

Legislative Council

Tuesday, 8 December 1987

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

COMPANIES AND SECURITIES LEGISLATION

Commonwealth Control: Ministerial Statement

HON J.M. BERINSON (North Central Metropolitan -- Attorney General) [2.31 pm] -- by leave: In May of this year, the Federal Attorney General announced the Commonwealth's intention to take over exclusive control of companies and securities law. This would replace the cooperative Commonwealth-State arrangements which have been in place since 1981. I indicated at that time, and I again confirm, that the Western Australian Government is strongly opposed to this Commonwealth move.

The State remains committed, within a uniform national scheme, to maintaining a high level of local independence, flexibility, and initiative with ready access by all sections of the local business and professional community to policy decision makers. If the Commonwealth persists with its takeover, policy development and decision making on major matters will inevitably become centralised. This will increase costs and delay for Western Australian commerce, and adversely affect the development of local business initiatives.

The State remains concerned at continued reference by the Commonwealth to the support of the proposed takeover by "the business community". There is no such entity as "the" business community in this country and, so far as we can determine, support for the move, to the extent that it exists, comes from a narrow range of big business which sees its interests as best served by a centralisation of authority which is readily available to its head offices.

The State has always acknowledged that the Commonwealth-State cooperative scheme may well have some theoretical weaknesses. Whatever they may be, the fact remains that the system has been working well in practice. Indeed, the Senate Standing Committee on Constitutional and Legal Affairs reported in April 1987 that the present scheme "performs remarkably well". The Senate Committee identified as the main issues of concern to the Federal Government --

parliamentary accountability and ministerial responsibility to the Federal Parliament; and

the inability of the Federal Parliament to proceed with legislation contrary to the terms of the Commonwealth-State agreement.

The Western Australian Government believes that both of these issues can be accommodated by suitable modification of current arrangements. In particular, the State has made clear that it would support the Commonwealth holding permanent chairmanship of the Ministerial Council, with a right by the Commonwealth Attorney General to both a casting and deliberative vote. The only situation where Commonwealth amendments to legislation ought not to proceed is where there is opposition by, say, five of the seven State or Territory Governments. It should also be understood that, even now, there is nothing to prevent the recommendations of the council being reviewed by the Federal Parliament before formal legislation is introduced. In this way, the advice of the Federal Parliament could be available for the guidance of the Ministerial Council before its decisions on legislation are finalised.

As a result of the State's opposition, the Commonwealth Attorney General recently invited the Government to consider an alternative which would allow proprietary companies operating solely within one State to continue to be governed by the State's company and security laws and administrative arrangements. It would then be optional for such companies to bring themselves under Commonwealth legislation or remain under State control. I seek leave to table a copy of the Commonwealth's letter of 25 November 1987 to that effect.

(See paper No 565.)

Hon J.M. BERINSON: In the State's view the uniformity achieved through the cooperative scheme should not be replaced by such narrow considerations as the place of a company's activity. Accordingly, this proposal has been rejected.

The Commonwealth has also proposed that the Western Australian Corporate Affairs Department might continue on an agency basis for a transitional period. This part of the proposal raises the prospect of the State's retaining some company revenue but does not address the real point of our concern. The State Government has consistently made clear that revenue implications are the least part of our concern. Rather our opposition is based on a view, reflected with rare unanimity across the Western Australian professional and business community, that a takeover would operate to the serious detriment of the State in terms of our ability to encourage and attract development and investment.

I seek leave to table my letter of 4 December in reply to the Commonwealth, and a letter dated 17 September 1987 signed on behalf of the following organisations in support of the State's view --

Australian Stock Exchange (Perth) Ltd;
 The Law Society of Western Australia;
 The Institute of Directors in Australia, (Western Australian Branch);
 The Chamber of Mines of Western Australia (Inc);
 The Confederation of Western Australian Industry;
 Western Australian Chamber of Commerce and Industry (Inc);
 Institute of Chartered Accountants (Western Australian Branch);
 Trustee Companies Association of Australia (WA Council).

(See paper No 565.)

Hon J.M. BERINSON: I seek leave to have the three tabled letters incorporated in *Hansard*.

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

(See p 7402.)

On motion by Hon G.E. Masters (Leader of the Opposition), resolved --

That consideration of the ministerial statement be made an Order of the Day for the next day of sitting.

STANDING COMMITTEE ON GOVERNMENT AGENCIES

Report

HON MARK NEVILL (South East) [2.40 pm]: I am directed to present the seventeenth report of the Standing Committee on Government Agencies, entitled "Review of agencies: a statement of principle". As the title suggests, this report constitutes a statement of principle by the committee on the subject of the review of the operations of Government agencies and departments. The statement is important in that it indicates clearly the basis for the approach which the committee intends to take on this subject in the future. I do not intend to read out the entire statement. However, I draw members' attention to the essential elements, which are --

As a general principle, all Government agencies and departments should be subjected to periodic review;

the nature of the review will necessarily depend on the nature of the agencies or department involved;

some agencies and departments, particularly new ones, will be suitable subjects for review clauses coupled with termination provisions -- the so-called sunset clause; and

the most appropriate vehicle for conducting such reviews is a parliamentary committee.

The report supports steps taken by the Government to enhance the procedures for reviewing Government agencies but urges the Government to legislate for a system of periodic reviews by a parliamentary committee or committees.

I move --

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

Question put and passed.

(See paper No 564.)

CHARITABLE COLLECTIONS SELECT COMMITTEE

Leave to Sit

On motion by Hon B.L. Jones, resolved --

That pursuant to Standing Order No 350 the Select Committee appointed to inquire into Charitable Collections be empowered to adjourn from place to place, and may sit on those days over which the Council is adjourned.

STAMP AMENDMENT BILL (No 2)

Second Reading

Debate resumed from 1 December.

HON MAX EVANS (Metropolitan) [2.46 pm]: This legislation results from the Government's Budget measures announced recently in respect of three items affected by stamp duty. The first item was raised last year in this House and concerns a concession relating to the stamp duty payable on the transfer of the family home into the joint ownership of a married couple from either one of the spouses. We support this amendment to the Act, but I point out to the Minister that it is equally important that this exemption apply also to a transfer of land. Often one of the spouses has a block of land which was purchased prior to the marriage, and the couple may wish to go to a building society to borrow money against that land to build a house. If the husband, for example, wishes to transfer half of the interest in the land to his wife so that money can be borrowed in both names from a building society, under the current Act that can only be done when a house is built on that land, and stamp duty is still payable. I believe the Government should reconsider the legislation in this regard. There would be more cases of one spouse having a block of land on which the couple desired to build a house in joint names than one spouse coming to the marriage with a house in one name and wanting to transfer a half interest in that house to the other spouse.

The second exemption applies to rental businesses, with the threshold level for the rental income on which stamp duty is levied being increased from \$20 000 to \$50 000. This relates to commercial lease agreements, on which the stamp duty is one and three quarter per cent. The difference between \$20 000 and \$50 000 is about \$525 at one and three quarter per cent on \$30 000. I commend the Government for this move because it is cutting out a lot of the small returns which have to be completed by businesses. A lot of businesses transact small lease rental agreements for their own reasons, and a lot of extra paperwork is entailed.

The third exemption applies to residential leases, which currently attract stamp duty if the weekly rental is \$80 per week, or about \$4 000 a year. The exemption is now extended to apply to a weekly rental of \$125 per week, which is just over \$6 000 a year rental. We support this move by the Government because it reflects the impact of increased rentals upon the community, as the base figure has gone up by nearly 50 per cent. If the Residential Tenancies Bill is not handled properly, there could be an even greater impact on rentals. Rentals in this State have been very low for a long time, and a few years ago the figure of \$80 was an average amount paid for rent, but now \$125 to \$130 is the average amount. We support this amendment because it cuts out the requirement for people to have to take documents into the city to be stamped. The Minister said that this amendment to the Act will cost the State an estimated \$500 000 in forgone revenue. As the figures I have been given indicate, revenue from stamp duty has gone up by 60 per cent until the end of September, which has been due to the buoyant stock market, being the stamp duty payable on share transactions. I believe this revenue will level out in the next quarter. The Government is well ahead this year in its revenue raised from stamp duty, as it has been for the previous years. In 1984-85 the revenue raised was \$199 million; in 1986-87, \$272 million; and in 1987 we are up to \$302 million. I believe the revenue raised this year will exceed that amount.

Hon H.W. Gayfer: We need that to counteract the fall in the value of BHP shares.

Hon MAX EVANS: Yes; that is right. The Government has had in the past few years a rapid increase in the revenue raised from stamp duty, and I commend the Government for its

control of its expenditure of this revenue. The Government had so much extra revenue last year that it did not even bring into account the \$92 million interest that it was expecting to earn on the short-term money market. What was earned in previous years was kept out of the accounts. This year the Government has not had to bring that interest in to balance the books. We are conceding a loss of revenue of \$1 million. There has been ample opportunity to reduce stamp duty rates this year and revenue from land tax and payroll tax. We support the legislation.

HON H.W. GAYFER (Central) [2.51 pm]: This Bill provides three concessions in relation to the payment of stamp duty. The first applies where the residence of a married couple is transferred from the single ownership of one of that couple into their joint names as tenants. This exemption clause applies provided that the whole of the property transferred is used solely and principally as the ordinary place of residence of the married couple.

Secondly, a number of concessions apply to the threshold for stamp duty on rental businesses. The threshold is set at \$2 000 monthly rental income, below which businesses will not be required to register for the purposes of paying stamp duty. Another exemption applies to registered people whose total taxable income in a financial year does not exceed \$25 000. Previously, this was \$5 000.

A third amendment provides the threshold below which a person who submitted monthly returns can now opt to submit a single annual return; that has been increased from \$20 000 to \$50 000. Administrative and transitional provisions are also included. The exemption level for residential leases is lifted from \$80 to \$125 a week.

Provision is made for the extension of time allowed for a taxpayer to satisfy the commissioner that any duty relating to a mortgage securing property situated in Western Australia or any other State or Territory is being paid for in that other State or Territory. The only thing I question is the quaint wording within the Bill itself. The Bill's objectives are very good and I have no reason to vote against it, and the National Party sees no reason to hold it up. I refer, first of all, to page 3, where the following appears --

(4) In this section --

"dwelling house" includes flat, apartment or other residential unit;

Duty will not apply if such property is being transferred from spouse to spouse. The definition of "spouse" in the Collins dictionary is "husband or wife". Page 2, which deals with the power of exemption for certain conveyances, states categorically --

(a) the person from whom, and the person to whom, the property is conveyed or transferred, or agreed to be conveyed or transferred, are married to each other;

This is the first Bill in this place for a long time where the Government is insisting that a couple have to be married to each other. It will not allow the transfer of property between, for example, a couple in a de facto relationship. I applaud the Government for sticking to its guns on this issue. It will not be long before this wording, which has become very old fashioned in the last few years, will disappear, and amendments to this Bill will be passed, so that "married" will mean other things, maybe not to the Minister personally, as he and I -- or his wife and my wife, at any rate -- would be on the same track on this issue.

We see no reason why this Bill should not proceed, but this is the first time I have seen marriage recognised as a matter of provision in negotiations between spouses.

HON J.M. BERINSON (North Central Metropolitan -- Minister for Budget Management) [2.54 pm]: I thank honourable members for their support of this Bill. I will take on board the suggestion by Hon Max Evans that further extension of the matrimonial property might be considered. I can only say in support of the current restrictions that one can be quite definite about property which is a matrimonial home, whereas other possibilities emerge when considering land proposed for future use as a matrimonial home.

I also take on board Hon Gayfer's comments. I do not think he was suggesting an amendment along the lines which he anticipated.

Hon H.W. Gayfer: Definitely not.

Hon J.M. BERINSON: There is no risk that his sentiments in that respect have been misunderstood. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc

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 (Minister for Budget Management), and passed.

**CHATTEL SECURITIES BILL
BILLS OF SALE AMENDMENT BILL**

Cognate Debate

Leave granted for the second readings of the Bills to be debated cognately.

Second Readings

Debate resumed from 1 December.

HON MAX EVANS (Metropolitan) [3.00 pm]: This is a unique day; everybody agreed to the Stamp Amendment Bill (No 2), and the Chattel Securities Bill has received much appreciation from members of the community. My research has indicated that it should have come forward years ago.

Reference was made in the Minister's second reading speech, and discussions I have had with lawyers indicate that the protections we thought existed under the Bills of Sale Act were illusory, and were not as good as we had always thought. Many lawyers used to register articles and chattels under the Bills of Sale Act, and in a number of fine points of law, the hoped-for protections were not there; therefore the Bills of Sale Act dealt only with specific items. The Chattels Securities Bill is to establish a register of security interest in relation to motor vehicles, in particular, and also in relation to other goods so that potential purchasers of those second-hand goods will be able to purchase them in good faith and in the knowledge that they are unencumbered to any previous purchaser. This is very important. In the other House many examples were given of the type of tragedy that this involved -- and most of the tragedies were shortcomings in respect of secured items in relation to people who could not afford to lose the money. Young people buying a car from a friend, for example, or after reading an advertisement in the paper, struggle to get the money to buy the car, buy it, and find it is secured to somebody else. These tragedies invariably happen to people who could not afford to lose the money. People who could afford to lose the money would use other protections or probably would not buy a vehicle or item under those circumstances.

The main problem is in connection with the motor vehicle industry. The Western Australian Automotive Chamber of Commerce has given its support to this legislation. I have discussed it with the chamber and it is very supportive of the legislation. The Australian Finance Conference -- with which most finance companies here are involved and which will register the documents -- supports it. The two major players in the game see the need for it. The main question revolves around how it will work. I would like the Minister to make some more comments about this, but it is said there will be a fee of \$5 for the issue of certificates. I wonder how many certificates are anticipated to be issued, multiplied by \$5, and what sort of money that will cover of the total cost. Will there be a big profit; will there be a loss? We are talking about the user paying, and I presume that for the Minister in the other place to bring forward a figure of \$5, he should have done his maths on this to say, "That is how much we need to make it work out." Did the Minister do his homework or did the department just pick out a figure?

I doubt that anything could be issued on a computer for \$5. Yesterday I rang a building society in order to get a statement of my account for the last 12 months for tax purposes, and it cost a fee of \$5 just to press a button. That is about the minimum cost now, and a building society or bank earns fees on a lot of other things, yet they charge \$5 just to run off a form. If the Government is really intending to recover the cost of this, the fee could end up being a lot more than \$5. I look forward to the Minister's comments on that.

I also look forward to comments in relation to the ceiling of \$20 000. The legislation presumes that most vehicles on the market are under that value. That might have been true even 12 months' ago, but it is a figure which ought to be indexed to the Consumer Price Index because one does not get much of a second-hand car for under \$10 000 or even up to \$20 000. The price of new cars is going up and I should think that the \$20 000 ceiling should be lifted. There might be a good reason for sticking to that figure, because there is an indemnity factor.

I have read that this system will tie in with the computers in other States. We do not know fully how we will be able to get this information. The Minister's speech indicated that it will be available until 1.00 pm Saturday; with extended trading hours this should be increased to 5.00 pm Saturday. Will the activities of the Department of Consumer Affairs be extended to 5.00 pm on Saturday so people may inquire about these matters? What will be the case with the Eastern States? This will be brought in on a national basis so that motor vehicle dealers can tap in in order to check on the validity of cars brought from the Eastern States and whether there are any charges on them. Will they stay open until 8.00 pm on Saturday night because of the time difference between the States? I presume there will be no protection there and they will have to make inquiries during the operating times of the Eastern States. I hope the Minister will provide more information about this. I know that the Western Australian Automotive Chamber of Commerce will discuss this with the Department of Consumer Affairs. If matters are that far along, perhaps this House could be privy to the information today because I believe there are many uncertainties in the Bill. The Bill itself does not tell one very much about how it will operate. I believe we should be given more information in respect of the administration of this legislation and its use.

I read with interest that an individual could go along and get this information. I presume that the person could give a credit card number and the \$5 will be charged. After stamp duty and so on, there will not be much left of that \$5; it will have gone to cover the cost of the computer and the staff working on Saturday.

We seem to be able to plug into this security system in respect of vehicle registration numbers and chassis numbers. We could end up with a lot of problems in respect of second-hand cars because many chassis numbers are unclear, particularly when the registration plates are transferred. What protection is there to obtain this information? After all, the computer is only as good as the information in it -- garbage in, garbage out. Some of the chassis numbers have eight or 10 digits. Will the computer system be capable of picking up a near enough situation to balance it up? If only eight digits out of the 10 are correct, one might be able to locate that car, otherwise there could be problems trying to get the registration and chassis numbers. If one transfers a car from an Albany registration to a Perth registration, for example, when one comes to sell it, one would have to pick it up on a new registration number plate and the old chassis number. There could be more information on that.

The Opposition supports the legislation. It is very necessary and it will fill a gap that has existed for a long time. The sooner this is tied up with the Eastern States, the better because many cars are brought here from the Eastern States, and people need this protection. As long as this protection for the public is not too expensive on the taxpayer -- although there will be some cost -- it is good legislation.

HON TOM McNEIL (Upper West) [3.09 pm]: The National Party signifies its support for this legislation. As the previous speaker pointed out, we have all heard of great hardship being passed on to people who are unaware of previous financial commitments when they go to purchase a vehicle. One area of concern is the reference to the \$20 000 ceiling. It is said that this protection would apply only to purchasers who did not have notice of any financial encumbrance. I suppose that would be the norm rather than the exception. Everyone would suggest that they were unaware of the time of the purchase that it had any financial encumbrance on it, so it is in the legislation purely as a decision that obviously everyone will suggest that at the time they made the purchase, they were not aware of any hidden encumbrances.

The farming community will receive some additional protection under the Bills of Sale Amendment Bill because that legislation will still apply to growing crops, stock, and wool. That category has been enlarged to encompass the hair of any stock, and all other animals are added to the definition of stock.

Hon A.A. Lewis: What about the hair of the dog?

Hon TOM McNEIL: The hair of the dog has always been part of our lifestyle.

Because the Department of Consumer Affairs and the Corporate Affairs Department have had an input into this Bill, it is acceptable to the National Party and it supports it.

HON A.A. LEWIS (Lower Central) [3.11 pm]: It is fascinating how far-reaching Bills can race through this place at this time of the year. I do not know whether it is the goodwill of Christmas.

Hon P.G. Pendal: There is far too much of that about!

Hon A.A. LEWIS: And I do not know whether members do not have the time to read them.

Hon J.M. Berinson: Maybe it is because it is such a good Bill.

Hon A.A. LEWIS: I am glad, if it is such a good Bill, that the Minister will be able to answer my questions. It is interesting hearing a member of the Labor Party talk about good Bills and consumer affairs Bills, because it never really tells us how much the consumers will pay under these new Bills.

Hon Garry Kelly: Or what the bill is for the Bill.

Hon A.A. LEWIS: That is quite right. I have done a quick assessment of all the consumer affairs Bills that have been before this House and have calculated that each Bill costs about \$10 a page to the consumer. So if a Bill is 20 pages long, it would cost the consumer an extra \$200. However, all of the theoreticians do not seem to worry about that because it is the consumers who have to pay. I believe it would be very interesting if Caris Bailey or George Gear did a price watch on Government expenditure to see what some of these Bills cost the consumer.

Hon Garry Kelly: He is a very good member.

Hon A.A. LEWIS: She may be, and he is receiving some very good publicity for his price-watch activities. Whether that publicity is good or bad still has to be decided. We should consider what this type of legislation actually costs the consumer.

The Minister for Community Services, in her second reading speech, said --

Innocent purchasers will be better protected by the chattels securities register against losing title than the existing illusory protection now offered by the bills of sale provisions. The Bill will also guarantee title to the purchaser of all goods in addition to motor vehicles where the cash price of those goods is less than \$20 000 or in excess of that sum if they are unregistrable commercial vehicles or farm machinery.

How many categories of unregistrable commercial vehicles and farm machinery are there? Does that mean that the information cannot be put on computer? Every farm machine has a serial number and every commercial vehicle has a block number and engine number. I believe the Minister and the department are leading the House astray even in the second reading speech. They can be registered, but the Government does not want to register them. I have spoken about motor vehicles in this House many times over several years and I believe registration is a good idea.

Hon Max Evans raised a few points about how often the register will be open. I hope we will not be quite as free and easy as the Police Department in New South Wales is with its computer. I went to the Royal Show in Sydney and wandered into the computer section of the police exhibit. I typed in my brother's registration number and the computer gave me the full details of what he was, and what he did. It did not quite give me his credit references, but it included everything else I wanted to know. I hope the information in this State will not be as easily obtained, because if it is we will be having some fairly big fights in the next few years.

The second reading speech continues --

It is an offence for the dealers to sell an encumbered vehicle, and if the finance company suffers loss as a result, the dealer can be sued at common law by the finance company.

All that means is that, if a dealer sells an encumbered vehicle, he can be sued by the finance company. Members should note that the Department of Consumer Affairs always discusses

these matters with the industry. However, this is not the first time that we have dealt with matters relating to farm machinery and the department has not discussed it with the Farm Machinery Dealers Association. A voluntary board was set up by a previous Government to deal with disputes about farm machinery. This Government, when it came to power, sacked that board and appointed a gentleman from the department to consider disputes. He has since left and this State is the only State in which dealers, farmers, and manufacturers cannot have a dispute settled officially because the department has no-one to deal with it. The department appointed this one man to deal with disputes and, now that he is gone, we are altering the legislation again.

This Bill can, in the future, apply to the registration of motor boats, aeroplanes, and other goods. I hope the Minister explains what "other goods" are, because most things that I know of are registered including land, refrigerators, washing machines, shavers, mowers, farming equipment, and domestic equipment. They can all be placed on a register but at a cost to the consumer. This Government could not give two hoots about the consumer or about the average bloke in the street. Maybe I go on about it too much because we are perhaps living in a very affluent society and can afford the Government to throw away millions of dollars of taxpayers' money on bad deals and the like. I do not know whether that will continue for much longer, and whether in future every penny will have to be accounted for.

It is stated in the second reading speech that the Bill is a further stage in the Government's reform of credit legislation. All of those involved with credit legislation throughout Australia know that it has been a ghastly failure. The Government was warned in this House about it and already the major financial firms in the Eastern States are holding discussions with certain groups to try to change it again. I do not think that has filtered over to Western Australia as yet.

As for the legislation being universally popular, I will reserve my comments on that until the people find out exactly how much it will cost. I have dealt with the case of commercial vehicles or farm machinery, and with all the matters I need to; but does the Government not think that in the fullness of time we should tighten up our definition of "farm machinery" in the Credit Act? It means one thing under the Credit Act and something different in other Acts. I worked that out when I was dealing with other Acts this morning in an attempt to get more regulations on the list.

This will be a complete and utter disaster. I know that the Liberal Party and the National Party support the legislation, but I feel sorry for their members in years to come when they will have to face their constituents — I feel just as sorry for the Labor Party — and say that they allowed this legislation to go through because they did not consider that the cost would be great.

HON KAY HALLAHAN (South East Metropolitan — Minister for Community Services) [3.23 pm]: I express my appreciation for the support for the two Bills before the House to Hon Max Evans and Hon Tom McNeil, and reassure Hon Sandy Lewis that in years to come he may be pleased that the good sense of those members prevailed in this place.

We are on the brink of passing good and sensible legislation; with the Northern Territory and the ACT, we are without such consumer protection. Although Hon Sandy Lewis may wrinkle his nose and not be persuaded by the good sense of other States, it is the experience across other States that greater protection is needed.

Hon A.A. Lewis: That is absolute bunkum.

Hon KAY HALLAHAN: Hon Sandy Lewis can say that it is absolute bunkum but, quite clearly such comments indicate that he is not informed on the subject. He is usually a very sensible member and constructive in debates, and I find his contribution today quite surprising. However, we are looking towards a system of registering goods so that consumers have protection. We all know of cases where people have bought a vehicle and in some instances have sold it to someone else, who has again sold it, and at the end of the chain a finance company has moved in and repossessed the vehicle. The finance companies do not enjoy that role and do not wish to be involved in that situation; that is why, as Hon Max Evans pointed out, they support this legislation. It is an invidious position for everybody involved to repossess a vehicle: It leaves a bad taste in everyone's mouth, it gives a bad image of finance companies, and it has a bad effect on the purchasers caught up in that

situation. This is a good step and the legislation works well in other places. We are fortunate in that we are coming behind other States; we are not talking pie in the sky, esoteric stuff; we have been able to observe this working in other places and we have the benefit of coming behind those people and learning from their experience.

I will try to answer some of the issues raised in the second reading debate. I may not cover them all --

Hon A.A. Lewis: If you don't cover them now, we will cover them in the Committee stage.

Hon KAY HALLAHAN: The member should not be so belligerent; I was going to say that if I do not cover them now I shall be happy to cover them in the Committee stage. It might be easier to tease out the concerns of members at that time.

Hon A.A. Lewis: We shall not go to the Committee stage until we get the answers we seek.

Hon KAY HALLAHAN: Given the number of matters raised in the second reading debate, it would perhaps be a good idea for me to answer some of the concerns expressed and members can raise those not adequately answered in the Committee stage. I make that gesture as a sensible way of handling the matter.

Hon Max Evans raised the issue of the cost of the system. If a person rings and asks if money is owing on a particular vehicle, no cost will be involved. However, if he asks for a certificate -- people will be encouraged to do so because that is their main protection -- the cost will be \$5. The finance companies will be charged \$10 for registering a vehicle. They are aware of that charge. It is a self-supporting system and Hon Sandy Lewis will be very interested to know that it works in other places on the user-pay principle.

Hon A.A. Lewis: You are agreeing with what I said; it is the user who pays.

Hon KAY HALLAHAN: Exactly. If a consumer uses the service, he pays for that service, and the service will pay for itself. It is probably significant that financial institutions will pay \$10 for registration and consumers will pay \$5 for the certificate. In Victoria this has led to the system running on the basis that expenditure of the administration is covered by the income generated by these fees.

The question of the ceiling of \$20 000 on non-registrable items does not apply to motor vehicles; there appears to be some confusion on that point. It applies to a whole range of other goods, and the Bill sets out the exemptions; it covers all sorts of things such as videos, televisions, washing machines, and many consumer items that people buy regularly.

With regard to the query on agricultural items -- I hope Hon Sandy Lewis will find this goes part way to answering his query -- those vehicles are usually registered with the police and are therefore under the heading of motor vehicles. Therefore, they are not included in the non-registrable section covered by this legislation. We can tease that out later. It is a fact --

Hon A.A. Lewis: It is not a fact. I wish the Minister would come to the Police Department where I have been all morning. She has come up with an answer that is patently incorrect, and she should get her advisers to learn something about the subject.

Hon KAY HALLAHAN: They appear to know quite a lot about their subject, and reflections on them are not warranted by members in this House. That is not a good way to progress.

Hon A.A. Lewis: You are misleading the House.

Hon KAY HALLAHAN: I am getting very tired of the interjections from the honourable member. Charming though he usually is, today his behaviour is most uncharming.

There are a couple of interesting areas here. People need more than one identification number to make an inquiry, so privacy is protected. There will be a need to supply the chassis number or the registration number. When people make an inquiry they will be told that there is money owing on a vehicle to Esanda, for example, or to someone else. They will not be told how much money is owing, or the name of the borrower, so protections are included for the consumer as well.

I am pleased that there is a general consensus, perhaps with the exclusion of Hon Sandy Lewis, in relation to this matter. When we move to the Committee stage of the Bills I will clarify some of the issues that are clearly of concern to him. However, I make the point to all

members that this is good legislation. That may seem an empty statement to members who feel suspicious about it, but it has worked well in other places and there is a great need for it here. I agree with Hon Max Evans, who indicated that the feeling in financial and automotive areas is that this legislation is long overdue.

I ask members to support the second readings of the Bills.

Questions put and passed.

Bills read a second time.

CHattel SECURITIES BILL

In Committee

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

Clause 1: Short title --

Hon A.A. LEWIS: The Minister said that this legislation would not cost anybody anything.

Hon Kay Hallahan: I did not say that. I spelt out what the costs would be.

Hon A.A. LEWIS: Before that the Minister said it would not cost anything to ring and find out whether there was a debt owing.

Hon Kay Hallahan: That costs 30c, that is true.

Hon A.A. LEWIS: The Minister has already admitted that the registration will cost finance companies \$10.

Hon Kay Hallahan: That is correct.

Hon A.A. LEWIS: Does the Minister think that the finance company will pay that? Obviously the consumer will pay it. Firstly, the Government charges the finance company \$10, but how much does it cost the finance company because of its processes before that hits the consumer?

Hon Kay Hallahan: I will give the member some answers about that.

Hon A.A. LEWIS: I hope the Minister will also say what is the estimated cost to the consumer, but I will not tell the Minister what I estimate that cost will be. Can the Minister tell me what the Department of Consumer Affairs estimates that \$10 will cost the consumer by the time it is added to all of those lovely pieces of paper and the consumer pays? I am glad that the \$20 000 limit does not apply to a motor vehicle.

The Minister said during her reply to the second reading debate that a person ringing to find out whether goods were encumbered will be told whether or not they are encumbered and to whom the amount is owed, for instance Esanda, thus naming the person from whom the money was borrowed. That does not sound like good security to me. I would not like people to ring and find out that my motor vehicle was under lien to Western Farmers, Dalgetys, CityCorp, or anyone else, as that is not the business of anyone else.

Hon Kay Hallahan: What if the member were about to sell it?

Hon A.A. LEWIS: It is not the other person's business; all they have to know is that it is encumbered, but not to whom as that is an invasion of privacy; yet the Minister purports to represent the common person.

Hon Kay Hallahan: Absolutely.

Hon A.A. LEWIS: The Minister thinks that everybody in the world should be told a person's business and who they are borrowing money from.

Hon Kay Hallahan: I explained that during the second reading debate.

Hon A.A. LEWIS: The Minister did, and said that one could be told that they borrowed money from Esanda, but they would not be told how much. Under this legislation a person will say from whom the Minister is borrowing money when I ring to find out information as to whether her vehicle is encumbered. Companies should not be able to disclose that Hon Bill Stretch has borrowed from Rothwells, or that Hon David Wordsworth has borrowed from them. Under this legislation, when a person rings to find out whether a motor vehicle is

encumbered they should not be given that sort of information -- that is a disgrace! I hope that the Minister has a satisfactory answer about this matter, because under this legislation a person can find out to whom money is owing, and if that is the case it should be scrapped here and now.

Hon KAY HALLAHAN: I will answer two points made by Hon Sandy Lewis, because he is going off at a tangent. The fact is that the present system is very expensive; repossessing motor vehicles is an expensive act, and everybody stands to lose under the present system. We have not introduced this Bill because someone feels a need for it, but to prevent a lot of unnecessary heartache and expense that arises under the current Bills of Sale Act.

If the member wants to look at the passing on of costs and assessments it may well be that under this legislation costs will be lower, because we hope that following a period of educating people, and once they know about ringing to ask about vehicles that they wish to purchase, there will be a lower cost for repossessions and for various other matters, so the member has the wrong end of the stick in relation to this matter. Under the current Bills of Sale Act one actually can go in person to make inquiries and obtain information, and can in fact find out more details, including the amount owing. That will not be possible under the proposed legislation, as I explained in the second reading speech, so what the honourable member is railing against is something which exists now under the Bills of Sale Act and which we are restricting by the legislation before the Chamber. We are going to limit the amount of information that is available.

While I accept that the honourable member feels very strongly about the points he has raised --

Hon A.A. Lewis: And will keep raising.

Hon KAY HALLAHAN: -- and which he says he will keep raising, there are answers to them if he has a mind to hear them. If he could perhaps say more particularly what is at the base of his concern, it might be easier to deal with.

Hon D.J. WORDSWORTH: The Minister has raised the matter of repossession. It is not a very pleasant thing and causes a lot of embarrassment. How does this Bill overcome that matter? Surely it is a matter of a company's having to get a machine back when a person has not paid his bills.

Hon KAY HALLAHAN: At present people can go and buy a vehicle knowing nothing about what is owed on it. They buy it in good faith. They might buy it from somebody who does owe money on it, or they might buy it from somebody else.

Hon D.J. Wordsworth: From somebody who has bought it innocently.

Hon KAY HALLAHAN: Yes, it could be that the owner before them owes the money to the finance company, or the second or third person up the line, so people who buy in good faith are paying. But the money is owing to the finance company under contract and when the company finds the payments are not being made and they locate the vehicle, even if it is in the ownership of somebody else, they take it back. That is fair enough when payments are not made, but often people buy not knowing money is owing on the vehicle. This Bill will overcome problems in that area.

Hon D.J. Wordsworth: They are only a small proportion of the repossessions.

Hon KAY HALLAHAN: That is correct; it is not right to say this will cover all of them. But the number, which is really concerning the industry as a whole, will go down significantly.

Hon A.A. LEWIS: The Minister has failed to answer my first question. How much of that \$10 paid by the finance company, when it was worked through the process, would the consumer be charged? She gets very worried about my getting annoyed but she does not answer the question.

Hon Kay Hallahan: I think I did.

Hon A.A. LEWIS: The Minister did not say what the amount would be when it got through the system. I do know that under the present system of registration one can find out if one attends in person, but one cannot ring up. Also, there is the possibility of a computer hacker -- and it has already started in Sydney and Melbourne --

Hon Kay Hallahan: Say that again?

Hon A.A. LEWIS: Computer hackers have already broken into the Victorian and New South Wales systems to find out what is on the computers there. This is common knowledge to anyone who is running a national organisation dealing with these sorts of things, which I happen to be doing. It is all very well for the Minister to say these things are working in Victoria and New South Wales, but I happen to be in daily contact -- not spasmodic contact as other people are -- and really it worries me that the Minister berates me unfairly, as much as I would like her to love me.

Hon Kay Hallahan: Change your behaviour and I will love you immediately.

Hon A.A. LEWIS: I will stay where I am. The Minister has not yet answered Hon David Wordsworth's question, and I have written down virtually the same thing. What is the proportion of vehicles that are encumbered -- that are repossessed after having been bought with an encumbrance over them? We should have been told that in the second reading speech.

Sitting suspended from 3.45 to 4.00 pm

Hon A.A. LEWIS: We still do not know the cost to the consumer and, secondly, what number of vehicles have to be repossessed which were encumbered when they were sold the first time. I know of deals which were done where people have bought a machine and taken on the encumbrance and paid it out.

Hon D.J. Wordsworth: That is the more usual thing.

Hon A.A. LEWIS: Should we not be told what the proportion is? It is all right saying the industry may or may not want this Bill. Anybody who has had anything to do with farm machinery knows that with an ordinary sickle mower both the frame and the bar have a number, so they can be registered. There is a heap of farm machinery being sold, but we are encompassing the lot without being given the full facts. The Minister should report progress and get some of these figures because I think they are vital to our passing laws. It is not the first time we have complained about this. Ministers and departments think they can bring in anything they wish and force it through by stonewalling or other tactics so that it goes into the Statute book and we do not get the answers. I do not believe this Chamber should put up with that sort of treatment. We should be asking for and getting satisfactory answers or not allowing the Bill to progress. It is all very well to give airy-fairy answers, but this legislation imposes a cost on the consumer and we do not know what it will be. We do not know the effect of the \$10 to be paid by the finance companies.

The Government claims it has consulted the finance companies, but what have those companies told the department or the Minister the add-on costs for the \$10 registration fee will be to the consumer? Surely the Government does not draw up a Bill and say, "It will be \$10, but we do not know what the consumer will pay." I ask members to link that with the proportion of deals which will have to be repossessed. I have done a fair number of repossessions in my time, and they are not very pleasant. I wonder whether anyone else in the Chamber has done them. I have been forced into the position of repossessing machines for one reason or another. I have also had to bear the burden of a finance company repossessing a machine when I had the recourse as a dealer; in other words all the payments were mine as a dealer because the client missed out; I had to pay. The Minister must give us the full details, and until we get them we should leave this Bill as it is and send it back whence it came.

Hon KAY HALLAHAN: Clear statistics on the number of repossessions which had encumbrances are not available, although I guess the finance companies have them. They see a real problem in this area. There have been complaints to electorate offices from consumers that they have not had adequate information and protection. I cannot believe Hon Sandy Lewis has not also had referred to him problems which he would see being overcome by this Bill.

With regard to items other than motor vehicles being registered in the way proposed in this Bill, this is something the Government would be prepared to look at very carefully in consultation with the other States. I take the point the honourable member made about numbers, but it is important to have reliable and verifiable numbers for this registration system, otherwise it will not work. That is the constraint in that respect. I thought I

answered the point about the passing on of costs to consumers adequately. We have had the benefit of looking at what other States are doing, and we have decided the figure will be \$10 for finance companies to make a registration and \$5 for consumers to get a certificate. Everything we know about the matter suggests we will cover the costs of running the system, and the projections are -- there is no evidence -- that a potential exists for lower costs as finance companies in the not too distant future should be faced with fewer repossession as people ring and make inquiries and are therefore in a better informed position when they make a purchase. It is conjectured that that will lead to lower costs for finance companies and therefore lower costs for consumers. I cannot reassure the honourable member further than that. I assure members we are looking at legislation that is operating well in other places, and it is supported by the Australian Finance Conference and by the automobile industry.

Perhaps I should read into the *Hansard* record the list of organisations with whom there has been consultation about either the final Bill or a very late draft. They are the Law Society, the Credit Unions Association of Western Australia Inc, the Motor Traders Association, the Western Australia Police Force, the Treasury Department, the Australian Finance Conference, the Country Shire Councils Association of WA, and the Department of Corporate Affairs. Other people who were consulted included the Small Business Development Corporation, the WA Permanent Building Societies Association, and the Australian Bankers Association. So there has been wide consultation in bringing forward this Bill because it is new legislation in this State.

In relation to costs, the fee under the current Bills of Sale Act is \$9, and in this Bill the registration fee is \$10. There have been some expressions of concern about this, but it is very sound legislation and deserves support.

Hon A.A. LEWIS: The Minister said that statistics are not available and that finance companies see a problem in their field.

Hon Kay Hallahan: The consumers see a problem in their field.

Hon A.A. LEWIS: I am dealing with the answer the Minister gave to the Chamber. If the finance companies see a problem in the private sector, let them tell us the percentages. They should give us statistics if they see a problem. The Minister talks about verifiable numbers which are required to make it work. I think she was referring to motor vehicle registration numbers and not to the number of repossessions. She went on to say that this legislation is in force in the Eastern States. Could the Minister give me the percentage drop in repossessions in the Eastern States? I understand that there have been more repossessions than there were previously. I do not have the up to date figures, but we are basing this Bill on legislation in the Eastern States. Surely, if this legislation works so well in the Eastern States, we really must obtain the figures to show the percentage drop. I do not blame the Minister, but again she has been thrust into this debate completely unprepared and without any statistics or facts about the matter.

The Minister said that a bill of sale costs \$9 and that the present registration fee is \$10. What she did not say was what will be the cost to the consumer. We know that the cost of a certificate will be \$5, but that is another \$5 to be paid by the consumer. We do not know the exact figures and the Minister should be able to give them to the Chamber. I suggest that the Minister report progress or give us the statistics. Let the finance companies front up; they are not always the babes in the woods and the cleanskins they appear to be. We have all read about hire-purchase companies, especially within the field of farming. They probably owe farmers millions of dollars because of overcharging. Should we take the word of the finance companies?

I know that this Government is in bed with big business and that is not a bad thing, but at least finance companies should verify what they want to do and tell us why they want to do it. They should tell us the percentages. They have not given an opinion to the Minister and, therefore, I do not believe this clause should be allowed to pass until we receive an opinion.

Hon D.J. WORDSWORTH: Is the Minister of the opinion that every second-hand item that is sold will require a certificate before it can be sold?

Hon KAY HALLAHAN: The reason for obtaining a certificate before one buys goods is to protect him. This requirement applies only to vehicles that are capable of being licensed

under the Road Traffic Act such as trucks, tractors, and motor vehicles. There was some confusion regarding this matter during the second reading debate.

Hon Sandy Lewis has a very narrow view of costs. I guess that he has met consumers who have paid a few thousand dollars for a vehicle and then had it removed by a finance company. In such cases they lose everything they put into the vehicle. There are significant costs to consumers which this Bill seeks to protect them against. In every way the benefits of this Bill outweigh the fears and worries the honourable member has. He is taking a very narrow area of concern when looking at the benefits this Bill proposes across the board.

Hon D.J. WORDSWORTH: In what Act of Parliament or where in this Bill does it state that it is necessary for manufacturers to put a verifiable number on an item?

Hon KAY HALLAHAN: I refer the honourable member to part III -- registrable goods, at the bottom of page 11 of the Bill. The Bill states that motor vehicles registered under the Road Traffic Act do have a verifiable number. I do not know whether that answers the member's question.

Hon D.J. Wordsworth: What about lawn-mowers?

Hon KAY HALLAHAN: They are not registrable goods. At a future date we would be prepared to look at areas where people say there needs to be more protection. If it can be justified -- we certainly have the software for administrative systems compatible with other States -- the necessary action will be taken in those areas where there are significant problems. At present vehicles registered under the Road Traffic Act are the major concern.

Hon D.J. Wordsworth: In other words, by regulation you could extend it to other areas.

Hon KAY HALLAHAN: Under paragraph (d) -- prescribed goods -- of clause 13 that would be possible, but we would need to look at it carefully.

Hon A.A. LEWIS: Firstly, what are the prescribed goods? Refrigerators, washing machines, driers, and radiators have numbers. How far will the department take it? Secondly, the legislation will apply to some farm machinery, but it will not apply to others. For example, a self-propelled header which is used on one property may not be registered and may not come under this legislation, but another one, which is registered, will come under this legislation. Is that right? Should the owner of a machine which has cost the same as another machine owned by another person be penalised? Hon Bill Stretch may have one piece of machinery which he uses on his farm, and Hon David Wordsworth may have a similar machine which he runs from farm to farm. Is it consistent that Hon David Wordsworth has to register his machine while Hon Bill Stretch does not have to register his?

Hon KAY HALLAHAN: The answer to Hon David Wordsworth's question is that many items do not have a uniform serial numbering system.

Hon A.A. Lewis: What rot!

Hon KAY HALLAHAN: The member may think it is rot, but manufacturers can have their own serial numbering system, but as far as motor vehicles are concerned they have a recognised numbering system.

Hon D.J. Wordsworth: It only extends to items that have numbers on them.

Hon KAY HALLAHAN: I guess that the industry could be asked to have a serial licensing system which people could acknowledge. However, as far as vehicles licensed under the Road Traffic Act are concerned, there is a recognisable numbering system. We need to do a lot of work before getting that sort of system going with television sets, washing machines, and so on. It has not been attempted in any other State. There would have to be a bigger push, and we would be looking for the cooperation of manufacturers.

Hon D.J. WORDSWORTH: The motor car industry has, over a number of years, taken the trouble to produce serial numbers, which cannot be removed very easily. Some people try to tamper with them, but it takes a long time, because the motor industry has faced this problem. With most other goods the numbers are there simply to help the manufacturer with spare parts.

Hon Kay Hallahan: And warranties and so on.

Hon A.A. LEWIS: I disagree with Hon David Wordsworth. The serial number on a 453 mower cannot be removed.

Hon D.J. Wordsworth: You can take it off.

Hon A.A. LEWIS: It is no easier than with a motor car. People probably would not know where to look. They would look at the compliance plate.

Hon D.J. Wordsworth: You have to register it.

Hon A.A. LEWIS: One does not have to register it, but one can look at the compliance plate. Very few people would know where the engine number or the chassis number of a motor vehicle was. The actual serial number of the machine is in a different place from the compliance plate. We do not yet know what the prescribed goods will be. The horrific thing is that the motor dealer, or in some instances the farm machinery dealer, is liable if goods are unsold. The dealer in refrigerators, washing machines, and television sets is not responsible. The motor vehicle dealer and farm machinery dealer have been picked out, as the Minister has now admitted, and I think it is disgusting.

Hon W.N. STRETCH: I have similar concerns to Hon A.A. Lewis. A lot of our trouble is that we have here a Bill to clean up the car industry which has been in trouble.

Finance companies have had a difficult time in the rural areas, and it has been decided to bring all these other things which are not registrable under the original definition. Half the time we are talking about plates on cars, which are easy. When we get down to farm machinery, things are not so clearly defined. The error has been to extend this Bill beyond what was originally intended.

Could we have a definition of what is meant by "registrable"? The definition in clause 3 mentions "register", "registrable goods", and "registered". There is no reference to what we regard as a register in terms of, for instance, a registered vehicle. Hon David Wordsworth is confusing what can be identified with what can be registered. This is getting us bogged down. We need to clarify that before going much further.

I would like to raise the question of take over term sales. Are they illegal now? What does the Minister envisage?

Hon Kay Hallahan: Could you explain what is different compared with some other way of doing this?

Hon W.N. STRETCH: For instance, I buy a truck from a person who is getting into trouble as a result of illness. He says, "Take over my truck and pay it out." How does that fit in here? Who registers it and who is liable? As we go further into this Bill, we find this may become illegal without paying out the whole of his debt in the first place. I would like to know how that will fit into this legislation. My main concern, though, is about the register and the definition of registrable items.

Hon KAY HALLAHAN: If the member will turn to clause 13 on page 11 --

The DEPUTY CHAIRMAN (Hon John Williams): I do not think we should be asking questions about clauses which have not been called on for debate. If it helps the Minister to point it out, she is being generous, but she has no need to do so.

Hon KAY HALLAHAN: It is a general question. I am referring the honourable member to clause 13 and saying that is where it is all set out. That clause makes clear what is and what is not covered.

On the question of TOT sales, one would presume that the parties would negotiate with the finance company, and the finance company would have the obligation to make the registration. It is all quite legitimate; there is no problem about that.

Hon A.A. Lewis: It applies to farm machinery.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Interpretation --

Hon A.A. LEWIS: I move an amendment --

Page 5, lines 32 to 35 -- To delete subclause (8).

I do not believe that we should go that far in allowing the department to put up to the Minister something which is a law in another State.

Hon KAY HALLAHAN: I ask honourable members to defeat this amendment. It is really quite a serious amendment. We are moving towards trying to get nationally agreed legislation in this area. It already operates in Queensland, Tasmania, New South Wales, and Victoria. My hope is that this Bill will be passed so it will also operate in Western Australia. The vast majority of Australian States will then be cooperating under this legislation. If we do not have agreement -- and an inordinate amount of work has gone into achieving agreement between the States about this legislation -- we will have people shipping vehicles across State borders and being unable to touch them, which would be a very undesirable circumstance. I ask that the amendment which has been moved be defeated.

Hon A.A. LEWIS: This is becoming more and more funny. I assume from the Minister's reply that the Chattel Securities Act in each State is exactly the same as this Bill, but I think the Minister will find, if she checks the situation, that there are differences. We do not want differences from State to State where we can sell three per cent of our self-propelled headers to, for example, South Australia because they are covered by this legislation, and 97 per cent are not covered by this Bill because they have not been licensed.

We should be dinkum; we are either going to have laws which are nationally agreeable or we are not. The Government is just putting confusion into one industry without giving us any satisfaction in another. The Minister cannot tell us the figures or the percentages, and she is quite prepared to get up and say we do not want differences between the States, yet here we have one industry with one type of machinery, and the Minister has already admitted that such a situation cannot be controlled. I believe that until the Government puts some sense into this Bill and has discussions with industry groups, it is making a mockery out of this Parliament. The Minister obviously does not intend to answer sensible questions, which is the sort of treatment we are getting all the time.

Hon KAY HALLAHAN: I believe I give very great attention to members' concerns, so I resent that comment. It is clear that subclause (8) is necessary because vehicles that are sold in this State and which have another State's number plates on them will not be registered here. Hon Sandy Lewis has challenged whether the Acts are identical in other States. The Acts are similar, and all have the possibility of providing the same outcome. The computer software which is necessary for coordination between the States has already been worked out, and is compatible between the States. I find it difficult to understand why the honourable member has such an objection to a seemingly very sensible provision.

Hon A.A. LEWIS: It is getting worse and worse. The computer software is worked out; therefore this Parliament has to accept it.

Hon J.M. Brown: Do not be sterile.

Hon A.A. LEWIS: Do not be puerile!

Hon J.M. Brown: Do not be sterile.

Hon A.A. LEWIS: The member cannot even pronounce the word. He can say either puerile or sterile, but he has to say something because it is the first word he has uttered for a week; we thought he was asleep.

Hon T.G. Butler interjected.

Hon A.A. LEWIS: I know who is making a mockery of this Parliament, and the public will know because we will go out and tell them. We will tell them that Hon Tom Butler agrees that three per cent of one particular machine -- they can all be the same model -- should be treated differently from the other 97 per cent because of this legislation.

Hon T.G. Butler: That is your interpretation.

Hon A.A. LEWIS: No, the member made that accusation. I just said that the Bill is not fair.

Hon T.G. Butler: And you expect me to agree with that?

Hon A.A. LEWIS: I expect the member to listen to the debate, know something about the Bill, and know something before he interjects.

The Minister has said that because the computer software for registering motor vehicles is

compatible between the different States, we have to leave this subclause in the Bill.

Hon Kay Hallahan: I did not say that.

Hon Mark Nevill: You did not listen.

Hon A.A. LEWIS: I was trying to, but it is a bit difficult with the noise at this end of the Chamber caused by all the interjections. If I have misrepresented the Minister, I will sit down and she can repeat what she said about why we have to keep this particular subclause.

Hon D.J. WORDSWORTH: Where is this register going to be kept? My electors are becoming more and more concerned about a large building in Canberra called the Deakin Centre, which has walls of solid concrete three feet thick, which cost hundreds of millions of dollars to build. It has been claimed that centre contains \$500 million-worth of computer equipment, which will handle not only the ID card but everything owned by every Australian, from their motor car upwards.

Hon Mark Nevill: The man who put that forward thinks that Andrew Peacock is a Communist.

Hon D.J. WORDSWORTH: I am not going to argue on that point, but the member obviously knows about the Deakin Centre and has admitted that perhaps his electors also are concerned about this building. Anyone who appears on the site and asks what is the building is told that it is a telephone exchange.

Hon Mark Nevill: That is rubbish!

Hon D.J. WORDSWORTH: No-one can find out what this building is for. I think this fortifies my argument that there will be a register of the possessions of all Australians.

Hon KAY HALLAHAN: Under section 14, the register will be kept with the Department of Consumer Affairs --

The Commissioner shall keep a register in the prescribed form or in the prescribed manner in which shall be entered security interests in relation to registrable goods.

Hon D.J. Wordsworth: And that will be hooked up with every other department in every other State.

Hon KAY HALLAHAN: If a person in another State wanted to make an inquiry about a vehicle which had Western Australian registration plates on it, that person could contact the Department of Consumer Affairs to obtain that information, and I assume that we could make similar inquiries about vehicles in Western Australia which had on them, for example, Victorian or South Australian registration plates.

Hon D.J. Wordsworth: It will be difficult to do that when there is a three-hour time difference because of daylight saving.

Hon KAY HALLAHAN: That is why we do not want to see this subsection knocked out. This relates to what I was saying before about vehicles being taken interstate. The most desirable thing we could have --

Hon A.A. Lewis: What has that to do with subclause (8)?

Hon KAY HALLAHAN: Because the Bill talks about corresponding laws in other States. The subclause which the member wants to knock out is important to other subsections, as well as for the purpose of cooperation between the States, otherwise we could have a trade develop in shifting vehicles out of States and we would have no way of effectively dealing with that situation. We do live in a modern society; we are not back in the horse-and-buggy age.

Hon A.A. LEWIS: I think I would rather be back there. Subclause (8) in effect says that if the Governor is satisfied that the provisions of the law of another State or territory correspond to the provisions of this Act, he may, by order published in the *Government Gazette*, declare those provisions to be a corresponding law for the purposes of this legislation. The Minister can link that to daylight saving if she wishes, but I have never heard such a ludicrous reply --

Hon Mark Nevill interjected.

Hon A.A. LEWIS: At least I am prepared to get up and speak on the subject. Hon Mark

Nevill's electorate is very close to the South Australian border, and the Minister for Transport --

Hon J.M. Brown: What has that got to do with the Bill?

Hon A.A. LEWIS: Hon J.M. Brown's electorate includes Merredin, and when people come to me I will tell them to go to him and to Hon Mark Nevill because when this Bill was being debated they knew all about it and could explain why some farmers and dealers are treated differently from others. Let us put that on the record so that the people in those members' electorates know what their representatives think. I believe that the Minister has given us absolutely no answer. It is a disgrace and I believe that the Government has been ruled by the department in this particular case. The Minister gave us no answer; she mentioned software but then did not know how it would link up.

Hon Kay Hallahan: I did not say that.

Hon A.A. LEWIS: Hon D.J. Wordsworth asked the Minister about daylight saving, and the Minister responded by asking what that had to do with the clause.

Hon Kay Hallahan: It will work as everything else that accommodates daylight saving works.

Hon A.A. LEWIS: How will it work? It will work by Western Australia missing out in practice. It is a pity there are not a few more States like Queensland. I believe this subclause ought to come out. I will not pressure it, but it seems to me that this place is letting the Executive rule the chattel securities business. I believe it will come unstuck and when it does, I suggest that the Minister should not bring an amendment back into this place because it will be beaten.

Hon MAX EVANS: We have just had an interesting ministerial statement from Hon J.M. Berinson in respect of the Companies Code and how every State wants to keep control of its own legislation. The other States are very jealous about such matters. This matter deals with how other States will influence Western Australian legislation. Has this ever been used before? It seems to be most unusual legislation, particularly to have all that power. Is it something which is used every few months or in every other piece of legislation? If one were to put that up to Hon J.M. Berinson and ask, "How would you like that in the Companies Code?", he would jump a mile.

Hon KAY HALLAHAN: It needs to be there because the States want to keep their own laws, but if a car with Queensland plates in this State needs to be considered, we have to have the ability to consider the Queensland law on chattels that applies to that vehicle in this State. As I have said before, the other laws are similar to ours; they are not identical. If it is a car with Queensland plates, for example, we would then need to know whether the Queensland law applies. If members look at clause 7(5), that may clarify the matter for them. Clearly the State Government does not want to give away its powers but it would not mind other States having our Western Australian law operating there if they get a report about a car with Western Australian registration plates. I am advised that because the laws are different in each State there seems to be a need to be clear about what law will apply. That is one reason for wanting to leave subclause (8).

Hon MAX EVANS: Do all the other States have exactly the same legislation?

Hon Kay Hallahan: Very similar laws, but this law is almost exactly the same as the Victorian law, which was rigorously examined and amended.

Hon MAX EVANS: If, for example, we have a car with Queensland plates and there are some administrative problems, do we have to go along to the Government and say, "There are these problems; therefore amend this legislation"?

Hon Kay Hallahan: It means we can operate with the Queensland law for that vehicle.

Hon P.G. PENDAL: I think that the point raised by Hon Sandy Lewis is an important one. If subclause (8) were deleted, what would the Western Australian law be left with? Would it not be the case that the role of altering the corresponding laws would be left with the Parliament? In other words, that is the only remaining mechanism if we take out subclause (8). If the answer to that is yes, I would think that it becomes an argument for it to be deleted because this is the right place for alterations or amendments to be made, very much along the

lines that Hon Sandy Lewis already has explained.

Hon KAY HALLAHAN: I have made it clear that it relates to other clauses of the Bill; but also I made it clear that we could have a problem of trading across States and not having the power within the Act without that subclause. I am advised that it would be undesirable to delete subclause (8); there is a move for cooperation between States and this clause relates to that provision as well.

Hon P.G. PENDAL: Is that not the point that Hon Sandy Lewis raised? That is, that the Parliament is being substituted.

Hon KAY HALLAHAN: I do not understand the question.

Hon P.G. PENDAL: Subclause (8) gives a power to the Governor to alter the law where it becomes desirable for it to correspond with another law elsewhere. Is that not the case?

Hon Kay Hallahan: It is not.

Hon P.G. PENDAL: Only one person can be right.

Hon Kay Hallahan: It says what it says.

The DEPUTY CHAIRMAN (Hon John Williams): Order! Has the member finished his question? I am becoming confused with the two conversations.

Hon P.G. PENDAL: Subclause (8) says that if the Governor is satisfied that the provisions of the laws of another State correspond with the provisions of this Bill, the Governor may declare those provisions to be part of our law. If this provision does not apply, there is only one other body which can alter the law -- this Parliament. We are debating whether we can expedite something by having the Government do it; is that the case? Should this provision apply in order that the Government or Governor can act quickly? If a loophole exists, or a provision in another law is needed, something can be pushed through the Executive Council which solves the problem. Obviously this process is less cumbersome than coming to Parliament. In terms of the point raised by Hon A.A. Lewis, this could happen. On matters of this kind the Parliament should act; it is not something which should be delegated to the Governor, because that then becomes something which is delegated to the Minister, in reality.

Hon KAY HALLAHAN: I have answered this before, but I keep forgetting that members do not remember what I say.

If a car with Queensland registration is believed to be in the possession of someone, and a finance company is looking to repossess the car -- it is not on the Western Australian register -- we need then for the laws of Queensland to be appropriate to the handling of that vehicle which is in this State. It would be inappropriate to come back to the Parliament to obtain some provision to deal with individual cases of vehicles from another State, which has a corresponding law to ours but that law needs to apply in this State. This provision seems to be a practical working-day provision --

Hon P.G. PENDAL: Why is it inappropriate to come back to Parliament but not inappropriate to go to the Governor? What is the difference?

Hon KAY HALLAHAN: If the Governor is satisfied that the provisions of the law of another State relate to this Bill, the Governor can declare those provisions appropriate. If Parliament does not sit for periods of three or four months --

Hon P.G. PENDAL: This happens with a lot of laws. Why do we not close Parliament down and say the Governor can run the whole show?

Hon KAY HALLAHAN: We ask the Governor to make decisions like this. This provision will not affect Western Australian vehicles; it will only affect vehicles from another State which are in Western Australia and not covered by our registration provisions. I find difficulty in seeing the problems seen by members.

Hon N.F. MOORE: I see considerable concern among members of this Chamber and it is difficult to resolve that concern with the way the debate is headed.

Hon Kay Hallahan: We could put the provision to the vote.

Hon N.F. MOORE: It would be silly to accept or reject this provision if some members do

not know what it means. Perhaps the Minister would be prepared to report progress.

Progress

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

(Continued on p 7373)

[Questions taken.]

BILLS OF SALE AMENDMENT BILL

In Committee

Bill passed through Committee without debate, and reported without amendment.

RETAIL TRADING HOURS BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to the amendments made by the Council.

LOCAL GOVERNMENT AMENDMENT BILL (No 2)

Receipt and First Reading

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

Second Reading

HON GRAHAM EDWARDS (North Metropolitan – Minister for Sport and Recreation)
[5.16 pm]: I move --

That the Bill be now read a second time.

As members will be well aware, rarely a session passes without the enactment of amendments to the State's largest Statute, the Local Government Act. That legislation was enacted in 1960 through the virtual amalgamation of two earlier Acts, the Municipal Corporations Act and the Road Districts Act.

The sheer size of the Act and the detail with which the powers of local governments are expressed makes it a particularly complex piece of legislation. As a consequence, it is a difficult working document for all those associated with the operations of local government and a prime reason for the Government having committed itself to proceed with the writing of a new Local Government Act as a matter of priority. In the meantime, it is again necessary to bring this Bill before the Parliament to amend the Act in a number of diverse areas.

The enforcement of parking restrictions falls primarily on local governments, which appoint their own officers for that purpose. Members will recall that earlier this year the Act was amended to allow the making of uniform by-laws to deal with offences against special parking facilities set aside for vehicles of disabled persons. Those by-laws are almost ready for promulgation and it is intended that local governments be given the power to appoint persons other than their own full-time officers to enforce parking offences. This is seen as most desirable to assist those local governments which could not otherwise justify the need to engage full-time officers for this purpose and which also have a need to have enforcement undertaken outside normal hours.

The rating of mining tenements granted over land held in some other tenure was thrown into doubt last year by a decision of the Supreme Court. It had previously been generally accepted that a tenement over land held, for example, as a pastoral lease, was rateable in both tenures. To restore the situation to that which had previously been thought to exist, the Bill clarifies the rateability of mining tenements in such circumstances and validates that past practice.

The Valuation of Land Act was amended earlier this year to remove the requirement that the gross rental value of land be not less than five per cent of the site value. On that occasion,

time did not permit further amendments to that Act and to the Local Government Act to remove other provisions which related to concessional values being provided in certain circumstances. The Bill therefore provides for removal of those now superfluous provisions in both Acts.

Different interpretations have been placed by local governments on the electoral provisions covering the manner of conducting different kinds of elections held on the same day. From time to time a need arises to hold with the annual elections further elections to fill additional vacancies created on a council. In some cases, multiple vacancy elections have been conducted, and in other cases separate elections have decided the annual vacancies and the newly created vacancies. It is considered the Act has contemplated the holding of single elections, but the obvious doubt is seen as a matter requiring clarification. The opportunity has been taken to ensure that any vacancies filled on the same election day for the same electorate will be by way of a single election, including extraordinary vacancies. It is felt that all prospective candidates should nominate for the one election, with the most supported candidate obtaining the longest term of office available.

This will overcome the possible situation of a number of good candidates nominating for a normal three-year term and only one candidate nominating for a lesser term for an extraordinary vacancy.

Another electoral-related matter is the setting of fees for the sale of electoral rolls. At present a maximum fee of \$10 is set by regulation, and this arbitrary figure is clearly not relevant to cover the wide range of sizes and cost of production of rolls throughout the State. Consequently, it is proposed to remove the statutory limit and let local governments set their own fees with the proviso that they must be commensurate with the cost of production. This is more in keeping with the Government's policy of allowing greater decision-making power to rest with local governments.

The final area covered by the Bill relates to local government boundaries. The Government has a responsibility to determine the structure of local government so as to achieve an alignment of economic, social, and demographic characteristics consistent with the development and enhancement of contemporary society. The structure of local government should be as open to adaptation and change as other parts of the public sector, but the existing legislation prevents this.

The retention of a local government system in 1987 still based on fixed historical boundaries is not an appropriate concept. Local government boundaries should not be seen only in the context of fixed lines on a map but as the flexible means of grouping the local needs of communities. What is needed is the means of engendering present-day community of interests rather than retaining symbolic dividers from yesteryear. The fact is that in many cases events have overtaken existing local government structures through, for example, changing land use from rural to urban, and previous boundaries are simply no longer appropriate. This has caused conflict in some instances over the use of facilities and differences in rate relativities between municipalities.

With a view to more readily accommodating the consideration of proposals for change in keeping with the need for improved government at the local level, the Bill proposes --

- to amend section 12 of the Local Government Act to repeal obsolete provisions, to provide consistency of terminology and to provide consistency in the number of electors who may initiate the respective petitions seeking change;

- to clarify the right of petitioners to seek the exercise of more than one power vested in the Governor relating to the constitution of local governments;

- to repeal section 30A, added in 1975, which is seen as providing only an effective means of preventing, or at least delaying, what may well be most desirable change initiated by electors; and

- to provide for the appointment of more than one Boundaries Commission.

While the Government has no intention of embarking upon large-scale changes to local government boundaries, it is strongly committed to providing a suitable mechanism for the review of those boundaries. The Government believes these proposals can better accommodate changes which can establish a more effective and efficient system of local

government in the interests of the community at large.

I commend the Bill to the House.

Debate adjourned, on motion by Hon G.E. Masters (Leader of the Opposition).

FISHERIES AMENDMENT BILL (No 2)

Receipt and First Reading

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

Second Reading

HON GRAHAM EDWARDS (North Metropolitan – Minister for Sport and Recreation)
[5.24 pm]: I move --

That the Bill be now read a second time.

This Bill is to amend the Fisheries Act to --

- (1) enable implementation of the recommendations of the Fish Farming Legislative Review Committee;
- (2) increase the penalty for taking rock lobster out of season and to provide the same penalties as those applicable to rock lobster for --
 - (a) taking undersized abalone and marron;
 - (b) taking marron in spawn; and
 - (c) taking abalone or marron out of season;
- (3) amend section 32 to --
 - (a) close a "loophole" in relation to the taking of fish from a limited entry fishery;
 - (b) permit the court, where a person not authorised to operate in a limited entry fishery is convicted of an offence, to order forfeiture of a boat, gear, and equipment used in the commission of the offence;
- (4) provide a regulation-making power to impose a fee for transfer of a fishing boat licence and the replacement of a fishing boat; and
- (5) "tidy up" two other sections -- 12A and 24A.

Since 1974 there has been a marked increase in fish farming, or, as it is more commonly known, aquiculture. The Fisheries Act was amended in 1974 by including part V which relates to fish farming. The inclusion of part V was as a result of the development of aquiculture of marron. Later developments have seen the introduction of aquiculture proposals in relation to prawns, oysters, mussels, Atlantic salmon, barramundi, and other species.

In particular, the growth of the marron aquiculture industry has been curtailed during the past decade because of the legal constraints on the sale of marron to the Western Australian market and food outlets. Marron is the basis of a very popular recreational fishery throughout the south west of the State. About 25 000 recreational marron licences are taken out annually for the purpose of fishing for marron in streams and irrigation dams. The legal minimum size is 76 millimetres carapace length, or about 120 gram weight animal. Marron is not found outside Western Australia in natural conditions.

As mentioned earlier, the Fisheries Act was amended in 1974 to allow marron to be used for aquiculture. This allowed marron to be sold for the first time, provided they were grown on a fish farm, but the legal minimum size of 76 mm was maintained for animals sold in Western Australia. This meant that there was a reduced likelihood of illegal operators fishing the wild stock for sale.

The aquiculture industry has now shown that the marron industry in Western Australia is unlikely to prove commercially viable unless marron farmers are permitted to harvest from their farms all sizes of marron, most of which will be less than the minimum legal length.

Other States, especially Queensland, are also developing an aquiculture industry based on marron, but marron farmers in those States are not constrained by a legal size limit because marron do not occur in the streams and therefore are not part of the recreational fishery.

Because of the importance to Western Australia of the marron recreational fishery, a review committee was established to consider many aspects of marron aquiculture, including the major matter of the sale of small marron. The committee released a report for public comment; and following receipt and examination of those comments, finalised its recommendations to the Minister. The review committee reported as follows on the sale of small marron --

That Government provide for the marketing of marron less than 120 gm for sale to licensed processing establishments (e.g. restaurants).

This recommendation was strongly supported by the committee and public submissions. It is realised that unless marron farmers are allowed to harvest all sizes of marron, aquiculture of marron in Western Australia is unlikely to prove commercially viable.

Marron is one of the largest freshwater crustaceans in the world. The present marron farmers are selling marron both in other States and to other nations. One of the areas of greatest interest expressed by the recent fisheries delegation from China was that relating to the supply of marron and its possible aquiculture in that country. Marron will be used for aquiculture, and Western Australia should be at the forefront of the marron aquiculture industry. To do this it will be necessary for the marron farmers to have the ability to sell small marron to specific classes of people such as restaurants licensed to sell farm fish and licensed fish farmers for stocking purposes.

There will be criticism of these proposals. The sale value of marron is high, and thus complaints of illegal capture and sale are sure to be voiced. Regulatory procedures are being developed to counter the illegal use of marron from the wild stocks. This will be mostly by way of a strict paper audit and licensing controls supported by field investigations. While I have addressed my remarks primarily to the marron aquiculture industry, the proposed changes to the legislation will enable the development of aquiculture for other species mentioned in my opening remarks. It will also allow different minimum sizes to be introduced for particular fish species in different areas for commercial fisheries management purposes.

The penalties for taking rock lobster out of season are to be increased. As a further measure to support the foregoing proposals, penalties for the taking of undersized marron, marron in spawn, or out of season are to be increased to those applicable to rock lobster. Current penalties for undersized animals are --

Current --

\$50 minimum	\$100 maximum	first offence
\$100 minimum	\$750 maximum	second offence

It is proposed that where less than five per cent of the total marron in possession are undersized, the penalties should be --

\$50 minimum	\$250 maximum	first offence
\$250 minimum	\$500 maximum	second offence
\$500 minimum	\$1 500 maximum	third offence

Where more than five per cent of total in possession are undersized, the penalties proposed are --

\$100 minimum	\$500 maximum	first offence
\$500 minimum	\$1 000 maximum	second offence
\$1 000 minimum	\$2 500 maximum	third offence

The additional penalties for every undersized marron seized are --

Current	25c minimum	50c maximum
Proposed	\$5 minimum	\$25 maximum

In respect of spawning marron, the current penalty is \$750 maximum for a general penalty, while the proposed penalties are --

\$200 minimum	\$500 maximum	first offence
\$500 minimum	\$1 000 maximum	second offence

An additional penalty for every marron in spawn which is seized is currently \$5 minimum and \$25 maximum.

The penalties for taking rock lobster out of season are currently --

\$200 minimum	\$750 maximum	first offence
\$750 minimum	\$1 500 maximum	second offence

For other fish the current penalties are --

\$50 minimum	\$250 maximum	first offence
\$250 minimum	\$750 maximum	second offence

The proposed penalties for abalone, marron, and rock lobster are --

\$300 minimum	\$1 100 maximum	first offence
\$1 100 minimum	\$2 200 maximum	second offence

From the foregoing, it can readily be seen that the increases in penalties are quite substantial and should act as a deterrent to persons contemplating breaking the law. The penalty for exceeding the bag limit in the recreational fishery was increased in May this year from \$500 to \$750. That penalty is set by regulation. The proposals in summary are --

- (i) amendment to section 25 to enable the second schedule to the Act, which specifies minimum legal lengths of fish, to be varied to specify different minimum legal lengths for different species according to the different --
 - (a) purposes for which the species will be used;
 - (b) areas in which the species is found; and
 - (c) classes of persons taking, farming, processing, selling, or exporting the species;
- (ii) to increase the penalties for taking marron --
 - (a) which are undersized;
 - (b) in spawn; and
 - (c) out of season.

I also draw attention to the fact that there have been problems with the abalone fishery. Members will recall that the metropolitan abalone season was closed in December 1986, some two months early, because of problems being experienced with people taking in excess of the bag limit and undersized animals. To assist in overcoming the problems experienced last year, the recreational abalone fishing has been restricted this year to weekends, public holidays, and the period between Christmas and New Year. The increased penalties mentioned in relation to taking marron out of season and under size will also apply to abalone. It is considered that these increased penalties will act as a deterrent to people who may contemplate breaking the rules.

Section 32 of the Fisheries Act relates to limited entry fisheries. Subsection (5) was included to permit recreational fishermen to take fish within a limited entry fishery. Recreational fishermen are restricted in the number of fish which they can take as provided in the schedule to regulation 3AB of the Fisheries Act Regulations 1938. That schedule has no application to the holder of a professional fisherman's licence, whether operating from a licensed boat or not, provided it is taken for his own personal use and not for sale.

Problems were experienced in the latter half of 1986 and earlier this year with professional fishermen taking fish, particularly abalone, for sale when not authorised to do so. In an effort to curtail this illegal practice, amendment to the fisheries regulations was sought to apply bag limits applicable to recreational fishermen to professional fishermen where they were taking fish from a limited entry fishery for their own personal use.

Advice received at the time was to the effect that the current provisions of section 32(5) of the Act appear to authorise any person, licensed or otherwise, to take any quantity of fish from a limited entry fishery, provided the fish are taken for personal use or pleasure and not

for sale, gain, or reward. The regulations and notices made under the Act which require fishermen to obtain an appropriate licence, and which impose bag limits on recreational fishermen, do not apply to limited entry fisheries. This anomaly is to be corrected by the amendment to section 32(5) contained in the Bill which will prevent the unauthorised taking of fish from limited entry fisheries. This means that licensed professional fishermen will be prevented from taking fish in a limited entry fishery for any purpose unless authorised to do so.

Arising from the illegal taking of abalone, a boat used in the commission of an offence was seized by fisheries officers. This was done in accordance with section 48(3) of the Act. Seizure is obviously the most effective action which can be taken to arrest illegal fishing activity. The alleged offence occurred in a limited entry abalone fishery. An order for forfeiture of the boat on conviction could not be obtained as it would be a first offence. Section 32(7)(b) provides for forfeiture on a second offence. The boat was duly returned to the offenders.

Recent offences for the illegal taking of abalone involved product valued at many thousands of dollars, and it is imperative that the offenders' activities be effectively curtailed. Seizure and subsequent forfeiture of a boat and gear for a first offence will provide a very effective means of control.

In summary the amendments to section 32 provide that --

all matters prescribed by regulations or notices made under the Fisheries Act will apply to fish taken from a limited entry fishery where the fish are taken for a person's own use and pleasure and not for sale, gain, or reward;

it be an offence to take fish from a limited entry fishery for the purpose of sale, or to sell or deal in any such fish when not authorised to do so; and

on conviction for a first offence under the section, a boat and any gear or equipment may be ordered to be forfeited where that boat is not authorised to operate in the limited entry fishery in which the offence occurred.

The remaining amendments in this Bill include one to enable regulations to be made in respect of replacement or transfer of boats and to prescribe fees in this connection. A considerable amount of time and effort is involved in processing replacement and transfer applications for licensed fishing boats. As part of the review of fees and charges, a proposal was submitted that a fee be charged for these transactions on the basis that there should be some contribution by those receiving a service. The transfer of a boat is seen to be no different from that of a motor vehicle.

A further amendment is to amend section 12A, which provides for notices to be made declaring a proclaimed fishing zone. Prior to 1969, proclaimed fishing zones were made by the Governor by proclamation. Subsection (3) refers to a "proclamation" only and is amended to include reference to notices.

This Bill contains important amendments which are necessary, firstly, to ensure that the aquiculture industry is placed on a sound basis and to enable flexibility in provisions governing its operations; secondly, to increase penalties in areas where problems have developed; and thirdly, to close a loophole which if left open could have quite serious repercussions on those fisheries under the limited entry management provisions of the Act.

I commend the Bill to the House.

Debate adjourned, on motion by Hon G.E. Masters (Leader of the Opposition).

CHATTEL SECURITIES BILL

In Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon Mark Nevill) in the Chair; Hon Kay Hallahan (Minister for Community Services) in charge of the Bill.

Clause 3: Interpretation --

Progress was reported on the clause after the following amendment had been moved --

Page 5, lines 32 to 35 -- To delete subclause (8).

Hon KAY HALLAHAN: I will try again to explain subclause (8) to members. I accept that we are dealing with a difficult area of law, and I regret if I showed impatience earlier because I was not paying sufficient attention to the fact that we are dealing with a new and complex area of law.

Clause 3(8) allows a regulation to be passed, recognising only another interstate law as a corresponding law. This does not mean that interstate law is adopted in Western Australia; it means that interstate law will apply to only vehicles which are registered in other States, in very limited situations. The main situation is covered under clause 7(5)(b), which states that if a vehicle is registered in another State and that State's law is recognised as a corresponding law, the law of that other State will apply to that vehicle. I would have thought it is as clear as crystal that clause 3(8) is not imposing on us another State's laws, and I hope that explanation will satisfy members' concerns in their consideration of the Bill.

Hon A.A. LEWIS: I thank the Minister for her explanation of the Bill's wording.

Amendment, by leave, withdrawn.

Clause put and passed.

Clauses 4 to 6 put and passed.

Clause 7: Extinguishing of security interest --

Hon D.J. WORDSWORTH: This clause deals with a matter raised by Hon Sandy Lewis in respect of the various classes of motor vehicle, that dealers will be treated differently when a vehicle is licensed as against when it is not licensed. What happens when a vehicle is licensed initially and the person discontinues the licence?

Hon KAY HALLAHAN: I think the member will find the question he posed answered in clause 13 where it says --

- (a) motor vehicles within the meaning of the *Road Traffic Act 1974*, being motor vehicles that, unless the regulations otherwise provide, are, or have been, licensed under that Act;

So it applies until such a situation where a vehicle becomes unlicensed.

Clause put and passed.

Clauses 8 to 12 put and passed.

Clause 13: Application of Part --

Hon A.A. LEWIS: Clause 13(d) deals with prescribed goods. What prescribed goods does the Government have in mind and how fast will the Government move in prescribing some other goods?

Hon KAY HALLAHAN: In fact there are no prescribed goods at present. The Victorians are looking very carefully at the question of boats, and it may well be that Western Australia will have to consider that area too. We do not have a time line to that, but we will follow with some interest the work that is being done in Victoria in that regard and we will consider also the sorts of complaints and difficulties experienced here to see whether that is not an area that the legislation could be useful for. At present there are no prescribed goods and we have no intention of moving immediately on any other area. However, if there are representations and other evidence of dissatisfaction, the Government will have to examine the area very carefully indeed.

Clause put and passed.

Clauses 14 to 17 put and passed.

Clause 18: Discharge of registered security interest --

Hon D.J. WORDSWORTH: This clause appears to make it necessary for every person selling something to check to see whether a debt is recorded against it. If a person does not comply with this clause and if he sells something which still has a debt attached to it, he is liable for a penalty of \$500. While people only have to call up and pay for a report, if they think there has been a borrowing on it, this will make them do it on everything.

Hon KAY HALLAHAN: I will endeavour to make the point clear to the member that it requires the holder of a security interest to make application within 14 days to the commissioner for cancellation of the registration of that interest. That only applies to secured parties. It does not apply to the consumer part of the transaction. It points out how necessary it is that the register be kept up to date and accurate. To be very honest, I am not sure I picked up the member's query.

Hon D.J. WORDSWORTH: I was actually speaking to clause 30. What concerns me about clause 18 is that if one records a debt against some goods which one has sold to someone, one has to cancel that registration within 14 days. If, for example, I were to sell a tractor to my neighbour and I said, "I want \$500 for the next three years" and I register it, I have only 14 days after that last payment to remember that it has finished and I have to cancel that registration. That seems hard in respect of casual sales; hire-purchase is better organised but for ordinary sales, which often take place, suddenly to put the cream on the cake and cancel that registration within 14 days could be difficult.

Hon KAY HALLAHAN: I regret to inform the member that it will be necessary. It only relates to a security interest discharged or extinguished; but it is necessary for that register to be kept up to date, otherwise the whole thing will be quite unworkable. That is not the intent of the legislation. I think people will get used to it.

Hon D.J. WORDSWORTH: It would discourage me from registering the sale because the consequences of not doing the final requirements under this Bill might be worse than losing my interest in the tractor. I would not lose the interest in the tractor. If the man goes off and sells it to somebody else, I will not lose the interest, he will. He has bought something that was not able to be sold.

Hon KAY HALLAHAN: If he has not registered, he loses out. I think the benefits in the legislation far outweigh the sort of inconveniences that the member thinks might exist. There will be protection for people in a way which does not exist at present.

Hon D.J. WORDSWORTH: This highlights the whole problem. The legislation is not giving protection to the person who sold the machinery and is not receiving full payment but fortunately he holds the right to that machine. However, this legislation will help a third party who perhaps thinks they can purchase it from the person to whom it was originally sold. There is no benefit to the seller in recording it; therefore the person who might be the second unwitting buyer never gets to know.

Hon KAY HALLAHAN: His interests will be protected by the legislation in a way that they cannot be now. It might seem a little onerous, but the individual's interest will be protected by that registration.

Hon D.J. Wordsworth: Could you explain how?

Hon KAY HALLAHAN: I have told the member it is under clause 7.

Hon D.J. Wordsworth: There must be some simple way you could tell me.

Hon KAY HALLAHAN: If I register my interest, my interest is protected under clause 7.

Hon D.J. Wordsworth: They are, anyway.

Hon KAY HALLAHAN: Not necessarily.

Hon D.J. WORDSWORTH: The unwilling purchaser who buys something that is already under hire-purchase is the one who is hurt, not the hire-purchaser. If I provide the finance for a client to buy a tractor, I am the owner of that tractor whatever happens until the final payment is made. I do not need protection because I am protected under the hire-purchase legislation. If the person I have provided finance to is foolish enough to sell it to somebody else, I am still fully protected.

Hon KAY HALLAHAN: I guess the Bill is larger and covers a much greater area than that. It covers every person with a financial interest. People will have to realise that it is better that they register their interest in an item. Under this legislation, the majority of the population stands to be better protected than presently exists.

Hon D.J. WORDSWORTH: I would like to give the Committee an example of what I am talking about. I may see a second-hand header for sale and decide to buy it. I make the

necessary inquiries to see whether it has been listed on the register and, because the hire-purchase company had seen no benefit in recording it with the department, did not record it. Believing that the header is unencumbered, I proceed to purchase it. However, because the original purchaser failed to make a payment, the hire-purchase company takes it from me. What happens in that case.

Hon KAY HALLAHAN: I am glad the member raised that question because it gives me the opportunity to tell the House of the importance of registering these sorts of agreements. The purchaser instanced in the member's example would get clear title to the header under this Bill. If people do not do what they are supposed to do, the person who purchases an item in good faith receives good title and the hire-purchase company misses out. That is a great encouragement for everybody to comply with the provisions of the Act.

Hon D.J. WORDSWORTH: I think this changes completely the meaning of the Bill. The Minister is saying that the hire-purchase company would lose title to something which it owned because it did not record it. That staggers me.

Hon Kay Hallahan: I make it clear that the Bill relies on the registration of interest in vehicles. That is what we have been talking about all afternoon.

Hon D.J. WORDSWORTH: I think that changes completely the provisions relating to the onus of ownership. What happens if I buy a tractor and sell it to my neighbour and fail to ring up the department to record it with it. My neighbour then finds that he cannot cope with the repayments and sells it to another farmer. The Minister is now telling me that I have lost my right to that vehicle.

Hon KAY HALLAHAN: I confirm the member's worst fears. That point is absolutely central to the Bill. That is the problem we are trying to rectify. I confirm that people should be aware of the dangers of entering into such financial arrangements with their neighbours. I have referred already to an education programme which is absolutely important to all interested parties. It is in their interests to understand the Bill and to register vehicles and keep that registration up-to-date. If the member's neighbour is a bona fide buyer and does not have notice of any encumbrances, he would have ownership of the vehicle in good faith.

Hon D.J. Wordsworth: It all gets down to the point of who has the rights in this case, the consumer or the owner. I believe the owner has a right before the consumer. It is ludicrous to suggest that, because he fails to register something, he loses the right to it.

Hon W.N. STRETCH: I think this is what Hon A.A. Lewis was trying to get at. What the Minister is suggesting cuts right across all hire-purchase agreements and any other agreement between a purchaser and a consumer. What happens if a computer malfunctions as occurred recently in the stock market? Is the Minister suggesting that this Bill will override all buyer-seller agreements? Is the Minister suggesting that, because of the malfunction of a computer, and something is not registered, everyone loses title to that item except the purchaser?

Finally, does stamp duty attach to these sorts of agreements?

Hon KAY HALLAHAN: A \$10 fee attaches to these agreements, but no stamp duty.

The principle of the Bill is to protect innocent consumers. However, they have to be bona fide purchasers and without knowledge of any encumbrances. The onus of proof is on them to establish that. That is central to the Bill and people have to understand that. If there is a computer error or some other error, clauses 24 and 25 provide that the commissioner will be held responsible and compensation will be payable. That deals with the odd circumstance where information is not accurately recorded.

Sitting suspended from 6.03 to 7.30 pm

Hon D.J. WORDSWORTH: I can only repeat that I am unhappy with the overall effect of this Bill. I can see the present problem when someone endeavours to sell something which is not his own; the unwitting buyer may make a payment and have the article repossessed. Nevertheless, I see a downside to the legislation in that the lawful owner who may have owned the item for a considerable time -- from new, indeed -- may lose it because he did not register an interest in it with this department. For that reason I will not support that legislation.

Clause put and passed.

Clauses 19 to 29 put and passed.

Clause 30: Offence --

Hon D.J. WORDSWORTH: This clause talks about any registered security interest, whether or not the dealer has notice of the interest and if the vehicle is not licensed. The penalty is \$2 500. This will make the dealer check every single item, because he may be fined \$2 500 if the interest is not found to be recorded.

Hon KAY HALLAHAN: The member may be familiar with the term "floor plan". It is not something with which I am particularly familiar, but it relates to an inventory security interest. If the terms of the floor plan allow him to sell it according to subclause (2), it would not be an offence.

Hon D.J. WORDSWORTH: In other words, if the floor plan agreement says he is allowed to sell it, it would not be an offence.

Hon KAY HALLAHAN: That is right. Subclause (2), which gives an exemption, was included at the request of the Australian Finance Conference. It felt the Bill would not be in the interests of the industry if that exemption was not included.

Hon A.A. LEWIS: It is the dealer, not the finance company, who suffers, but the dealer has not been consulted. Why do we not make the person who originally owned the vehicle liable to a fine as well? Somebody trades something in and gives the dealer advice that it is not encumbered. We should be allowed to fine that person for misrepresenting the goods.

Hon KAY HALLAHAN: The dealer should check the register. Dealers are in possession of information, and they will be obliged to check the register. If an interest is secured over the vehicle, the dealer would not be selling it. Perhaps the member could make his position clearer.

Hon A.A. LEWIS: This is an impost on the dealer rather than on anyone else. Members of the public are not always honest. Some people do not know if they still have a payment to make on a machine. Many farmers leave their books to their accountants. The farmer will say the machine is free, so it is the dealer's job, when he is trading that in, not only when he is selling it, to check. He must make sure that the thing is unencumbered. It seems to me the dealer is being belted both ways.

Hon KAY HALLAHAN: I had not understood Hon Sandy Lewis' connections earlier in the debate, and his underlying concern for the dealer. The dealer will just have to check the register; that is an obligation.

Hon A.A. Lewis: Both ways?

Hon KAY HALLAHAN: What is both ways?

Hon A.A. Lewis: When he purchases and when he sells.

Hon KAY HALLAHAN: One would presume that, as the dealer is in the industry, he has an interest in protecting his interests by doing that. It is only an inquiry and the industry says that the inconvenience of having to do that is worth the benefits that will flow from the legislation. Some legislation contains provisions which are inconvenient or onerous. Nevertheless, this Bill provides enormous benefits that do not presently exist, so people will have to check.

Hon A.A. LEWIS: We have been through this, and the Minister could not list the benefits.

Hon Kay Hallahan: That is not true.

Hon A.A. LEWIS: The Minister has listed some theoretical benefits, but has not been able to give numbers or percentages. We are dealing with the same machines one of which is registered and one of which is not registered. How would the dealer know that Hon David Wordsworth had a self-propelled header which had been registered, then deregistered, but was still under registration so far as this Bill is concerned even though it did not have licence plates?

That vehicle would be on the register because it had not been paid off, yet Hon Margaret McAleer may have one that had never been on the register because it had never been licensed. Therefore, the dealer would have to check every self-propelled header that may or may not have been registered. The Minister is asking the dealer to accept all responsibility

all the way through. I do not mind, and if the Minister says yes to that, we will leave the matter. It is obvious that the dealer has not one bit of protection under this legislation.

Hon KAY HALLAHAN: This matter is obviously of concern to Hon Sandy Lewis, so I make clear that clause 13 applies only to floor plans. I hasten to add that this is good legislation.

Hon A.A. LEWIS: That is even worse. Hon J.M. Brown laughs, but he should be one of the people --

Hon J.M. Brown: Don't go on with that nonsense.

Hon A.A. LEWIS: Hon Jim Brown believes that there should be this division, even with floor plans. He says that I am talking nonsense, when he has been in the industry and should know all about it.

Hon J.M. Brown: I don't discredit farmers like the member does.

Hon A.A. LEWIS: We are not talking about farmers.

Hon J.M. Brown: The member is.

Hon A.A. LEWIS: As I understand, we are talking about floor plans and the Minister has made that very clear.

Hon J.M. Brown: The member did not know that until the Minister told him.

Hon A.A. LEWIS: I am glad that Hon J.M. Brown has entered this debate, and will be of great help to the Minister.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Order! The member will address his remarks to the Chair.

Hon A.A. LEWIS: My question has not been answered. If a vehicle has been licensed -- and if it is licensed it must be registered -- and is then delicensed and traded in, that vehicle is still on the register; am I correct?

Hon Kay Hallahan: Yes.

Hon A.A. LEWIS: However, if it has no licence plates, the dealer in normal circumstances would assume when the farmer says that it has no encumbrances on it that it does not have any encumbrance involving the floor plan. The dealer then takes it on to his floor plan. If the farmer has said when trading the machine in that it has no encumbrances on it, the dealer does not know that it was licensed previously because there are no licence plates on it.

Although the farmer says that there is no encumbrance on the vehicle I am not yelling and screaming about farmers, because they do make mistakes and the farmer might think that there is nothing left to pay and that the vehicle is free of all encumbrances. If he then trades it in, the dealer can be fined, but the farmer cannot be fined under this clause. The Minister is throwing an unfair onus on the dealer.

Hon KAY HALLAHAN: I make clear that if the dealer's floor plan allows him to sell that vehicle it is up to the finance company as to what it does. I would have thought that Hon Sandy Lewis would know this about floor plans, and far be it for me to say he would not, but it would not be the usual thing for the vehicle that he has just described to be bought on a one-off basis according to the floor plan clause that we are now debating. Even if a vehicle goes on to a floor plan, which allows a dealer to sell it, because of subclause (2) -- which the industry had included in the Bill -- a situation arises where dealers will have to play the game and register vehicles. According to Hon Sandy Lewis dealers are able, intelligent, businesslike people.

Hon A.A. Lewis: And farmers are not?

Hon KAY HALLAHAN: I include farmers in that description. The dealers will know that they have to comply with the legislation, and businesses involved in the industry will not find it too onerous to ascertain whether there is any interest held over a vehicle. To plead the case for dealers in the way in which Hon Sandy Lewis has done, while his interest is on their behalf, does not portray them well. Those people are in their industry and will have to do what is required of them. I would be surprised if they were to find this too onerous, as the honourable member suggests.

Hon A.A. LEWIS: It is interesting that the Minister talks of a one-off deal going on the floor plan. Is she talking about a used machinery floor plan? It is seldom that a dealer does a multiple deal, it is usually a one-off deal. The Minister should not try to tell me about floor plans. She has reflected on my knowledge of them when I probably know a little more about them than she does.

Hon Kay Hallahan: I am sure that would be so.

Hon A.A. LEWIS: Then why did the Minister reflect on my knowledge of how a floor plan works?

Hon Kay Hallahan: I just thought --

Hon A.A. LEWIS: That she would get away with it.

The DEPUTY CHAIRMAN: Order! The member will address his remarks to the Chair.

Hon A.A. LEWIS: I take exception to the Minister saying that I know nothing of what I am talking about when I am trying to debate sensibly a clause of this Bill. If I knew nothing I would grin, sit down and say no more. I hope the Minister will withdraw the whole of this clause because she has not explained to me why the dealer should be liable, in the registration stakes, for the responsibilities of the person from whom he purchases a vehicle and the person to whom he sells a vehicle. We have been through that with regard to motor cars, and I have agreed to disagree; but now we are talking about the trade-in of a farm machine under the floor plan and the dealer's taking the word of the person who trades it in. For Hon Jim Brown's sake --

Hon J.M. Brown: Don't do anything for my sake, please.

Hon A.A. LEWIS: I just believe it ought to be straightened out so that either the seller or the purchaser is responsible. In the rest of the Bill the Government has asked for the seller to be responsible. I believe that is fair, if we are going to stick to it. Let us stick to the seller's being responsible, but do not make the dealer responsible if he is purchasing something; make him responsible only if he is selling something. Then, if he rings up and the vehicle is not registered and there has been a mistake, or if there is any other excuse and the central body cannot tell him whether or not it is registered, I do not believe the dealer should be responsible. If the farmer when he trades it in, or the contractor, has made a mistake, I do not believe the dealer should be held responsible for that.

Hon KAY HALLAHAN: I would just like to try one last time to make it a little clearer because a couple of strands have come through the honourable member's argument and have added a little confusion to it. If the dealer has a floor plan agreement with a finance company which allows him to sell that vehicle, then he is not in breach of the Act.

Hon A.A. Lewis: That has nothing to do with it.

Hon KAY HALLAHAN: It does, because that is what clauses 30 and 31 are about.

Hon A.A. Lewis: That really has nothing to do with it. It is a follow-on from the rest of the legislation.

Hon KAY HALLAHAN: Is the member really worried about the obligation on a dealer to register?

Hon A.A. Lewis: I am really worried about the dealer in the case where only certain numbers in farm machinery are registered and a heap of others are not. For three per cent of the machinery, a machinery dealer must check all the machinery.

Hon KAY HALLAHAN: I am getting a great appreciation of the awful duties of dealers. The fact is, if a vehicle comes in and is not licensed -- and here we are going back to the member's other point, about which we somehow got a bit lost and did not get back to, where it has been on the register and he is unsure whether it still is -- he really does have to inquire. If it has been licensed and registered, even though it now does not have its numberplates on, there will be other search codes to follow through on, and that is another reason for some of the other codes of engine numbers and chassis numbers. Therefore a search will have to be done to see if that vehicle is registered. It will be a job for dealers, as for everybody else.

Hon A.A. Lewis: It is not for everybody else. Only the dealers are going to pay the \$2 500.

Hon KAY HALLAHAN: No. When I say that to the honourable member, he jumps to

another point. I spoke to him a minute ago about floor plans under clauses 30 and 31 and he said, "No, what we are talking about is what deals with the whole Bill." Now the member says he is talking about floor plans. We cannot keep jumping about.

Hon P.G. Pendal: We should all leave, and leave you two to it.

Hon KAY HALLAHAN: I think so, too. I will leave as well.

Hon A.A. LEWIS: I did not intend to come back to this clause. Let us use as an example a tractor rather than a self-propelled header. Certain tractors are registered for the road and certain tractors are not. I would say from experience that no more than 10 per cent of tractors are registered for the road and would go in the Government's register. So for 10 per cent of tractors, and three per cent of the deals on self-propelled headers, the dealer is forced to ring the register. Every dealer must, whether the vehicle has been licensed or not, because he does not know. The dealer is not getting anything for the search time for ringing on long-distance telephone calls. The time span may be 10 or 15 minutes. That is another \$10, \$15, or \$20 going on all the time and it all adds to the costs and frustration of the dealer.

I will not say anything more. I have explained it to the Government and the Government can wear it as far as I am concerned. But with the first case that comes up I will go straight to the Minister and the department and go through it. I will bring it up and say, section by section, how long it took and what it cost the end customer. If it cost the end customer less than \$150 in the case of farm machinery -- and on a piece of cheap farm machinery that is a high percentage -- the Government can wear it. I am not going to waste time beating my head against the wall because it is obvious we are not going to get this altered. We are not getting the concept of the cost to the consumer through to the Government. The Government could not care less about the cost to the consumer. The consumer, as long as he is protected, so-called, can pay.

Hon KAY HALLAHAN: I have said throughout the debate that the legislation is modelled on that which is working in Victoria. The Victorian legislation has been scrutinised rigorously, and amended as a result. The Bill before the Chamber tonight is modelled on that amended Victorian Bill, and it is working. However, I will say to Hon Sandy Lewis that in the implementation of this Bill, if the sorts of problems that he foreshadows do come about, it is fair enough for me to say that I will ask the Minister to have the situation monitored. If it places an unrealistic burden on consumers and the costs are such that they are reflected onto the consumer -- which is not what any of us want -- we will certainly consider an amendment or some sort of administrative way of offsetting those cost structures. There are ways of doing it without amending the Bill.

It may be that it could be discounted for dealers. If they are at a big disadvantage, as the honourable member suggests, all I am doing is holding out an olive branch. We do not want to cause dealers inconvenience or consumers extra costs, and we are prepared to look at the legislation after it has been in place for a few months. I will convey to the Minister the concerns expressed in the debate tonight, and I feel sure he will be quite receptive to looking at some way of offsetting any negative consequences. They may be unexpected but they are not showing up, I hasten to add, in the Victorian legislation.

Clause put and passed.

Clauses 31 and 32 put and passed.

Title --

Hon D.J. WORDSWORTH: We did not get into the matter of compensation should the computer go wrong and someone give wrong information. The Minister made a remark about that, and I think we let her off lightly.

Hon Kay Hallahan: It is clauses 24 and 25.

Hon D.J. WORDSWORTH: One wonders how the Government can guarantee that, and what the implications are should the computer go wrong.

This legislation is similar to a land sale in that title has to be shown for something at a given time in order that a sale may take place. The difference with a land sale is that people are waiting at the given hour, 11.00 am or whatever the predetermined time of the transaction is, and one banker hands over the money to the other banker and he sees the title is clear. The

only thing I can see wrong is that one cannot handle motor cars like land. They are not such a big item, and not so much money is involved. There is no place of settlement as with land. A dealer can ring up on Friday and find out that the title is clear and next day negotiate; in the meantime someone has filed a registration, the same as can happen with land. However, the manner in which one deals with land negates all possibility of a problem arising because one does not hand over the money from one lawyer to another until he sees the title is clear. It is left right until the deadline. That is not possible in this case, and I can see complications arising in that regard. I hope the Minister does not extend this beyond motor vehicles.

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 Community Services), and passed.

TRANSPORT CO-ORDINATION AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON GRAHAM EDWARDS (North Metropolitan -- Minister for Sport and Recreation)
[8.05 pm]: I move --

That the Bill be now read a second time.

At the outset, and for the benefit of members, I should perhaps summarise the main objectives of this Bill to amend the Transport Co-ordination Act. They are --

to provide a licensing system for commercial ferry and hovercraft operations as a means of protecting the public interest;

to provide appeal rights to certain classes of taxi drivers; and

to provide for regulations enabling fees to be charged for the transfer of licences, and for the issue of number plates for omnibuses.

With regard to commercial hovercraft and ferry operations, the Transport Co-ordination Act contemplates the licensing of all forms of commercial transport in this State, and section 21 of the Act nominates the various types of licences that may be issued, and how the fees will be assessed. The Act presently only provides for the licensing of the commercial operations of aircraft, buses, commercial goods vehicles, country taxis, helicopters, and certain classes of coastal shipping -- basically all modes of commercial transport other than the two which are the subject of this Bill.

Crown Law Department opinion is that the Act is intended to coordinate, plan, and advance all forms of transport in the State, but due to the narrow definition of certain transport modes, hovercraft and ferries could not be accommodated within the present Act. The definition of "ferry" as proposed in the Bill differs from that in the Marine Act for very good reasons. In this Bill the definition is designed to cater for economic and public interest issues, while the definition in the Marine Act is a technical one, for other reasons. It should also be stressed that exemptions are to be gazetted to exclude from the licensing provisions vessels used for fishing charters and small vessels of under 30-seat capacity and the like.

While the intent of the existing Act is quite clear -- that all forms of commercial transport should be licensed under the Act -- Crown Law opinion further indicated that hovercraft and ferries could not be appropriately placed in any of the licence fee categories, and thus a licence could not be issued under the present Act. It would seem that modern technology such as hovercraft was not envisaged when the Act was originally drafted in the 1930s. This amendment will rectify the anomalies.

On the basis of equity, it is appropriate that these two modes -- hovercraft and ferries -- should fall under the umbrella of the Act. As an example, aircraft and helicopter services to

Rottneest Island are required to be licensed, yet the competing modes on the route -- ferries, and perhaps soon, hovercraft -- do not presently require a licence. It is to remove these inconsistencies, and to ensure that the public interest in transport services is maintained, that this amendment has been proposed.

I emphasise that these procedures are being put in place, not to protect the industry, but to ensure the consumer -- the traveller on the ferry -- is protected from any unfair practices that could develop. There are other Acts -- the Jetties Act and the Marine and Harbours Act are but two -- which control certain aspects of ferry operations, but these relate to safety and operational issues, and hence are not appropriate measures to protect all aspects of the public interest. For example, these other Acts could not be used to protect the consumer if his interests were in jeopardy in a predatory ferry pricing war. These amendments will ensure the public receives the protection it deserves from Government.

I am pleased to say that at present no unfair practices are evident between the transport modes, or between the individual operators, but this may not always be the case in the future. If the situation were to change, the Government has few powers to remedy it. However, under the proposed amendment the Government would have the power to endorse conditions on licences, and to remedy or minimise any actions by operators that may not be in the public interest. This power already exists with all other forms of commercial transport. I stress, however, that the Government will have minimal involvement in ferry and hovercraft operations, apart from nominal licensing procedures, unless operations degenerate to a point that activities are being undertaken which are against the public interest. The remedy for protecting the consumer will lie with the Transport Co-ordination Act.

I am aware that a small sector of the industry is not enthusiastic about this Bill, but its argument seems to be along the lines that "the industry has run well for decades, and does not require regulations". Rest assured this Bill is not regulation for regulation's sake, nor is it designed to protect the industry from itself. One of the main concerns of the Bill is to ensure the adequate protection of the consumer and the public interest that is not presently available in other legislation. The industry in its opposition to this legislation seems more motivated by self-interest than a genuine desire to see some protection for the public.

This is perhaps emphasised by recent media hype attributed to the industry, blatantly suggesting that "fares to Rottneest could double", and "competition would cease" if this legislation was enacted. This shows how out of touch with reality the industry is, despite being thoroughly briefed on the provisions of the Bill. In fact, the licence fee will be \$1 per seat per annum, so for a 300 seat ferry the annual fee will be \$300, and assuming a very conservative average of two trips per week the fee would be one cent per seat per trip -- hardly justification to double the fares. In any case, the Minister has given an undertaking that he does not intend to involve himself with fare setting while current satisfactory operations continue, but he would act on fares only if some future adverse action by ferry operators threatened the public interest.

Likewise, the suggestion that this legislation will restrict competition is ludicrous. Licences will be issued as of right to existing operators and to any new ferry or hovercraft operator who comes on the scene. In this way no goodwill will be involved, as has been suggested in some quarters.

Another amendment proposed -- and this will encompass all forms of passenger-carrying transport, not just ferries and hovercraft, is to section 49. At present the section permits the inspection of a vehicle or load, and this will be extended to include passengers. The section, while it feasibly could include ferries, will predominantly apply to omnibuses, where different classes of passengers, pensioners, school children, and the like, who travel on Government-financed subsidised fares, may need to be very discreetly counted from time to time as a cross check against an operator's subsidy claim.

The next objective of this proposed legislation is to provide country taxi drivers with similar appeal rights as are available to their metropolitan counterparts under the Taxi-Car Control Act. It will allow country-based taxi operators the right of appeal if they are refused registration under the Act in cases where they had previously been registered but such registration had expired. Currently, under section 47ZF(1) an appeal to the Local Court exists only where a registration has been suspended or cancelled or renewal has been refused. This new provision will extend a driver's appeal rights.

The last issue is a relatively simple one. For many years the Transport Regulations 1967 prescribed fees for the transfer of a licence issued under the Act, and also fees for the issue of the distinctive red and white TC numberplates that are affixed to all tour and charter buses in this State. In a recent revision of the transport regulations, the prescribed fees were deleted, as there was some doubt as to whether the charging of the particular fees was in accord with the provision of the Act. This amendment seeks to clarify the position and remove any doubts that might have existed, and it will give the Department of Transport the clear mandate to prescribe such fees in the regulations.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Margaret McAleer.

ACTS AMENDMENT (PARLIAMENTARY SUPERANNUATION) 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 Central Metropolitan -- Leader of the House) [8.14 pm]: I move --

That the Bill be now read a second time.

Members will recall that in November 1986 legislative amendments were made to bring within the jurisdiction of the Salaries and Allowances Tribunal the determination of certain matters relating to parliamentary superannuation. The purpose of conferring this responsibility upon the tribunal was to achieve a degree of neutrality in the fixation of members' superannuation conditions.

The amendments made to the Parliamentary Superannuation Act last year included an increase in the conversion factor from 10 to 12 for calculating lump sum payments when members decide to commute some or all of their pension entitlement. While the Salaries and Allowances Tribunal is empowered to adjust the basis of calculating pensions so that the benefits available to members are at a level that can be justified, it does not have such discretion to deal with the commutation conversion factor. On reflection, it would have been appropriate to have also conferred upon the tribunal the power to fix the commutation conversion factor when the 1986 amendments were made.

It is therefore proposed in this Bill that the tribunal be given the necessary authority to determine the commutation conversion factor for calculating lump sum payments. To achieve this objective, it is necessary to amend both the Parliamentary Superannuation Act and the Salaries and Allowances Act.

The measures proposed in this Bill are consistent with the steps taken by the Government last year in its endeavour to remove from the political arena the fixing of members' superannuation conditions.

I commend the Bill to the House.

Debate adjourned, on motion by Hon G.E. Masters (Leader of the Opposition).

MARKETING OF EGGS AMENDMENT BILL

Assembly's Request for Conference

Message from the Assembly requesting a conference on the amendments insisted on by the Council, and notifying that at such conference the Assembly would be represented by three managers, now considered.

In Committee

The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair; Hon Graham Edwards (Minister for Sport and Recreation) in charge of the Bill.

Hon GRAHAM EDWARDS: I move --

That the Assembly's request for a conference be agreed to.

Hon G.E. MASTERS: The Legislative Assembly requests the Legislative Council to agree to a conference of managers to deal with a difference of opinion between the two Houses that cannot be resolved other than by getting together and attempting to resolve the dispute at such a conference. It is an extraordinary situation in which we find ourselves. Members will recall, when dealing with this Bill, that the Legislative Council quite properly decided that a review of that legislation should be undertaken at some appropriate time by a committee of this Council, namely, the Standing Committee on Government Agencies. The resolution was not couched in exactly those words, but that was the intention of the amendment and it was quite proper for the Legislative Council to take that action. It is indeed accepting its responsibility to review legislation; and, after all, the Legislative Council more than any other House is designed for that purpose. I am sure that all members on both sides of the Chamber would agree that it was a proper course of action to take.

As a result of that decision there was what can only be described as an insulting message returned to this Chamber by the responsible Minister.

Hon Graham Edwards: Which Minister?

Hon G.E. MASTERS: Minister Grill.

Hon Graham Edwards: That is not correct. You used that as an excuse last time.

Hon G.E. MASTERS: The message was sent by the Legislative Assembly to this Chamber, and it was of an insulting nature and it was largely the work of the Minister responsible for the legislation.

Hon Graham Edwards: He was not here at the time. It is untrue.

Hon G.E. MASTERS: Let me finish. I do not think there is any member in this Chamber who did not consider that message to be insulting to it.

Hon Graham Edwards: Did it consider it?

Hon G.E. MASTERS: If the Minister will let me speak, what I am trying to say is that most members in this Chamber, perhaps not the Minister, considered the message to be insulting to this Council.

Hon Graham Edwards: We adequately dealt with that.

Several members interjected.

The DEPUTY CHAIRMAN: Order!

Hon G.E. MASTERS: If I can reply, as is my right, despite the Minister's trying to suggest something else was the case -- the message was insulting. It was a direct challenge to this Council and its responsibility and actions in considering legislation.

Hon S.M. Piantadosi: I was not insulted.

Hon G.E. MASTERS: The member might not be but members on his side as well as mine, indeed, most members who have any regard for the Legislative Council within the parliamentary system, were insulted by that message. As a result of that message, quite properly, the House responded in the only way to respond -- that is, by saying to the Legislative Assembly, to the Government, and to the Minister that we have a role and a responsibility. We have a Standing Committee designed for such purposes and we will not be pushed around by the Legislative Assembly, least of all the Minister responsible for this legislation.

Hon Graham Edwards interjected.

Hon G.E. MASTERS: If the Minister wants to make a speech, he can; in the meantime, I will make mine.

Hon Graham Edwards: The member is touchy tonight.

Hon G.E. MASTERS: The last part of the message sent to the Legislative Assembly reads --

In the event that the Assembly is willing to accept that it has misconstrued the Council's intent, the Council informs the Assembly that it would be prepared to reconsider its stand on the amendments in issue.

We were saying that provided the Legislative Assembly, the Minister, and the Government accepted that the Legislative Council has a proper role to play and has suggested appropriate action in dealing with this Bill, we would reconsider the amendments put forward. Two points were made: Acknowledgment that the Legislative Council has a proper role to play and, indeed, a responsibility; and that we were prepared to reconsider the amendments.

All the Legislative Assembly, the Minister, and the Government needed to say was that they accepted that the Legislative Council and the committee of this Council had an appropriate role to play. Indeed, the chairman of that committee is a Government member.

Several members interjected.

Hon G.E. MASTERS: It is typical of the Government of the day to denigrate this place. The Government is bloody-minded and arrogant as far as executive power is concerned.

Several members interjected.

Hon G.E. MASTERS: The Government has absolutely no regard whatsoever for this place and what it stands for. The Government's ultimate objective is to destroy totally this place and to remove its powers.

Several members interjected.

Hon G.E. MASTERS: If honourable members want to speak on their feet instead of from their chairs, I will be happy to listen.

The end result is that we are adamant that the Legislative Council has a role to play and we aim to carry out that role. The purpose was to consider legislation in a Standing Committee made up of members from both sides of the Council and chaired by the Government's own man.

Several members interjected.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Order! All members will have a chance to speak as many times as they wish for 10 minutes, with the exception of the leaders in debate. Members should wait their turn.

Hon G.E. MASTERS: I am happy to accept that the conference of managers take place. The question to be considered by that conference is whether the amendments should stand. That is the role of the conference, and I am sure it will make a decision in an appropriate way at the appropriate time. I make it clear to this Chamber, and particularly to the Government, which did not seem to understand, that in acknowledging the area of dispute we are angered. We take as a great insult the attitude of the Government in this respect, and it is reflected in members opposite --

Hon Fred McKenzie: Not the Government, the Assembly.

Hon G.E. MASTERS: We are angered by that sort of comment. Of course the Government is behind it. Of course the Government Executive is behind this move.

Hon T.G. Butler: In this place it is always the Council; in the other place, it is always the Government, not the Assembly.

Hon G.E. MASTERS: The Government is consistent in its efforts to denigrate this Chamber. That is what the Government is about.

Several members interjected.

The DEPUTY CHAIRMAN: Order! There are too many interjections.

Hon G.E. MASTERS: I can understand the Government's embarrassment. I can understand why the Minister is upset.

Hon B.L. Jones: We are not embarrassed.

Hon G.E. MASTERS: I recommend this Chamber support a conference of managers in an endeavour to resolve this situation. I had to make the point that I took the way in which the message was conveyed from the Legislative Assembly to the Legislative Council as an insult. Together with other members, as long as I am a member of this Legislative Council, I will continue to protect it from intrusions by the Government of the day.

Hon H.W. GAYFER: I have spoken at length previously on this matter. I agree with the

Leader of the Opposition to a certain extent, but everybody in the Legislative Assembly is equally culpable in the attitude taken in respect of this amendment. I have read *Hansard* and I have noted what has been said and what has not been said. The report is memorable in its paucity of words. The original message which came back to this place was agreed to by the whole Assembly, otherwise a division would have been called. The whole House is culpable in the manner in which the Legislative Council has been treated. This is well laid out in section 1 of the Parliamentary Privileges Act.

When the message outlining the grounds for disagreement came back to this place, the Legislative Council together with the Minister in this place and two other members -- Hon D.J. Wordsworth and I -- put together the message which went back to the other place. For the sake of *Hansard* those words read as follows --

The Legislative Council recognizes that the Bill contains a mechanism for review of the operation and effectiveness of the Egg Marketing Board and the effectiveness of the Act.

The Council also recognizes that such mechanism has been acceptable to both Houses of Parliament in a number of other, recently passed, Bills of a similar nature.

However, the reasons given by the Legislative Assembly in rejecting the Council's amendments confuse the powers of the Parliament with the constitutional limitations imposed on the Legislative Council by section 46 of the Constitution Acts Amendment Act 1899. Those limitations are not in issue in context of the Council's amendments to this Bill.

The Egg Marketing Board is created by Parliament, and if Parliament enacts that a future review of the Board's operations is to be conducted by a committee of the Legislative Council, ie, by a subordinate body of a part of the legislature, there can be no doubt that Parliament is entitled to make that provision.

The Council denies that Parliament or any part of it can be excluded from reviewing the operations of any statutory authority where it resolves to do so.

The existence of a standing committee of this House -- Government Agencies -- specifically appointed to perform such a review function confirms this. No Government of this State has challenged the power of the Council to appoint that type of committee or the exercise of its functions by the committee since its creation in 1982.

The Legislative Council does not deny the right of the Assembly to reject this, or any amendment, made by this House to legislation. Nevertheless, the Council is obliged to inform the Assembly that its reasons for rejection, in light of the foregoing, are not well-founded and a denial of the powers of this Parliament to determine who shall review the Board's operations.

In the event that the Assembly is willing to accept that it has misconstrued the Council's intent, the Council informs the Assembly that it would be prepared to reconsider its stand on the amendments in issue.

The Council agreed unanimously to that message being sent back to the Assembly, so we all agreed that we were piqued by the tone adopted by the Assembly. That message went back to the Assembly with the blessing of this Chamber.

The Assembly -- foolishly -- has not taken any notice of the ultimate paragraph in this message and has come back and said -- standing on its high horse -- that it has appointed three managers, and it would like us to appoint three managers so there can be a conference of managers to decide this issue. In my opinion, this issue could have been very simply decided if the Assembly had agreed to the last paragraph and sent a message back in the normal fashion, asking us to review the committee that is being set up to review this Act in 1992, or whenever it would have been again considered. Instead of that, the Assembly wants three managers appointed, and we will certainly appoint three managers from this place because we are now leaving the Egg Marketing Act behind us and the main issue now is to uphold the rights of this place.

The appointment of managers is a matter of debate, but there is no matter of debate, forgiveness, or giving-in so far as the rights of this place are concerned. That is the argument

which will need to go before the managers, and I would request that our managers dig their heels in under the table and never give in to a change in the requirement under the Constitution which gives us the rights and privileges of this Chamber. In no way should any member of this place ever forgo those rights and privileges.

I support the request by the Assembly that managers be provided from this place, and I entreat those managers to uphold the rights and dignities of this place.

Hon N.F. MOORE: The previous two speakers have put this matter in a very good historical context. I want to concentrate my comments on the actual message we have received, which deals with the rejection by the Assembly of the amendments insisted upon by the Council. The amendment we made to the original legislation was that there shall be a parliamentary committee to review the functions of the Egg Marketing Board. The Bill contained a review clause which provided for a ministerial review of the board. That is the bottom line of this argument, but the argument has become muddled by a variety of messages from the Assembly which refer to other matters, such as the power of this Council to do certain things, and by so doing the Assembly has created some confusion about the basic issue.

I want to return this debate to that issue, which is whether there ought to be parliamentary committees to review statutory authorities. I find it fascinating that in 1982 a Select Committee of this Chamber, containing members of both sides of the Chamber, agreed to the formation of a Standing Committee on Government Agencies. The Select Committee which recommended the establishment of that Standing Committee took the view that there is a role for a Standing Committee of this Council to look at and review the functions of Government agencies.

If we look at the Standing Orders of the Standing Committee on Government Agencies, we find that it has very sweeping powers regarding Government agencies and authorities. Those Standing Orders were agreed to by both sides of the House. I think the Leader of the House was a member of that Select Committee, as was Hon Robert Hetherington, and they were foundation members of the Standing Committee on Government Agencies. I doubt that those members would now stand up and say that committee has no right or any future role to review Government agencies, because if they so do they would be going against what they said when they were in Opposition. It is interesting how views change from time to time, particularly when one changes to the other side of the Chamber. It is my view -- and I would hope the view of all members of this Parliament -- that we have a role to play in the review of the agencies we set up.

The Marketing of Eggs Amendment Bill was brought forward by the Government, and to give it credit, it contained a review clause. This Chamber said this review clause did not go far enough and it would be better if the operations of the board were reviewed by a committee of this Council; yet we have here the most extraordinary situation of the Assembly twice rejecting the proposal of the Council that we, as members of Parliament, ought to review our legislation. I cannot for the life of me work out why members of the Government will not agree to this amendment. I cannot understand why, when they were party to the formation of the Standing Committee, they agreed that this Parliament should set up committees to review Government agencies, yet now when we seek to give that Standing Committee a task to perform, we find not only the Assembly refusing to go along with the proposition but members of the Government in this Chamber doing the same thing.

The Standing Committee on Government Agencies has been considering the question of review clauses and is about to report to the House. I am not permitted to refer to what is included in that report because it has not been presented to the House, but members know -- particularly those who were on the committee -- that the Standing Committee has been giving considerable thought to the question of review clauses. I suggest to the Government and to the Minister handling this Bill that they ought to wait until the report is tabled, and if they did that we could then get some idea of the view of not only members on this side of the Chamber but members on the other side of the Chamber on the subject of review clauses and sunset clauses. That may help this Chamber make a sensible decision about what should happen to this Bill.

I return to where we started, with the basic argument of whether this Chamber should have the right to review the operations of the agencies we create. That is what this is all about, and it has nothing to do with the powers of the Chamber to amend legislation. My view is

that we should have that right. I would like to hear the Government members who interjected so loudly a while ago get up and say that they do not believe Parliament should have the power to review Government agencies, and that the Minister is the most appropriate person to do it.

Hon Graham Edwards: I have already said that.

Hon N.F. MOORE: I know the Minister has, but he has not been around very long. When he got into office he more or less went straight into the Government and has not had the chance to reflect upon what this Chamber might, or might not, do.

Hon Graham Edwards: Obviously being in Opposition has given you the opportunity --

Hon N.F. MOORE: It has given me the opportunity of looking at both sides of the argument, which is more than can be said of the Minister. A bit of time in Opposition would do the Minister some good and give him the opportunity for a better appreciation of what Parliament is about.

Hon Graham Edwards: I have got a fair idea of what it is about.

Hon N.F. MOORE: It would work a lot better if the Minister was prepared to go along with other suggestions. He has made his position clear. I would be interested to hear the position of his colleagues as to whether they believe -- as did the Government members who were part of the Select Committee which set up the Standing Committee on Government Agencies, and those who were part of the Select Committee on Committees, who saw a role for this Chamber through a committee system -- that that point of view should no longer prevail. I would like to hear the Minister say that the Government should review its own operations, and not the Parliament, because having done so, he and the other Government members can consider themselves to be hypocrites.

Several members interjected.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Order! Let us hear the member speak first.

Hon TOM STEPHENS: I am goaded by the voice of darkness that was --

Hon N.F. Moore: Actually, it was the voice of lightness.

Hon TOM STEPHENS: -- booming across the Chamber from the man who has never displayed any respect for the democratic traditions of the Westminster system. It is galling that he should stand in this place and chastise us on this issue. The truth is that we, on this side of the Chamber, look forward to the day when the Legislative Council can deserve the respect that the enshrinement of democratic principles in the Constitution's Electoral Act --

Hon A.A. Lewis: Mr Stephens, would you vote for one-vote-one-value, and if so why didn't you?

Several members interjected.

The DEPUTY CHAIRMAN: Order!

Hon TOM STEPHENS: We look forward to the day when we can participate with enthusiasm in the process of Government with two Chambers of the Parliament accurately reflecting the wishes of the community; not a Parliament which has one end stacked undemocratically against the responsibly elected Government in the other Chamber.

Several members interjected.

Hon P.G. Pandal: What has this got to do with the motion, Rip van Winkle?

Hon TOM STEPHENS: It is galling to have members opposite trying to goad and criticise us for our lack of respect for the parliamentary system. We have a deep respect for the democratic principles of the Westminster system.

Several members interjected.

Hon TOM STEPHENS: Members opposite will see those of us on this side of the Chamber enthusiastically involved in the processes of Parliament when this Chamber is reformed and accurately reflects the wishes of the Western Australian community by its members on the floor of the Council.

Hon G.E. Masters interjected.

Hon TOM STEPHENS: We have watched with considerable enthusiasm the work that people like Hon Mark Nevill put into the idea of a committee system.

Hon N.F. Moore: So have I. That is what I am arguing for.

Hon TOM STEPHENS: The Government will back to the hilt the notions that Hon Mark Nevill has had enshrined in the report of his Standing Committee.

Hon N.F. Moore: With the agreement of every other member.

Hon TOM STEPHENS: We will only do that when this Chamber is democratically elected and reflects the wishes of the Western Australian community. The honourable member should not stand there talking claptrap, as he did earlier, about our lack of respect for the system. Of course we do not have any respect for a system which is weighted against the people of Western Australia and their wishes as reflected in Parliament in this State.

Hon C.J. BELL: I did not intend to speak on this, but the member who just sat down has raised some very interesting points which are worthy of consideration in this Chamber. He should resign from this place because he has no respect for it.

The DEPUTY CHAIRMAN: Order! There is too much audible conversation in the Chamber.

Hon C.J. BELL: This debate is about respect for the rights of this Chamber. The first thing the member fails to recognise is that the committee which has been referred to had three Government members and three Opposition members on it. It is not stacked against anybody. It is an equal, unbiased committee of the Chamber, and has done some excellent work.

Hon G.E. Masters: Hear, hear!

Hon C.J. BELL: For the honourable member to stand here and throw that red herring into the debate was the most pathetic thing I have seen him do in this Chamber, and I have seen him do some dreadful things. The realities are that a message was sent to the other House which said that we have a right and a role under the Constitution Act, and we do not accept the Legislative Assembly's message which, in effect, said that we do not have those rights and responsibilities. It was that simple, and yet we had a tirade of absolute hogwash about the electoral processes of the Chamber. We are talking about constitutional rights of this Chamber, and the proposal that an equal committee of this Chamber should review that which the Council has created.

I cannot believe the bile which has come from the member who has just sat down. I wonder if he has even thought about what we are supposed to be talking about. The message stated that provided the other House withdrew its claim that this Chamber has not the right to do certain things, we would review our position with regard to the amendment which we proposed. It is that simple, nothing more, nothing less. The fact that it is the proper role of this Chamber to review legislation is almost incidental. It has been suggested that the proposed review was weighted in some way abusive of the Government. I do not know how that conclusion can be drawn from what has been said. I support the action proposed, and I will be interested to hear the reasons why the Government proposes this course of action when we get to that committee. I support the motion.

Hon MARK NEVILL: This debate has ranged widely from the Marketing of Eggs Amendment Bill, but I feel I should make a few comments. Two issues have been confused. I was a member of that Select Committee on the committee system, and I am a member of the Standing Committee on Government Agencies. Two things should be seen clearly. Firstly, I have no personal objection to those sorts of committees operating, and I do not think any other member of this Chamber has. However, when the report of the Select Committee on the committee system was put together, I deliberately avoided making any mention of electoral reform because it was not a report on whether there should be a committee system under the present electoral laws or under future electoral laws. That report was strictly confined to the committee system. I think the work done in the Standing Committee on Government Agencies' is really good; it is an effective committee, but the main problem is that many people see the work of the committees as being something that legitimises the Legislative Council. Many members on this side of the Chamber feel strongly about the way in which this Chamber is elected. I think that is quite a reasonable

approach --

Hon N.F. Moore: Will that still be the case when the future legislation is produced?

Hon MARK NEVILL: We will see when we get to that. There is a reluctance on the part of most members on this side of the Chamber to set up any system in the Council which would legitimise what they see as being a basically unfair structure. The fact that we on this side have not had a majority here --

Hon N.F. Moore: You have got a majority on the Standing Committee.

Hon C.J. Bell: You've got the numbers on the committee.

Hon MARK NEVILL: Members are confusing the issue. I am not saying that the committee is stacked, but I am saying that the committee system, when functioning properly, tends to legitimise what is in our view an illegitimate system. That is the basic problem in establishing any committee system in this Chamber.

I can quite frankly say that I will look forward to the day in which we have fair and equitable electoral laws, and we will have the best House of Review in the country, without doubt.

Hon N.F. MOORE: I am sorry to delay the Committee, but I would quickly make a point of explanation. I was incorrect when I said that the Standing Committee on Government Agencies' report had not been presented to the Chamber; in fact it was presented today when I was not present. The seventeenth report of the Standing Committee on Government Agencies is entitled "Review of Agencies: A Statement of Principle". I suggest all members read that report because it says in part --

6. The Committee believes that under a regime of systematic reviews those reviews should be conducted from outside the Executive arm of government.
7. The most appropriate vehicle for these reviews is a parliamentary committee or committees. There are a number of reasons for this.

It then lists what those reasons are. As members well know, that is a report of the Standing Committee on Government Agencies, which consists of members from both sides of the House, with the chairman, a member of the Government, having the casting vote. Whether the Labor Party has a majority in this Chamber or not makes no difference to the way in which that committee operates because if it did have a majority in this Chamber, presumably the Standing Committee would be similarly structured. The arguments of Hon Tom Stephens are absolute tripe when one considers the statement of principle which is supported by a majority of Government members on this Standing Committee. That is the bottom line. The Government supported it in the Standing Committee, where it has the numbers to toss it out and yet Government members have come into this place and said, "We should not do it", and that it is some reflection of the way in which this Chamber is structured. That is absolute nonsense. I suggest all members read this statement of principle, particularly Government members who are notable by their absence at present.

Hon Graham Edwards: Where were you when this was tabled? You were not even here.

Hon N.F. MOORE: That is right; I acknowledge that. The Minister knows that I sit here more often than most people and longer, and he should not criticise me for not sitting very long. I happened to be out of the Chamber for about one minute. I have taken a big interest in this particular report, having been actively involved in its preparation.

I also refer members to the Select Committee report which set up the Standing Committee in the first place. It was signed by Government members; there was no dissension and in effect they adopted the same approach -- that this Chamber ought to be involved in the review of Government agencies. That was done when the Liberal-National Party Government was in power, and the decision by the then members of that committee did not suggest at any time that their acceptance of that report was based upon some change to the structure of this Chamber in some time in the future. I again make the point that some Government members are adopting double standards on this issue. It is time they straightened themselves out and worked out what they really believed in respect of the parliamentary review of Government agencies.

Hon GRAHAM EDWARDS: I thank members for their indications of support on what this message is all about. I do not want to enter into the philosophical squabbles that we have

seen this evening.

I want to get on to the business of resolving the difficulty that exists between the two Houses so that the Egg Marketing Board can get on with its business. That is really the crux of the whole argument, and it is what I want to confine myself to. This matter has gone on for quite some time; it has developed into a serial. We now have the ability to resolve the argument and the deadlock that exists between the two Chambers, and the resolve to that can be found through the establishment of the conference of managers which has been suggested by the Legislative Assembly. I take this opportunity to remind members opposite that the message that came up originally was not one from the Government or indeed from the Minister who is handling the legislation. Indeed, he was not there at the time; but the message was put together by three members of the Assembly, including a member from the Government and two members of both the Opposition parties. I see it as being completely inappropriate to launch some sort of an attack on the Government or worse on an individual within a Government. I feel the appropriate thing to do is to proceed with this conference of managers and to adopt a more mature and realistic approach, as has been suggested by Hon Mick Gayfer, in resolving this difference between the two Chambers.

Question put and passed.

Report

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

On motion by Hon Graham Edwards (Minister for Sport and Recreation), resolved --

That the managers for the Council be Hon C.J. Bell and Hon H.W. Gayfer, and the mover; that the conference be held in the Legislative Council Committee room at 5.15 pm on Wednesday, 9 December; and that the Assembly be acquainted accordingly.

BILLS OF SALE AMENDMENT BILL

Report

Report of Committee adopted.

Third Reading

Bill read a third time, on motion by Hon Kay Hallahan (Minister for Community Services), and passed.

FAIR TRADING BILL

Second Reading

Debate resumed from 1 December.

HON P.G. PENDAL (South Central Metropolitan) [9.02 pm]: The Bill receives the support of the Opposition with some reservations which will be spelt out in amendments.

The legislation in many ways simplifies the level of regulation that is imposed on various parts of the business community inasmuch as it adopts, in large slices, those provisions of the Trade Practices Act which are thought to be desirable mirrored in the State legislation and, therefore, the Opposition has no difficulty with that measure which aims at a greater level of uniformity, not only with Commonwealth law, but also with the laws of other States. In a way, it is a great pity that, given the Opposition's general consent to this legislation, the Government has sought, by way of the second reading speech, to introduce what I think were needlessly partisan and party-political remarks that otherwise reflected on that unanimity between the parties. For example, we were told by the Minister --

It is a tribute to the spirit of cooperation among the Labor Governments of Australia that uniform legislation has become a reality and not remained a pipedream.

I repeat that that introduced a needlessly partisan and even petty attitude into the debate, especially because it is not even true. The fact is that moves towards uniformity in the body of Australian law are hardly the province of the Australian Labor Party. Anyone who has even a smattering of history would know that, from the earliest colonial times, efforts were

made by the colonies to ensure that laws adopted, often en masse out of English Statutes, were being adopted to bring about a measure of uniformity in Australian law.

That comment also reflected on the great achievements that were referred to in this House earlier tonight by the Attorney General when he spoke of this Government's desire to protect the existing Commonwealth-State arrangements relating to national companies and securities law. I remember attending the 1983 Constitutional Convention in Adelaide as a delegate at which the present Attorney General, who had been in the position for only a few weeks, described himself as something of a born-again State's righter.

Hon D.K. Dans: I heard him cluck his tongue after saying it.

Hon P.G. PENDAL: Of course, what has happened in the four-and-a-half intervening years is that he has not just become a born-again State's righter, as many Labor people have — and I commend them for that — but he has become an ardent opponent of any move which would concentrate that law-making capacity at a central level.

Earlier tonight, the Attorney General read a ministerial statement in defence of the current position. That is reflected in the Bill before us tonight. I mention that only because it appears that some of the newer Labor members believe they were the first to discover this concept of uniformity in legislation or in cooperative arrangements such as we are enacting tonight and such as were enacted under the leadership of Hon Ian Medcalf in the early 1980s on companies and securities law. I think those comments lowered the tone of the debate the minute the Minister and others uttered them as though the only people who are capable of achieving cooperative arrangements around Australia are Labor politicians, and the only people who run a poor second in those matters are from the conservative parties. I repeat: Anyone who knows anything about history would realise a great deal of ignorance lies behind those claims.

I was also somewhat puzzled to see some of the references in the second reading speech to the most desirable form of regulation. I quote —

The alternative most frequently suggested, self-regulation, also has deficiencies. While it reflects the desire of honest business to set and operate within ethical standards, self-regulation, because of its voluntary nature, cannot bind all industry members in order to provide effective sanctions for non-compliance.

That is an odd comment coming from born-again, deregulatory Governments such as the Burke Government and the Hawke Federal Government. I am not sure that to follow down the path of voluntary industry self-regulation is not the way to go. It seems odd that on one hand the Government is claiming that it is to the forefront of deregulation and at the same time it spurns that suggestion of voluntary regulation as though it were inefficient.

It is not altogether inappropriate to mention by way of example the existing unrest within the community in relation to other consumer law — the travel agents registration legislation in this State. It had a number of advocates only three or four years ago, many of whom also spurned the idea that self-regulation was the best way to go. It has now become very clear to many people in the industry that they have tied a millstone around their neck in the form of that registration Act.

I ask, as I think I am bound to, whether the legislation we are passing today is likely to set the mood for the sort of debate that is now reaching its peak with regard to national companies and securities law. I repeat that it is rather interesting that we are dealing with this matter on the very day that the Attorney General should have made a fairly impassioned plea for the retention of the existing cooperative arrangements relating to company law. I take members' minds back a few years ago to when people were talking about legislation of a uniform and cooperative nature with regard to company law. It has taken us fully six years to bring that debate to a peak where the Commonwealth Government now wants to get rid of those arrangements and put in place a centralised body of law-making for company law. I suspect I shall be around this place long enough to witness in a few years' time efforts made in the Federal sphere to replace the current set of Commonwealth and cooperative arrangements on consumer law being sought, with a body of Commonwealth consumer law, not unlike the measures we are seeing in relation to company law. I hope that is not the case but if it arises five years down the track, I hope that whatever party is in Government will make the same plea and take the same stand that I know Hon Ian Medcalf did when Attorney

General and which Hon Joe Berinson continues to do from his vantage point of the born-again State's righter -- to use his words.

It is predictable to that extent; it is a step along the road of the grand design of some people in our society who set out to achieve total uniformity in our law-making and total central control of these particular laws. In my view there is nothing inherently good about uniformity for its own sake. I am aware of the arguments which say that it is convenient for someone to know that the law in Perth is the same as the law in Ballarat or Cairns; I know that in many cases where convenience is the only yardstick, it is probably a good argument. Many people, mostly on the conservative side of politics, argue that the diversity of our law-making process, the laws between the States, and between the States and the Commonwealth, is a strength rather than a weakness.

Although the Government exhorts us to see the advantages of uniformity and asks us to understand all the advantages of cooperative arrangements, I step back from that sort of commitment because a great deal can be said -- and it has been proved throughout history -- for retaining that diversity. If nothing else, it allows for innovation. Only a few years ago people regarded South Australia, under the leadership of Don Dunstan, as a social laboratory. For good or bad -- in many cases it was for the good -- if a diverse group of people is making the laws in Australia, it very often allows people to bob up in various parts of Australia, to experiment in their local communities, embody their theories in law, and allow others to stand back and wait for the result. Where the result is positive, that procedure can be adopted elsewhere; and where it is negative, it can be chucked out. I repeat that there is nothing inherently good, as the speech writer suggested, in coming into Parliament and achieving uniformity if that is all the Government wants to achieve. Uniformity for its own sake does very little for me.

The Bill also touches on consumer product safety. Lest anyone believes that all the pioneering in the consumer field rests with the Labor Governments, I pay tribute to Bill Grayden, who 10 or 12 years ago, as Minister for Consumer Affairs, was responsible for a number of significant innovations, one of which related to the broad question of consumer product safety. I believe that the Consumer Products Safety Committee was established during his term of office, which committee allowed a testing ground in our community for products which were alleged to be in some way unsafe for people in the community, particularly children.

I notice that the Bill, among other things, permits only the Minister or the commissioner to seek from Supreme or District Courts orders for such things as corrective advertising or orders to freeze the assets of people against whom proceedings have been commenced.

The reason behind that escapes me. This may be something to which the Minister can address herself when responding to the second reading debate. I ask why that power is limited to the Minister or the commissioner? I find that a bit odd. I would have thought that it would be a power that an unhappy competitor could wield, such a competitor having the power to apply to someone in authority -- in this case a Supreme Court or District Court -- where the competitor felt that there had been false or misleading advertising.

I suggest that the same argument could be extended to individual consumers, or to consumer organisations set up with the specific aim of protecting the interests of customers. There was input to the Opposition from the Western Australian Chamber of Commerce and Industry in relation to this Bill. It says in part that the Bill seeks to incorporate provisions of the Trade Descriptions and False Advertisements Act, the Pyramid Sales Schemes Act, and the Unsolicited Goods and Services Act. It goes on to say that it has no objection in that respect.

Where will this consolidated law leave many of the long-established Acts of this Parliament? Since that matter was raised with me by the chamber, I understand that this Bill, once in place, may be the precursor to the repeal of those Acts. I would like an indication from the Minister about this matter.

The Western Australian Chamber of Commerce and Industry has drawn attention to the shortcomings of the Bill, which I will now place on the record. Its concern in relation to clause 81 is that it creates what they regard as a quasi criminal liability in relation to an offence that is essentially a civil matter and then proceeds to place the onus of proof on the allegedly offending directors. That bothers me. I am told that it has become more and more

the case in modern terms, particularly in consumer-based legislation, that that reverse onus of proof is not an uncommon mechanism for Governments and Parliaments to pursue. I suggest that does not make for a healthy situation.

The Opposition will move a series of amendments as a result of approaches by the Housing Industry Association. That body has expressed concern about the parts of the Bill dealing with codes of practice, and specifically the terms of the code of practice that will presumably be drawn up and applied to the retirement village industry. I know that we are not permitted to discuss intimate details of the clause at this stage, but the Housing Industry Association sees problems with the principal decision relating to the proviso that currently allows the Commissioner for Consumer Affairs to have total discretion as to who or what organisation he consults relating to the content of a code of practice for an industry. It is believed that there should be no discretion on the part of the Commissioner for Consumer Affairs in relation to this matter. Indeed, they go further, saying that not only should there be an absence of discretion for the commissioner but also that there should be an obligation on him to consult the private sector organisations that supply goods and services or land as described under the Bill. They continue further to say that the code of practice, once it gets to the point that it is okayed by the Minister, should be circulated throughout the State in such a way as to protect against any application of the code in a way that is injurious to the industry as a whole. Members will see that reflected in our amendments put during the Committee stage of the Bill.

We will seek in an associated clause to move an amendment to achieve another of the objectives of the Housing Industry Association insofar as that association believes that a person should not be in a position where a code of conduct remains in practice for years. I raised with a number of HIA representatives why that was necessary. They were able to point out to me that some sections of industry are far more orthodox and traditional than are others and that, therefore, to draw up a code of practice for most forms or sections of our business community would be a relatively easy thing to do because they are stable, have been around for a long time, and people are aware of what is a desirable as distinct from an undesirable practice. The HIA makes the point, for example, that in the retirement village industry orthodoxy of activity is non-existent, that that section of industry has not been around for a long time, that as an emerging industry it is an evolutionary thing, and that it will probably be five or 10 years before the whole thing settles down. The HIA says, therefore, that to put in place a code of conduct or practice that would be difficult to undo is undesirable. Therefore, the last of the Opposition's amendments reflects that situation.

I am pleased that we have received an indication from the Government that it has no difficulty in agreeing to those amendments. We are not seeking to remove the commissioner's powers, but merely ensuring that his obligations go beyond what he at some time in the future might narrowly see them to be. Those are some of the areas in which we will take an interest during the Committee stage of the debate.

I repeat that the Opposition supports the legislation, but with the reservations that I have outlined.

HON H.W. GAYFER (Central) [9.30 pm]: The National Party generally supports the legislation and in fact comments very favourably on most of the provisions. We, too, realise that there will be some discussion during the Committee stage, but most likely that will be for information only.

The Bill stems from an agreement between the Federal and State Ministers for Consumer Affairs, and the aim of those Ministers was that there be standard consumer protection legislation in Australia. It was based on the Commonwealth Trades Practices Act 1974, or so the Minister informs us.

The main areas we see the Bill including are, firstly, a provision relating to conditions and warranties applied in consumer transactions where the value of goods is less than \$40 000, where the goods are acquired for personal, domestic, or household use, or where the goods consist of a commercial vehicle. As we read these provisions, they also relate to services. Secondly, there is a provision for the statutory recognition of appropriate codes of practice for industry groups, with machinery for their enforcement. An example is the health and fitness industry, and that has been outlined pretty well by the Minister. Thirdly, there is provision for consumer product safety. Fourthly, there is the adoption of the provisions of

the Trade Practices Act to allow regulations providing standards relating to information about the quantity, quality, nature, or value of consumer goods. Fifthly, there are provisions for uniformity contained in parts II and VII, which basically are aimed at the prohibition in trade or commerce of deceptive or misleading conduct.

We know from the Minister's second reading speech that the Bill seeks to repeal certain other Acts or parts of Acts, such as the Trade Descriptions and False Advertisements Act, the Unsolicited Goods and Services Act, the Clothes and Fabrics (Labelling and Sales) Act, the Pyramid Sales Schemes Act, part VIII of the Factories and Shops Act -- which I understand covers the marketing of products -- and part of the Consumer Affairs Act.

It is also interesting that the Bill, in part III, gives definition to the conditions and warranties in consumer transactions. I will always remember an incident I experienced with a 330 horsepower tractor which had a fairly expensive engine in it. This machine was bought new at a six-figure cost and was used for two months -- about 400 hours -- in putting in one crop. It was then virtually unused until the following year, when it had to do the same job again. The engine, which was the most valuable part of the tractor, blew itself. That is not the term we usually use, but I will use it now. When they came out to look at this motor, which was akin to a Rolls Royce, they found that in the assembly one con rod nut had not been tightened correctly on the big end. They claimed it had gradually worked loose and \$19 000-worth of engine went up the spout and had to be replaced. They were very good and fixed it up in eight hours, as good servicemen will. They slid the engine out and slid another one in.

However, the sad thing is that the six-figure tractor was originally guaranteed for two years but they would only guarantee the engine they put in for the remainder of the tractor's two-year guarantee period. That meant that the engine really and truly had only eight or nine months' warranty left, even though it was brand new; and if it had been incorporated in the package of the tractor in the first place it would have carried a two-year guarantee. This caused much heartache at the time because until the requisite amount of time passed we were frightened it would blow another con rod or something, but it did not do so.

Hon A.A. Lewis interjected.

Hon H.W. GAYFER: It was not a Rolls Royce; it was another known brand which I will not say in the House. It was akin to a Rolls Royce, which was not what we called it at the time.

I am very pleased to note that the legislation before the House appears to contain many provisions which would cover that situation, even if it came to the terminology of packaging, because under this legislation it would be packaged in a general package incorporating that engine. Or perhaps it would not; perhaps it would come under the application provisions to contract not to be excluded or modified. There are two ways I have looked at that case, and I feel it could be covered.

When we talk of packages and their descriptions -- and we should remember that this Bill applies to clothing, textiles, and fabrics -- one thinks of bales of wool that might inadvertently be branded and sold wrongly. I hastened to look at the fine that could be imposed if it were said those bales of wool were wilfully misrepresented so far as their brands were concerned. I noticed that the fine could go as high as \$20 000 for an individual and in the case of a body corporate could reach an amount not exceeding \$100 000. The legislation contains provisions for these charges to be dealt with summarily, and the maximum penalty in a court of summary proceedings is \$6 000. However, provisions are contained within the Bill for such charges to go to a higher court where the amount of the fine that can be imposed is considerably greater.

We support the Bill in principle but we will be interested in a couple of the clauses when they come before the Chamber in the Committee stage.

HON A.A. LEWIS (Lower Central) [9.38 pm]: I will not take too long. I was going to make the same points as Mr Pandal about the sort of language contained in the second reading speech. Really, commerce in the real world is not like that in the second reading speech, in the main, and to legislate to establish a code of conduct is like saying all people will be good because we have legislated that they will be good.

It is interesting that Hon H.W. Gayfer brought that up, because part III of the Bill deals with conditions and warranties implied into consumer transactions. They are mirror provisions of those contained in the Commonwealth Trade Practices Act. They apply only to consumer

transactions where the value of the goods is less than \$40 000, where the goods are required for personal, domestic, or household use, or where the goods consist of a commercial vehicle.

It is passing strange that there is no reference to farm machinery in this Bill. In another Bill this evening, commercial vehicles and farm machinery were tied together. I think Mr Gayfer is on the losing end in this Bill because his six-figure purchase is not less than \$40 000, nor is it for personal, domestic, or household use, and it is not a commercial vehicle by definition. I would like the Minister to explain why farm machinery is not mentioned in the Bill, but I can probably tell her. It is because it is not accepted in other States, and as I mentioned previously, the sorts of problems Mr Gayfer had are dealt with by an agricultural liaison committee consisting of representatives of manufacturers, dealers, farmers, and the Department of Agriculture. Ninety eight per cent of the problems are cured at that level. A committee operates in each State except Western Australia, where the Department of Consumer Affairs took it over for a while. Now nobody looks after it because the department has lost the man who used to do it. Mr Gayfer's problem would have been sorted out by such a committee, and I believe he probably would have been given his full two-year warranty. He did not have to, and in this case it is great to hear, but we have got into this situation because of a fairly stiff-necked stance by the present Government. I do not blame the Minister because she does her best, and she will refer all this back to the Minister in charge of the Bill.

I refer now to the liability on recipients of unsolicited goods and ask where the misdirection of goods sent by mistake is covered. I have only had a quick look at the Bill, and I cannot see where that is covered in the clause. Another query I have is why services of a professional nature are left out when a person supplies services. It may be an electrician, builder, or anybody else except a qualified architect or engineer. Why are they left out of clause 40(2) in this all-encompassing code of conduct which everybody else is expected to maintain?

I congratulate the Government on another aspect because I believe that when one goes to a tribunal he should be able to take matters on to the District or Supreme Court, and I am glad the Government has accepted that in this case. I hope it does the same in other matters.

On page 13 of the Minister's second reading speech she said that traders who flout the code and the commissioner's request for undertakings will be judged in part by their peers. She went on to say that the commercial tribunal consisted of a panel comprising a chairperson, an industry representative, and a consumer representative. I would have thought a trader being judged by his peers would mean the people of that particular industry should be in a majority on the tribunal. In other words, a trader is not being judged by his peers but by a tribunal, one of whom happens to be a member of that industry.

Part VII talks about a code of good business conduct. I do not believe those sorts of things can be legislated for. The Minister said again in flamboyant language that parties to a transaction are not always of equal bargaining strength and one party may be in a position to impose unfair conditions through high pressure selling tactics or because either party lacks the mental capacity. That is a bit rough. If one is selling a commercial vehicle to a person for \$100 000 and somebody is in a position to do a deal for that amount of money, who is to judge his lack of mental capacity? She went on to talk about restraining cheating and said that too often in the past action to restrain cheating was liable to be defeated by a shady business operator transferring assets outside Australia. This happens occasionally, and we all despise it, but one wonders whether this Bill will not have the odd loophole which that shady performer can slip through.

I am a bit worried about on-the-spot fines. I wonder whether they will work in this sphere, but I am not going to debate the point. Reference was made to labels or date stamps, and one wonders whether they could not have been removed within the selling place. If that happens, the person selling the clothing is liable although he has no knowledge of the labels having been removed. I would like to hear the Minister answer that. It seems to me if one is looking at a range of goods in an area and all the labels are missing, one knows he has a shady and unscrupulous character on his hands; but if only one or two are missing there may have been something wrong with the attachment of the labels and an on-the-spot fine would not be warranted.

Finally, the Minister's speech referred to this Bill's safeguarding the interests of the economically vulnerable, both consumers and small businesses. I do not believe small business is protected by this legislation to any great degree, but I hope the Minister will be able to answer my queries. I assure her I will not participate in the Committee debate, which I think should give her great joy.

HON KAY HALLAHAN (South East Metropolitan — Minister for Community Services) [9.49 pm]: I would like to say how pleased I am with the expressions of support for this Bill. I accept that members have some points they would like to explore further, but in general we are facing the fact that in a nation such as Australia with a history of States making their own laws, we disadvantage ourselves in many ways by not agreeing to some form of uniformity. I was extraordinarily surprised and pleased to hear Hon Phillip Pendal talking about innovation and experimentation.

Hon E.J. Charlton: He is such a freethinker.

Hon KAY HALLAHAN: I thought he was very free-thinking. It gave me great heart for the future.

Hon P.G. Pendal: That is not a reflection on my views; only on your political ignorance.

Hon KAY HALLAHAN: I do not think that is the case and other members do not read it that way.

I do not think that we should be afraid of uniformity in our laws. I think the chaos that has existed has been a matter of concern and a great deal of thought has gone into this legislation. The States have gradually agreed to some uniformity in this area.

The Bill allows for the development of codes of practice for various industries. Some we all know about are fairly critical. The health club industry is one and the retirement village industry, a burgeoning industry, is another. The people concerned in the latter industry are keen to set up a code of practice to avoid the negativity which was being slanted at some members of that industry where people do not get a fair go and where there is some misleading advertising in relation to the provision of services.

Hon P.G. Pendal: I think the problems occurred mainly in other States with that industry and not here.

Hon KAY HALLAHAN: We have had a look at the industry here and, while the problems are much more serious in other States, what has emerged here is of concern to us. The industry formed a subcommittee in its desire to get a clean industry. Would the member agree with that?

Hon P.G. Pendal: Yes.

Hon KAY HALLAHAN: I cannot answer all of the queries raised. It is very difficult to do that in the reply to the second reading debate. However, there are some I would like to answer.

A query was raised about the freezing of assets. It is important that it be possible to freeze assets if they are being moved out of a jurisdiction. I am told the common name for such a practice is the Mareeva injunction. It is a serious power and rests with the Minister. The consequences of imposing it could be quite severe.

It is true that a second Bill will be introduced, possibly in the autumn session of Parliament in an attempt to tidy up other Acts. Many of the provisions that are in other Acts have been taken out and put in this Bill. Acts to be repealed, either partly or entirely, include the Pyramid Sales Schemes Act, the Unsolicited Goods and Services Act, part VIII of the Factories and Shops Act, the Clothes and Fabrics (Labelling and Sales) Act, parts of the Consumer Affairs Act and the Trade Descriptions and False Advertisements Act.

While this is a very good Bill, much complex work has gone into it. Many provisions of other Bills are included in it.

Penalties under clause 81 exist in common law already. Much of what we see in this Bill exists already and much of what we see in clause 81 exists in common law. It allows officers of a company to establish a defence so there is that protection for them.

In general, the Government will accept the amendments to be moved in Committee. I will be

arguing for the period to be a three-year period because, in an industry like this, we cannot assess matters in such a short period as two years. The provisions need to be in place for a certain time to allow us to assess them properly, otherwise we will be in a state of continually examining the Act. That is not felt to be very sound administratively. I will be asking the Opposition to consider a three-year period and I will also suggest some minor wording changes.

Hon Sandy Lewis referred to matters raised by Hon Mick Gayfer in regard to farm machinery. This legislation, in great part, is mirror legislation of the Trade Practices Act. Farm machinery is not included in the Trade Practices Act but it will be covered up to \$40 000. However, amounts above that will continue to be covered by the Sale of Goods Act. I hope that clarifies that point for members.

Hon A.A. Lewis: What about the Chanel Securities Bill? Do you prefer to leave that alone?

Hon KAY HALLAHAN: Absolutely. I thank members for their contributions to the debate. It is good legislation and I ask all members to support it.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Hon Garry Kelly) in the Chair; Hon Kay Hallahan (Minister for Community Services) in charge of the Bill.

Clauses 1 to 41 put and passed.

Clause 42: Preparation of draft code of practice --

Hon P.G. PENDAL: I move an amendment --

Page 44 line 1, subsection (2)- - Before "For" insert "Subject to subsections (2a) and (2b)".

I thank the Housing Industry Association for being vigilant and seeking these amendments. I understand that the Minister will seek to make a couple of minor changes. If they are along the lines we have discussed already, it is the Opposition's intention to accept those amendments to our amendments.

Hon KAY HALLAHAN: The Government supports the amendment.

Amendment put and passed.

The clause was further amended, on motion by Hon P.G. Pendal, as follows --

Page 44, lines 3 and 4 -- To delete "as, in the opinion of the Commissioner," and insert "who or which".

Hon P.G. PENDAL: I move an amendment --

Page 44, after line 5 -- To insert the following subclauses --

(2a) For the purposes of subsection (2) the Commissioner shall consult with and invite submissions from:

(a) such organisation that represents suppliers to consumers of goods, services or land in any affected business likely to be affected by the terms of the draft code of practice; and

(b) any organisations representing consumers.

(2b) Before submitting a draft code pursuant to subsection (3) the Commissioner shall cause to be published throughout the State a notice that a draft code has been prepared for submission and inviting comment thereon from any person within a reasonable time. Copies of the draft code shall be made available on request and the notice shall state the place from which copies can be obtained.

Hon KAY HALLAHAN: I move --

That the amendment be amended by deleting the word "organisation" after the word "such" in paragraph (a) and inserting the words "principal organisations" and deleting

the word "organisation" after the word "any" in paragraph (b) and inserting the words "principal organisations".

Amendment on the amendment put and passed.

Amendment, as amended, put and passed.

Clause, as amended, put and passed.

Clause 43: Regulations -- codes of practice --

Hon P.G. PENDAL: I move an amendment --

Page 44, after line 24 -- To insert the following subclause --

(4) Nothing in this section shall authorise the continuation of a code of practice beyond two years from the date it first took effect, unless a review, in accordance with section 42, has been undertaken of that code of practice within that time.

I understand that the Government intends to move a further amendment to change the two years to three years. The Opposition, in moving this amendment, signals that it intends to accept the Government's action. It was a suggestion from the Housing Industry Association that it was wrong in principle to introduce a code of practice into what is an evolutionary thing, particularly in its case and, therefore, there was a need for a review which, in many respect, is not unlike a sunset clause. The suggestion was that it should be two years, and that is the numeral contained in my amendment.

Hon KAY HALLAHAN: I move --

That the amendment be amended by deleting the figure "2" and substituting the figure "3".

My reason for doing this is that we could get into a continual spiral of reviewing. The codes of practice to which this clause refers have been included because of their responsiveness and because changes will be possible to make if the codes do not work well and need to be altered. That will be one of the ongoing monitoring natures of the codes of practice which will involve the industry. For that reason, the Government believes that administratively three years would be a better proposition than the two years proposed.

Amendment on the amendment put and passed.

Amendment, as amended, put and passed.

Clause, as amended, put and passed.

Clauses 44 to 84 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 Community Services), and returned to the Assembly with amendments.

ADJOURNMENT OF THE HOUSE: ORDINARY

HON KAY HALLAHAN (South East Metropolitan -- Minister for Community Services) [10.08 pm]: I move --

That the House do now adjourn.

Coastal Surveillance: Criticism

HON TOM STEPHENS (North) [10.09 pm]: I will not take up much time of the House.

Hon P.G. Pendal: Twice in one day!

Hon TOM STEPHENS: Not so long ago the Leader of the Opposition in the other place took the opportunity of roundly criticising a service that is provided to the northern part of this

State by the Federal Government; that is, the coastwatch patrol. I am very concerned about his comments because in many ways they thoroughly demonstrate a considerable misunderstanding on his part about the nature and purpose of coastwatch aerial patrols --

Hon P.G. Pental: He took exception to the way in which the Federal Government made up the contract.

Hon TOM STEPHENS: -- of the northern part of Australia. The Leader of the Opposition was not dealing with the issue of the contract, but the nature of operations of coastwatch in the north of the State. In almost every way his criticism of coastwatch was unfounded, unjustified and, quite plainly, wrong.

Hon P.G. Pental: He did not criticise coastwatch.

Hon TOM STEPHENS: If the member listens to me he will hear what he said.

Hon P.G. Pental: You sound like Joh.

The PRESIDENT: Order! Let us all listen to what the member has to say so that I can put the motion.

Hon TOM STEPHENS: It is my view that the Leader of the Opposition's critique displayed a misunderstanding of the nature and purpose of the coastwatch aerial patrols of the coastal margin in northern Australia. It is true to say that the aircraft that operate coastwatch do so within a narrow time band, but it is wrong to suggest, as the Leader of the Opposition did, that it is the type of operation by which people can check their clocks.

He picked up a bit of local folklore in the north of the State, which was unfortunately hearsay, and then repeated it uncritically as though it was gospel. What does in fact happen in the north of the State is that coastwatch needs to ensure that when they are flying around the coastline, they have good visibility for accurate observation; but despite this there will be variations of up to six hours in the time of day when repeat coverages of a particular sector can occur. It was true that in 1979-80 a view developed for a short period of time in the north of the State when the patrols were more frequent that these coastwatch operations did occur without a significant difference in the start and finish times. However, coastal surveillance in the north of the State is not a covert operation; it is primarily designed to meet the quarantine requirements of northern Australia. It is therefore possible for members of the public to become familiar with the flight patterns.

Mr MacKinnon said at one point in his critique of coastwatch operations that there was nothing done about some 360 sightings last year. That is absolutely incorrect. I am assured by the Australian Federal Police coastal protection unit that all sightings reported were analysed, both by the CPU in Broome and by the CPU headquarters in Canberra. Follow-up inquiries were conducted whenever the bona fides of a vessel or some shoreline activity was in doubt. This actions inevitably involved a variety of Commonwealth and State Government agencies. I am pleased to be able to reassure residents of northern Australia that the critique of coastwatch's operations by Mr MacKinnon is quite unfounded, and there is no suggestion that the coastwatch flights will be reduced.

Hon P.G. Pental: Do you realise our Government started coastwatch, and your Government mucked it up?

Hon TOM STEPHENS: When did that operation commence?

Hon P.G. Pental: I think it was in 1981, because John Martyr once said we are the only nation in the world that lets out to tender its defence operations.

Hon TOM STEPHENS: The coastwatch contract of 1984 in its current operations was let by our party in Federal Government, and it has been our Hawke-led Labor Government that has revamped the coastwatch system so that it is an effective operation. While it might serve the Opposition to try to pretend for a moment that there is something wrong with the service, that is not the case; the service is an excellent service, provided by excellent operatives both at departmental level, who are involved in the administration and guaranteeing of the quality of the service, and also by the current operators.

The contract that was recently let to Amman now been cancelled. There was some criticism by the Opposition of that contract; but that should not have spilled over into a critique of the operators involved in coastwatch in the north of the State, and to that extent the Liberal Party

should desist from its mindless critique of the coastwatch operations and give credit where credit is due for an excellent operation.

Hon Phillip Pandal might like to join me in one of the coastwatch flights around the north of the coast.

Hon P.G. Pandal: I will join you anywhere.

Hon TOM STEPHENS: The member would then have an opportunity to see at first hand what an excellent service coastwatch provides in the protection of our coastline from the potential disturbance by unwarranted intrusions that may impact upon the health and safety of the region.

HON G.E. MASTERS (West -- Leader of the Opposition) [10.15 pm]: I cannot fail to rise on the comments made by Hon Tom Stephens. We acknowledge the great work that is carried out along our coastline by the people who do that work, and we understand as well as the member the importance of protecting our northern coastline and making sure that people who are not allowed to land on our coastline do not so do, because they know the dangers that occur. We have all read recently about the Indonesian fishing boats, and we know the grave risks that may apply if these people are allowed to land unhindered.

However, that does not detract from the fact that the contract that was let by the Hawke Federal Government was a complete shambles and put in jeopardy the whole security of our northern coast; and that is what our leader was talking about. Mr MacKinnon was saying that the Hawke Labor Government and Senator Evans made a complete hash of the contract, to the stage where Hon Tom Stephens and his Federal colleagues made us the laughing stock of the world. It is clear from Hon Phillip Pandal's comments that there are very few countries in the world, if any, that let out by contract their surveillance and security systems. Nevertheless, that decision has been made by successive Governments, and it is unusual that it has been so made.

I understand that some of Senator Evans' advisers were a group of advisers to the former Premier of New South Wales, Hon Neville Wran, who were let loose and allowed to start negotiating on these contracts.

Hon Tom Stephens: Get back to the point of unfounded accusations by your current leader.

Hon G.E. MASTERS: It was a complete farce, and if the Government had not taken emergency action, at great cost to the public, our northern coast would have been left completely unwatched and unattended. The honourable member knows that very well, and it is not surprising he reacts in the way he does, and screams and shouts to try to divert attention. The fact is his Government made a hash of the security of the northern coast of Western Australia, and nothing in the world can detract from that situation. The Federal Government should be thoroughly ashamed of the way it handled this matter. Thank heaven that in the end some commonsense was applied and the situation was retrieved. However, that was done at great public cost, and I give no thanks to Mr Hawke and his Government.

Question put and passed.

House adjourned at 10.18 pm

APPENDIX A

DEPUTY PRIME MINISTER
ATTORNEY-GENERAL
PARLIAMENT HOUSE
CANBERRA A.C.T. 2600
M87-9314: MDS

Dear Joe

As discussed with you previously I am planning to introduce legislation to provide new arrangements for companies and securities administration.

The Government is prepared to implement the recommendations of the Senate Standing Committee on Constitutional and Legal Affairs that the legislation should cover the entire area covered by the co-operative scheme. However, the Government's prime concern is with the national securities markets and companies which participate in those markets. Accordingly, the Government is considering providing some companies with the option of remaining under State and Territory jurisdiction.

There are a number of ways in which the boundary could be drawn between companies which come under the control of the Australian Securities Commission and those remaining outside. One possibility which I have raised publicly is that it might be those proprietary companies which only operate in one State that would be able to remain under State jurisdiction.

This dividing line would seem to accurately reflect the views expressed in some quarters that there are no national considerations dictating a need for uniformity of laws and administration in respect of companies whose activities do not extend beyond the boundaries of one State or Territory. It would follow that there would not be a need for a legislative device to ensure continued uniformity. Each Government would be in a better position than at the moment to introduce laws which exclusively reflected local considerations. I would appreciate your reactions to this proposal.

In seeking your views on this proposal I should mention that I am doing so in the light of my understanding that your Government is not prepared, under any circumstances, to discuss financial and staffing issues which would arise if the Commonwealth were to assume responsibility for the entire area currently covered by the co-operative scheme.

I have no difficulty with proceeding unilaterally with legislation and with the establishment by the Commonwealth of separate branch offices of the ASC. However, before embarking on that course I would want to know that all other avenues have been explored. Accordingly, I would also appreciate your Government's reaction to the Commonwealth continuing with its proposal to assume responsibility for the entire area covered by the co-operative scheme but with your Corporate Affairs Commission operating as agent of the ASC for a year or two under an arrangement whereby the filing fees were shared between our two Governments. I would envisage that thereafter staff would be transferred to the ASC and other financial arrangements would be made. In any arrangements, the Commonwealth would, of course, need to cover its costs of administration.

I would like to know within the next two weeks whether you wish to have discussions on the matters set out in this letter. Such discussions could be at either Ministerial level or initially at officer level. Subject to any discussions which might ensue, I shall shortly be settling the Commonwealth's method of proceeding.

Yours sincerely
Lionel Bowen

The Hon. J.M. Berinson, M.L.C.
Attorney-General
14th Floor
City Mutual Tower
197 St George's Terrace
PERTH WA 6000

APPENDIX A

ATTORNEY GENERAL

197 St George's Terrace,
Perth, Western Australia
Telephone 222 9577

4 December, 1987

The Hon. Lionel Bowen, M.P.,
Attorney-General of Australia,
Parliament House,
CANBERRA. A.C.T. 2600

Dear Lionel,

Proposed Commonwealth Takeover of Companies and Securities Legislation

Thank you for your letter of 25 November, 1987.

The Western Australian Government remains strongly opposed to any plan to dismantle the Co-operative Scheme either by a Commonwealth takeover of exclusive jurisdiction or, as floated in your letter, by optional coverage for proprietary companies operating solely within a single State.

With due respect, any proposal to share jurisdiction over companies and securities laws outside the Co-operative Scheme would inevitably create disunity, with resultant uncertainty and greater cost - particularly to small business.

There appears to be no good reason why the uniformity achieved by the Co-operative Scheme should be replaced by narrow considerations such as the place of a company's activity. I am not aware of any support whatsoever for a move in that direction.

Your suggestion that our Corporate Affairs Office might act as the Commonwealth's agent for some period has no attraction from the State's point of view. Unfortunately, it also ignores major industrial implications. The fact is, that a significant number of State civil servants may not wish to join the Commonwealth service and it would be unrealistic to expect them to hold their career prospects in limbo for an extended transition exercise.

May I again stress to you that the W.A. Government's opposition is not based on revenue considerations. It is based on a view, reflected with rare unanimity across the Western Australian professional and business community, that your takeover proposal will operate to the serious detriment of the State in terms of our capacity to encourage and attract development and investment.

Your expressed goals of uniform law, parliamentary accountability and ministerial responsibility can be very largely accommodated by appropriate adaptations of the Co-operative Scheme structure. May I again urge you to reconsider this option and submit it for serious Commonwealth/State consideration.

Yours sincerely,
Joe Berinson, MLC,
Attorney General.

AUSTRALIAN STOCK EXCHANGE
(Perth) Limited

17 September 1987

The Hon Lionel Bowen MP
The Deputy Prime Minister & Attorney General
9th Floor
251 Adelaide Terrace
PERTH WA 6000

The Hon B T Burke JP MLA
Department of The Premier and Cabinet
City Mutual Tower
197 St George's Tc
PERTH WA 6000

The Hon C Sumner
Chairman of the Ministerial Council
12th Floor
SGIC Building
211 Victoria Square
ADELAIDE SA 5000

The Hon J M Berinson MLC
Attorney General
City Mutual Tower
197 St George's Tce
PERTH WA 6000

Dear Sirs

The organisations listed below oppose the Federal Government's proposal to abandon the present cooperative companies and securities scheme in favour of a unitary system with centralised administration.

Our opposition is summarised in the points which follow:

- 1 The Western Australian business and professional community must have easy and convenient access to regulatory authorities. Under a centralised administration in an Eastern States capital city, it is likely that a Western Australian office will simply be a branch office with no significant role. This would have two immediate results:-
 - (a) a deleterious effect on business opportunities and operations in this State due to the additional time taken to process enquiries; and
 - (b) additional costs to business because of the necessity to deal interstate with the central decision making administration.
- 2 the organisations hold the view that the Western Australian Corporate Affairs Department is presently operating well. It provides a level of service which will almost certainly be diminished in quality under the proposed centralised scheme. It should be borne in mind that 90% of businesses which use the service are based in this State. The interests of those businesses (and of the community which they, in turn, serve) are best served by a locally situated integral administration.
- 3 The present co-operative scheme provides a broad based mechanism for reform based on a balanced consensus approach. This is consistent with the Constitution and ensures that the differences of "regional economies" are adequately represented. Experience indicates that this is likely to be lost under a single federal administration.

APPENDIX A

The system must be capable of delivering prompt, appropriate and innovative responses to the necessary business initiatives that protect the vitality of commerce. This applies equally to the day to day operations of regulatory authorities and to the mechanisms for change. The organisations have a degree of confidence in the present scheme which could not be translated to the new proposals.

Statements made rather loosely by some, that the cooperative scheme "has failed", should not in all conscience be taken seriously. This is not the view or experience of responsible commentators who have examined the workings of the current scheme. Even the Senate Select Committee has expressed the opinion that the present scheme "performs remarkably well" (see Select Committee Report: p.73).

Much has been made of the perceived lack of accountability in the present scheme. However, the shortcomings that there may be in the cooperative system are not due to a lack of Ministerial accountability or to inefficiency in the procedures for change. The consensus approach which the system requires gives a stability to this area which is not present in many other disciplines. That is to the great advantage of the commercial community. If there are difficulties with the administration of, say, the NCSC, they are matters which should be capable of identification and rectification within the present arrangement. The arguments for change based on those problems are, with respect, shallow.

The organisations sponsoring this initiative to your office represent a broad spectrum of business and professional interests. The positions which they take have been fully considered and are advanced in the best interests of the entire community. After all, it is the community at large which will ultimately bear the additional costs involved. The proposals for change appear to lack support in all State capitals which do not materially benefit. This raises queries about the initiatives behind the proposals. In the face of this lack of support you are requested to oppose the changes.

We look forward to hearing your response on this controversial proposal.

Yours faithfully

P E MARFLEET

Chairman

Australian Stock Exchange (Perth) Ltd

R MEADOWS

President

The Law Society of Western Australia

I C KUBA

Chairman

The Institute of Directors in Australia (Western Australian Branch)

J J LINDEN

President

The Chamber of Mines of Western Australia (Inc)

J K HORWOOD

President

The Confederation of Western Australian Industry

A G THOMPSON

President

Western Australian Chamber of Commerce & Industry (Inc)

D J YOUNG

Chairman

Institute of Chartered Accountants (Western Australian Branch)

C LAWRENCE

President

Trustee Companies Association of Australia (WA Council)

QUESTIONS ON NOTICE
ENVIRONMENT: NATIONAL TRUST
Funding

511. Hon P.G. PENDAL, to the Minister for Budget Management:

I refer to page 59 of the Estimates of Expenditure for the current financial year.

- (1) Does the \$300 500 allocation to the National Trust include any Commonwealth funds?
- (2) If so, what is the amount?

Hon J.M. BERINSON replied:

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

MOTOR VEHICLE DRIVERS' LICENCES
Identification

515. Hon G.E. MASTERS, to the Minister for Sport and Recreation representing the Minister for Police and Emergency Services:

- (1) Is it correct that when a member of the public pays his car licence renewal fee at a police station, he is requested to supply evidence of his date of birth?
- (2) If yes, why is this information required?
- (3) Is the person compelled to give this information?
- (4) For what purpose is this information required?

Hon GRAHAM EDWARDS replied:

- (1) Yes.
- (2) To ascertain the age of the registered owner of the vehicle.
- (3) No.
- (4) As indicated in the above answer, there is no compulsion on the part of the owner to provide the information. However, it is sought to ascertain the age of the registered owner of the vehicle and thereby more accurately identify the owner.

EMMAUS WOMEN'S REFUGE
Fraud Squad Investigation

517. Hon N.F. MOORE, to the Minister for Sport and Recreation representing the Minister for Police and Emergency Services:

- (1) Is it correct that officers of the fraud squad carried out an investigation into the affairs of the Emmaus Collective?
- (2) If so --
 - (a) why was the investigation initiated;
 - (b) what were the results of the investigation?

Hon GRAHAM EDWARDS replied:

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

HEALTH: CONDOMS
Advertising: Buses

520. Hon P.G. PENDAL, to the Minister for Community Services representing the Minister for Health:

- (1) Has the Minister's department or any agencies under his control had

anything to do with the advertising for condoms now appearing on buses?

- (2) Why was it necessary to advertise on the back of buses which provide "unrestricted viewing" to children?
- (3) Are other AIDS-related advertisements depicting condoms permitted during children's viewing times on television?

Hon KAY HALLAHAN replied:

- (1) These advertisements have been produced by the WA AIDS Council, which is an independent organisation. Relevant Ministers and officers were, however, aware of these advertisements before they appeared and saw no reason to object.
- (2) This question should be addressed to the WA AIDS Council.
- (3) I am aware of no such advertisements.

CANNING VALE PRIMARY SCHOOL

Closure

523. Hon N.F. MOORE, to the Minister for Community Services representing the Minister for Education:

In view of the overwhelming public support for the relocation of the Canning Vale Primary School to the Clifton Reserve site, will the Minister reconsider his decision to close the school at the end of this year and force students to attend the Forest Crescent School?

Hon KAY HALLAHAN replied:

As advised previously and for the reasons which have been made widely public, the school is to close at the end of this year.

QUESTIONS WITHOUT NOTICE

GOVERNMENT GUARANTEES

Consultation

468. Hon G.E. MASTERS, to the Minister for Budget Management:

Is he consulted with and advised of any Government guarantees or loans of any consequence which are likely to have any effect on the State Budget?

Hon J.M. BERINSON replied:

I am not consulted in any special way on such questions in the normal course of events. However, matters involving Government guarantees are often subject to Cabinet consideration in which I participate.

SHARE LOSS

Budget Effect

469. Hon H.W. GAYFER, to the Minister for Budget Management:

In this morning's paper I noticed an article which indicated that the Government is suffering a \$33 million paper loss in connection with the purchase of BHP shares.

- (1) Does the Minister think this will have a direct impact on Government budgetary measures?
- (2) Does the Minister consider that to sustain a loss or to give an avenue towards a loss occurring, the Government may have been foolish in dealing in shares?
- (3) Can the Minister justify the Government's dabbling in shares?

Hon J.M. BERINSON replied:

(1)-(3)

I am confident that the member must have misread the article in this morning's paper because there is no question of the Government's either buying the shares in question or suffering a paper loss. The member is obviously referring to the purchase of BHP shares. That purchase was made by the SGIC, not the Government.

The Government does not see the current position as creating any particular financial difficulty for it. From the outset, it has been clear that an investment of that nature and scale could only have been entered into by the SGIC for purposes of long-term investment. It makes no more sense in that context to talk about a \$33 million paper loss today than to have talked about perhaps a \$10 million paper gain a couple of weeks ago. As I understand it, that is not the nature of the SGIC's investment.

At the time that the Government's opinion was sought, it was its view that the SGIC's interest in taking up that shareholding in BHP was well founded.

STATE GOVERNMENT INSURANCE COMMISSION
Government Guarantee

470. Hon G.E. MASTERS, to the Minister for Budget Management:

The Minister will recall that he said, in answer to my previous question, that he would have been advised or consulted about this matter, albeit through Cabinet. To the best of his knowledge, has the Treasury Department been asked to give any sort of guarantee to the State Government Insurance Commission?

Hon J.M. BERINSON replied:

I hesitate to answer this question because I am not sure about the nature of the legislation covering the SGIC. There may be some guarantee provision in it.

Hon G.E. Masters: Yes, there is.

Hon J.M. BERINSON: Putting that question aside, I can only say that I do not recollect any recent request by the SGIC for a guarantee in which I have been involved.

STATE GOVERNMENT INSURANCE COMMISSION
Borrowings

471. Hon G.E. MASTERS, to the Minister for Budget Management:

To the best of the Minister's knowledge, has the SGIC sought to borrow any funds from the Treasury Department?

Hon J.M. BERINSON replied:

Not to my knowledge.

STATE GOVERNMENT INSURANCE COMMISSION
Discussions

472. Hon H.W. GAYFER, to the Minister for Budget Management:

Since the newspaper report, has the Government found occasion to talk with the SGIC to see wither it goes in these transactions?

Hon J.M. BERINSON replied:

There was nothing special about that newspaper report this morning. We are all aware of the SGIC's shareholding in BHP. We know that the purchase price was \$7.25. We can all work out from day to day whether

there is a paper gain or a paper loss and, in either event, what the extent of that will be.

I cannot visualise that anyone would regard that sort of situation as requiring daily contact between the Government and the SGIC.

STATE GOVERNMENT INSURANCE COMMISSION

Annual Report

473. Hon MAX EVANS, to the Minister for Budget Management:

As the accounts of the SGIC are well overdue, can the Minister give us some indication of when they will be presented to Parliament?

Hon J.M. BERINSON replied:

I am not the Minister responsible for the SGIC. The member should place his question on the Notice Paper.

STATE BATTERIES

Subsidies

474. Hon MAX EVANS, to the Leader of the House:

(1) Should questions relating to subsidisation of State Batteries be addressed to the Minister for Mines or the Treasurer?

(2) Where will the subsidisation come from?

Hon J.M. BERINSON replied:

(1)-(2)

As best as I can recall the arrangements on that matter, it could go to either of the Ministers. One will receive the assistance and one will provide the assistance. In either event, both would be in a position to answer that question in a way which I am not.

STATE BATTERIES

Subsidies

475. Hon MAX EVANS, to the Leader of the House:

I did not want to ask the question of the Minister receiving the subsidisation because that would involve commercial confidentiality. Which Minister will grant the subsidisation?

The PRESIDENT: Order! It is not a procedure in this place to ask questions without notice of that nature. The procedure for members is to inform themselves before they ask questions.

Hon MAX EVANS: There is no way I could inform myself of the answer to that question. That is why I asked the Minister.

The PRESIDENT: Order! I suggest there is a way of doing it.

STATE GOVERNMENT INSURANCE COMMISSION

Losses

476. Hon G.E. MASTERS, to the Minister for Budget Management:

In view of the provisions of section 15 of the SGIC Act, has the Government made any provision for the picking up of losses incurred by the SGIC, especially if it continues to lose enormous amounts of public funds at the rate it is reported to have lost them in today's newspaper?

Hon J.M. BERINSON replied:

First of all, it has not lost funds. Secondly, that question must be addressed to the Minister responsible for that Act.

FINANCIAL ADMINISTRATION AND AUDIT ACT

Portfolio Responsibility

477. Hon G.E. MASTERS, to the Minister for Budget Management:

Does the Minister have responsibility for administering the Financial Administration and Audit Act 1985?

Hon J.M. BERINSON replied:

I do not think so. I believe the Treasurer has responsibility for it, although a number of reports arising from that Act are brought to my attention. On my recollection of the formal allocation of Statutes, however, it is the Treasurer's Act.

COMPANY DIFFICULTIES
Government Assistance

478. Hon H.W. GAYFER, to the Minister for Budget Management:

- (1) Is the Minister concerned about the baling out of companies that are heading into financial difficulties by Government and semi-Government instrumentalities?
- (2) Does that not concern him as Minister for Budget Management?

Hon J.M. BERINSON replied:

(1)-(2)

It is impossible to provide a sensible answer to a question of that sort because it is so wide. There are very many occasions, not only in the past month or so, when Governments have come to the assistance of financial institutions and various sectors of industry. Each case has to be, and has been, considered on its merits so far as this Government is concerned.

STATE GOVERNMENT INSURANCE COMMISSION
Annual Report

479. Hon G.E. MASTERS, to the Minister for Budget Management:

I draw the Minister's attention to the SGIC Act, section 23, which says —

The Commission shall cause separate and distinct financial statements to be prepared under the Financial Administration and Audit Act 1985 in respect of each Fund.

I ask the Minister whether he has any knowledge of whether that requirement has been fulfilled and, if not, whether he would be deeply concerned if the terms of the Act were not rigidly followed?

Hon J.M. BERINSON replied:

That is a totally hypothetical question and does not lend itself to a proper answer.

ROAD FUNDING
Cameron Report

480. Hon W.N. STRETCH, to the Minister for Budget Management:

I address this question to the Minister on the assumption that his role as Minister for Budget Management includes overall Budget strategy planning.

Has the Minister studied, or been made aware of, the Cameron report on road funding as it will affect funding for WA local authority road programmes? I ask the question in view of the fact that if those funding cuts take place it will put a large burden on State funding to make up the deficit.

Hon J.M. BERINSON replied:

I have no close knowledge of that report.
