the current position.

STAMP DUTY – TRANSFERS OF LAND Nos 228803 AND 229370

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

Some notice has been given of this question.

(1) What was the stamp duty paid on –

(a) Transfer of Land No 228803 registered on 9 April 1986;

(b) Transfer of Land No 229370 registered on 10 April 1986?

(2) If no stamp duty was paid on either transfer, will the Minister advise the reasons?

Hon J.M. BERINSON replied:

I thank the Leader of the Opposition for some advance notice of the question. I have been provided with the following response –

It would be prohibited by the secrecy provisions of the Stamp Act to disclose the information from State taxation records. However, the information was obtained by searching Titles Office records. Any member of the public would have been able to make such a search. The Minister mentions this because he would not want it thought that the information was supplied in contravention of the secrecy provisions of the Stamp Act.

(1) I am advised that the Titles Office search of the transfer forms indicates that stamp duty of $73 091.75 was paid in respect of each transfer.

(2) Not applicable.

AUSTRALIAN SECURITIES COMMISSION – ANNUAL RETURN FORMS
Errors – Late Lodgment Relief Consideration

918. Hon MAX EVANS to the Attorney General:

(1) Is he aware that the first major task undertaken in the name of the Australian Securities Commission by the Corporate Affairs Department was the issuing of forms relating to annual returns and this has been an absolute disaster. The information contains so many errors that it involves public accountants and other people in a lot of work correcting the errors created by the department on behalf of the ASC.

(2) Could the Attorney General consider whether relief may be given in the form of late lodgment of annual returns?

Hon J.M. BERINSON replied:

(1) No, I was not aware.

(2) I will bring Hon Max Evans' question to the attention of the Corporate Affairs Department with a view to determining whether action is necessary.

GUARDIANSHIP AND ADMINISTRATION BILL – PROCLAMATION DELAY

919. Hon GEORGE CASH to the Attorney General:

I refer to the Guardianship and Administration Bill which was read a third time in the Legislative Council on 23 August 1990 and assented to on 7 September. Can the Attorney General advise why the Bill has not been proclaimed and whether any problems are associated with such proclamation?

Hon J.M. BERINSON replied:

I should indicate, firstly, that the question of who is the responsible Minister for this legislation has been a matter of some discussion and is not yet finally determined. Nonetheless, preliminary administrative matters have been attended to by the Crown Law Department, as I understand it, and proclamation should not be long delayed.

GOVERNMENT DEPARTMENTS AND AGENCIES – ANNUAL ACCOUNTS
Lodgment Delays

920. Hon MAX EVANS to the Attorney General:

(1) During the Estimates debate we discussed the lodgment of accounts of statutory authorities and departments by due dates and a record of such lodgment. Is the Attorney aware that the Auditor General has now tabled a list of statutory authorities and departments for which accounts have been signed?

(2) Is he also aware that many accounts have not been lodged within the required three weeks?

(3) Can he take action with the Ministry of Premier and Cabinet to follow up these matters?

Hon J.M. BERINSON replied:

(1)–(3)

The questions should properly be put on notice as I am not in a position to respond directly.

ELECTORAL AMENDMENT BILL – ADJOURNMENT CONSIDERATION

921. Hon GEORGE CASH to the Leader of the House:

I need to ask this question because it seems to me that the Leader of the House is about to bring on other business, and I am unable to run around to speak to him. May I ask the Leader of the House if he would give consideration to adjourning the Electoral Amendment Bill that is presently the subject of debate in the House to a later stage of this day's sitting in order that the heritage legislation can be addressed before the dinner break?

Hon J.M. BERINSON replied:

I would be happy to comply with that request.