

LEGISLATIVE COUNCIL

Thursday, 17 December 1987

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 10.30 am, and read prayers.

LEGISLATIVE ASSEMBLY MEMBERS

Criticism: Statement by President

THE PRESIDENT: Before I commence the activities of the House today I want to make a couple of comments about things which occurred in this House yesterday and which culminated in an article appearing on page 21 in *The West Australian* newspaper this morning, with which article I am quite disgusted. Honourable members would have seen it; the headline states, "MP calls Speaker a 'little Hitler'". Honourable members will recall that prior to the lunch break yesterday, I was away from the Parliament for one hour under arrangements I made some time ago, and certain speeches were made during the course of that hour. On my return Hon H.W. Gayfer addressed the House and began to speak in terms which suggested to me that I should ask him to refrain from following that course. I was a bit surprised to see that Hon H.W. Gayfer indicated by a look he gave me that he felt I was being a bit harsh. Having subsequently read the previous debates and read this newspaper article I can understand Hon H.W. Gayfer's perhaps feeling I was a bit harsh on him.

I want to comment about the whole operation of this place. Firstly, I need not say anything at all and everybody can just bowl along; but I just happen to believe that it is my responsibility to say what I am about to say. If honourable members do not like what I have said at the end of my remarks the solution is in their hands.

This place consists of people with varying political beliefs who at times become quite heated during the course of their debates. This is an acceptable and understandable state of affairs in a Parliament such as ours. There are, however, several longstanding, inbuilt conventions that go hand in glove with the Westminster system of Parliament which from time to time we all purport to honour and support. Among those longstanding conventions -- in addition incidentally to a set of Standing Orders which make it very clear indeed for those who are not aware of the conventions; Standing Order No 87 is the specific Standing Order I am referring to -- is one which suggests that in our system, notwithstanding how we feel about things from time to time, a member does not take unfair advantage by publicly criticising a member in another place who is not in a position to answer back.

I assure members that if I had been here at the particular time yesterday I would have endeavoured to curtail the remarks. I do not have any argument with members criticising committees of this House; I do not have any argument with members criticising the actions of those committees; nor do I have any argument with members who say, "This should not be hung there", or something else should not be hung somewhere else, or certain action should not have been taken, or some other action should have been taken. It is the prerogative of every member to make those comments.

However, when a member of a committee is singled out I take strong exception. I do not necessarily agree with all the things individuals do in this place. It has been suggested to me from time to time that some members actually do not agree with all the things I do. The facts are that we are running a House of the Parliament with rules and procedures which were established for our benefit long before any of us thought about coming to this place. I believe you choose your Presiding Officer because you believe he will ensure that fair play operates for everybody. I have always understood that to be the case. It is difficult enough when members attack each other in the same House, and that is against the Standing Orders, but to attack somebody in another place is below the belt. It is not only against the parliamentary convention and the Standing Orders to which I referred, but also it is downright un-Australian in my view.

There are several committees in this House, and from time to time the House will appoint new committees. If the members of those committees do not carry out the tasks which the House believes they should, the answer is in the hands of members -- they change the members of the committee who are not doing their job. Articles such as that which appeared

in the newspaper destroy the dignity and standing of this Parliament. While I am here I will do all in my power to endeavour to see that that does not occur. I am simply saying to any Deputy President who happens to take this Chair in my absence that that is the way rules are to be interpreted. I am not always here, and it is a difficult task; frequently a member says something before one knows he is going to say it. It is difficult to undo remarks afterwards; it is also difficult to get the feel of what is going to happen next. For the benefit of members who have not sat in this Chair, it is not all beer and skittles up here. It is a very difficult task. I am not blaming whoever was in the Chair at the time -- I do not know who it was. I am saying, for the education of us all, that I am disappointed about it and I hope it does not occur again.

Statement by Hon G.E. Masters

HON G.E. MASTERS (West -- Leader of the Opposition) [10.41 am]: I seek leave of the House to make a statement with regard to the matters you, Mr President, just raised.

The **PRESIDENT**: Members are entitled to seek leave to do what they like, but it is not the practice, when the President or the Presiding Officer gives a ruling, to have the ruling questioned. The member can seek leave and if the House grants it, I have no option but to allow it.

Hon G.E. MASTERS: Mr President, I am not seeking to challenge your direction. I am seeking to make a statement about what you said and about comments in the newspaper.

Leave granted.

Hon G.E. MASTERS: Mr President, you made reference to statements I made in the House yesterday and the member of Parliament referred to in the newspaper report is me. The criticism I levelled was at a position held by a person in the Parliament, not the position of Speaker, as such. I will give some background on the Houses of Parliament because, after the comments that were made in the newspaper and elsewhere, it is important to do so. This building is for one purpose: It is owned by the public to send the members they elect to speak on their behalf. It is a forum which provides members with protection when speaking on behalf of the people they represent. The Parliament and Parliament House are not for any one person; the Parliament and Parliament House are not for any one group of people; the Parliament and Parliament House are for the use of elected members of Parliament. For anyone or any group to seek to take some control for personal satisfaction is something I deplore. All members of Parliament take pride in their job and they have a perfect right to state their point of view in this place -- the place in which they can carry out their work on behalf of the people they represent. Mr President, as you said, committees have been formed and are elected by members to carry out certain tasks in the best interest of members.

Hon Tom Stephens: I imagined that you sought leave to apologise, not to carry on in this manner.

Hon G.E. MASTERS: It appears that in some cases the best interest of members is being overlooked. That is not just my view, it is the view of a number of people and at times I have said that I feel like an intruder in this building because of the number of people in this place and the decisions that are made.

Hon Kay Hallahan: What?

Hon G.E. MASTERS: I will not stand by and let anything happen that will threaten the rights of members or members' wishes. I make this point, in case anyone has forgotten: This building is named the Western Australian Houses of Parliament and it is the word "Parliament" that is important. It goes back to the thirteenth century when that word was used to describe high level conferences and then it became the national assembly. The Westminster system has been operating for 1 100 years. The building which we occupy is for the use of members to speak their mind -- I accept the comments you made, Mr President -- on behalf of the people they represent and to elect committees to look after their best interest. I am not prepared to sit idly by and let members' rights be hijacked by anyone.

The **PRESIDENT**: Order! I am obviously unsuited for this position. It seems to me that if the honourable member who just obtained leave of the House to make an explanation was unable to comprehend what I was talking about, then I believe that our days are numbered as

a place of Parliament in the context of the Westminster system as I understand it. Frankly, I have reached the stage where I do not care what members do. I am appalled by the subsequent comments that were made and I will not say any more about it.

Statement by Hon Graham Edwards (Minister for Sport and Recreation)

HON GRAHAM EDWARDS (North Metropolitan -- Minister for Sport and Recreation) [10.46 am] -- by leave: I will be brief, but I want to speak strongly in support of the statement you made, Mr President. It had been my intention, during the course of the adjournment debate later today, to address this issue. I also was very disturbed to read the comments that were carried in this morning's *The West Australian*. I have been concerned at what has become somewhat of a trend in recent times for matters relating to the management of the House and matters relating to the Joint House Committee to be raised in this Chamber. I firmly believe that this is simply no place for those matters to be raised.

Hon P.G. Pental: What nonsense.

Hon GRAHAM EDWARDS: I have served on the Joint House Committee and I am aware of its responsibilities and the work that it carries out. From time to time I, like you Mr President, do not agree with some of the things it does, but we have a proper process through which we can address those matters. One of those processes, of course, is for a member to seek nomination to be appointed to the Joint House Committee and be prepared to put in the time and effort in order to manage the place as well as it is managed. I also want to speak in support of the management of the House generally. I feel that our paid personnel do an excellent job and I feel that members in this House should be showing some support to the management.

Hon P.G. Pental: We are not talking about paid personnel.

Hon GRAHAM EDWARDS: Perhaps if someone had bothered to check with the senior management in this Parliament some of the comments that have been made may well have not been made. As members of Parliament, particularly members in this House, we should have enough moral courage to accept those things that you, Mr President, said in your statement, and, indeed, accept them in a way that might perhaps induce some members to consider some of their actions. It is not good enough for any of us to say and to recognise that parliamentarians have a very low standing in the community without being prepared to do something about it. It is also not good enough to sit in this place and say, "It is not our members; it is not me; but it is members from the other side." I feel that we all contribute in one way or another to the low standing of parliamentarians in the community and we all have a responsibility to address that perception. It is only by listening to the statements of people such as you, Mr President, and by having the moral courage to accept those messages that we shall improve the situation. I am sure if we are prepared to do that it would be much better for all of us.

Hon P.G. Pental: I hope some of your members do it too.

RESIDENTIAL TENANCIES BILL

Second Reading

Debate resumed from 15 December.

HON N.F. MOORE (Lower North) [10.53 am]: We are debating the Residential Tenancies Bill which was introduced some weeks ago in another place and has emerged somewhat scathed and in a rather different form. As the person representing the Opposition in this House on these matters, that has caused me some difficulty because in the very short time made available to study this Bill, I have had to examine basically brand new legislation.

This Bill is a reflection of the Government's basic attitude towards the community; it is a reflection of its basic socialist policies. The Government works on the basic premise, which is behind the drawing up of legislation such as this, that all landlords somehow or other are unscrupulous capitalists and all tenants are poor, downtrodden and underprivileged members of the community. The provisions in the original Bill and even in the Bill before the House are very lopsided. They are strongly supportive of the rights and privileges of tenants and very heavy on the obligations of landlords. The Opposition is prepared to acknowledge, and does so readily, that there are significant problems within the field of tenancy agreements.

There is no doubting that a number of grey areas are associated with the relationship between tenants and owners -- as they are called in this legislation. However, the Opposition would not have adopted the approach this Bill adopts in attempting to overcome the problems. When a problem is tackled from a philosophical point of view, the temptation is to draft a Bill which is philosophically lopsided. In my view, the Government sought to correct some of the problems by taking out the proverbial sledgehammer to crack the proverbial nut. The original Bill was a very clear reflection of that approach.

The introduction of this legislation has been a long time coming. When the Labor Party was in Opposition -- it seems a long time ago now, regrettably -- it was very heavy on the rhetoric about what it would do when in office to resolve the problems of the underprivileged in the community. It has traditionally argued that its views are the views of the poorer members of the community; the workers as opposed to the employers; the underprivileged, the sick, tenants, and pensioners. These are people we traditionally regard as not having got on the gravy trains of life and who are not in many cases benefiting from the fruits of the society in which we live. The Labor Party has traditionally sought to represent their views. That is laudable and it explains why this sort of legislation is introduced. The Labor Party made various promises when in Opposition about fixing up the problems associated with tenants. However, upon assuming Government its members realised, particularly the more pragmatic members of the Government, that it is not possible -- in fact, it is not sensible -- to adopt a handout mentality and to seek by such a system to resolve the problems of people in the community whom they consider to be underprivileged. In effect, the Government has realised that it is not just a question of how the cake is divided, but a question of how the cake is baked and how big it is. It has realised that it is better to have a big cake to divide than to have a small cake which is much more difficult to divide. It has always been my view that the role of Government is to ensure that the economic cake is as big as possible because then bigger slices can be given to people who need assistance. It is refreshing that the pragmatic members of the Government have come to that conclusion as well.

It has taken the Government a long time to introduce legislation such as this because it realised inherently that there is a flaw in its thinking. The Government introduced the Bill and then, seemingly very reluctantly, was prepared to accept major surgery to that Bill in another place. That seeming reluctance was simply that: The pragmatists and the realists in the Labor Party were delighted to accept the amendments made in another place so that this Bill would be significantly watered down in certain areas and the impression would be created in the community that this Bill was nowhere near as bad as they thought it would be. At the same time as doing that, the Government is able to say to the lobby which has been arguing for this Bill that it had done its best.

Hon Kay Hallahan: Why do you not talk about the Bill?

Hon N.F. MOORE: I cannot believe those sorts of comments. I am talking about the Bill before the House now, which is an emasculated version of what was originally drawn up.

Hon B.L. Jones: Are you supporting the Bill?

Hon N.F. MOORE: If members want to sit here for the next week I shall be happy to move that we defer consideration of this Bill until next week, which is the proper time, and we can come back on Christmas Eve. If members want to continue interjecting while I am making my speech, I shall be happy to do that.

Several members interjected.

Hon N.F. MOORE: The Government now has this Bill before the House, and it is able to say to the people who are criticising the components of the Bill that it did its best -- those conservative capitalists who have no consideration for the poor, downtrodden tenants have taken all the bits out of the Bill which will emasculate it; but the Government has done its best, it is not its fault. That has happened on numerous occasions in this House in respect of various pieces of legislation. That is the reason why a former Labor Premier was constrained to say, "Thank God for the Legislative Council." What the Council has done in the past for Labor Governments, and since this Labor Government has come into office, is to knock off the rough edges and get rid of grubby legislation which people do not want. I refer to legislation the Government brings forward to this Parliament to appease the left wing lobby groups, hoping like hell it will be amended significantly in the Parliament, or rejected by us in this House.

Hon Fred McKenzie: Prove it!

Several members interjected.

Hon P.G. Pental: Premier Collier, your own Labor Premier, admitted it.

Hon N.F. MOORE: What we have now is a Bill which does not go anywhere near as far as the tenant lobby groups want.

Hon Kay Hallahan: Would you pass it?

Hon N.F. MOORE: That applies particularly in respect of the construction of tenancy agreements. But the Government can say to those people, "We did our best, but we could not get it through the Legislative Council unless we accepted those amendments." Members only have to read what the Minister said in the Legislative Assembly. He said, "With great reluctance I have to accept these amendments, but the bottom line is I can count to 17."

Several members interjected.

Hon N.F. MOORE: That is what he said and that is what he is saying to the lobbyists inside and outside the Labor Party who wanted a draconian piece of legislation which would decimate the rental market.

The Government has a Bill which will not be as nasty as it could have been; the community has a Bill which is not as nasty as it could have been. The Government is able to appease those members within its own organisation who wanted more, so somehow or other the Government rides through this political minefield without getting into too much trouble. At the same time those people in the Labor Party whom I would describe as gradualists -- I do not include Hon Robert Hetherington -- people who think that if things are taken gradually they will achieve what they want -- and the Prime Minister comes under this category --

Hon Robert Hetherington: You have it wrong; that is just not correct.

Hon N.F. MOORE: I hope the member will get up and say that on his feet. Some members of the Labor Party, including the Prime Minister and the Treasurer, adopt the approach that it is no good going down the path of Mr Whitlam and seeking to achieve all the reforms in the first 30 days; things should be taken step by step. If it is necessary to back off a little, what does that matter, because by doing that one retains electoral favour, and if re-elected a bit more can be done. That is called gradualism in the minds of some of the people who discuss these things.

Hon P.G. Pental: Or the hidden agenda.

Hon N.F. MOORE: It is what many members of the Labor Party subscribe to. We have here a Bill which the gradualists would find acceptable. They would say, "We have the principle of tenancy legislation enshrined in our Statutes; that is the first step, but it is not what we really wanted." Some of it is terrible, as we will find out later, but it is not as bad as it could have been. They will say, "We have achieved that first step; all we have to do after our subsequent re-election is to take a bit out of this Bill and put a bit more in and people will get used to it and ultimately we will achieve our objective."

Hon B.L. Jones: It sounds like a good idea. If we had your party in Government we would not have anything at all.

Hon N.F. MOORE: The Bill before the House which the Government argues has been brought in to address what it considers to be very serious problems in the rental market area will not solve the basic problems of the market.

Several members interjected.

Hon N.F. MOORE: I hope to hear the honourable members' comments shortly too. I accept that the problem facing tenants in our community is not so much the relationship between tenant and landlord on a one-to-one basis, but the quality and quantity of rental accommodation available. If a lot of rental accommodation is available because people are prepared to invest in that area of business, the tenant can negotiate a better deal. If on the other hand there is a lack of rental accommodation available, all the cards are in the hands of the landlord, so he can drive bargains which are not acceptable to tenants. What must be done -- as I think some of the economic realists in the Labor Party accept -- is to create an environment where people are encouraged to invest their money in the rental accommodation

market. By doing that sufficient numbers of rental units are created to enable a reasonable balance to develop between owners on the one hand and tenants on the other. A reasonable relationship will develop between the two.

Any restriction brought in by way of legislation which is a disincentive to investment in this market ultimately has the effect of disadvantaging the tenant. The tenant is the loser if investors opt out of the market and cease investing in rental accommodation. If members do not believe me, all they need do is to look at the effect of the abolition of negative gearing by the Federal Government. That one decision in respect of our taxation system removed an incentive for people to invest in the private rental accommodation market, and it had the effect of reducing the number of people in the business and the amount of accommodation available. Who were the losers? Not the landlords; they put their money somewhere else. Perhaps some of them invested in the share market, in which case I guess they are the losers; but they put their money into some other investment where they received a better return. The losers were the people looking for accommodation. When the amount of accommodation is restricted, the price goes up. It is a law of nature. The losers are the tenants who have to pay the rent.

What we should be doing, instead of passing legislation to impose restrictions on the rental market, is to remove restrictions on people in the business. We should pass legislation, if necessary, to encourage people to invest in this market. Hon Bob Hetherington will tell me I have it all wrong again, but some people in the Labor Party have a very heavy lean to the left. They believe that there should be no private rental market; everyone should live in Government housing. That was the view of the Tonkin Government in Western Australia in respect of the Salvado development in 1972, or whenever it was, as members will remember. To refresh the memories of those who do not remember, there was to be a subdivision of land where people would rent the land and not buy it. The Government was to be the landlord and the people were to be tenants of the Government. The philosophy of some members of the Government is that private landlords should be moved out of the rental market. They want everybody to live in Government accommodation and their philosophical argument, as they will no doubt tell us, is that they would rather that sort of circumstance than what we have now in Western Australia, which is a mixed market arrangement. It is my view that the society is better off if we have a very buoyant and market-related rental market because that is the best way to ensure that not only do the people investing their money get a reasonable return on their investment, but also the tenants who are looking for accommodation are able to get that accommodation at a reasonable rate.

This Bill has the potential to add to the restrictions on those people who would normally be considering going into the residential tenancy market and will also have the effect of discouraging those already in it. If it has the effect, as did the negative gearing decision, of creating an environment where owners opt out, we are making a dreadful mistake by passing this Bill because when that happens, if we reduce the supply of accommodation the tenants whom this Bill is supposed to be helping will be the ultimate losers. In this Bill there are also significantly increased costs for people involved in the business, especially those who find themselves having to abide by some aspects of the Bill; that is, those who might find themselves having to go before the Small Claims Tribunal, those who might have to try to evict a bad tenant from their premises, and those who end up with goods left on the premises when a tenant leaves. All those sorts of things add to the costs of the people involved in this business, and the increased costs will not be borne by the landlord, in the same way as increased costs are never borne by the retailer, but by the consumer. Whenever an increased burden is added to those who provide rental accommodation they will pass it on by way of increased rents to the tenant; so, again, this Bill has the potential to work against the interests of tenants.

I come back to my original comment: This is a very convoluted and difficult Bill which has been brought to the Parliament in the hope of resolving the problems of a small minority of tenants who have had trouble with their landlords -- a very small minority when one considers the total rental market. Yet this legislation will apply to everybody and will have the effect of discouraging people from investing their money in the rental market, and of increasing the costs to those who are in it. The basic result of that is that prices will have to go up, so the tenants the Government is trying to look after might win the argument in the Small Claims Tribunal as to whether or not they were being harassed by their landlord, but they will still pay more rent.

Hon Kay Hallahan: That has not happened in South Australia.

Hon N.F. MOORE: Under its current Government South Australia is so depressed one could probably rent anything for very little. If there were any economic development in South Australia of any consequence I would expect there to be such a degree of pressure on the rental market that the prices would go through the roof.

Hon Kay Hallahan: That is begging the question.

Hon N.F. MOORE: It is a reflection on the South Australian economy, I am afraid to say.

Hon John Halden: It has not been depressed for a decade.

Hon N.F. MOORE: The Bill contains as part of one of the amendments agreed to in another place an opting-out clause which says that, in respect of a number of components of an agreement between a tenant and an owner, by mutual consent they can opt out of certain conditions that are in the Bill. Perhaps I should go back a step and make it clear to the House that this piece of legislation is in itself an implied agreement between a tenant and a landlord, and in the event of there being no written agreement the conditions of this Bill when it becomes an Act will apply in respect of the relationship between the two parties. However, it is possible for owners and tenants to draw up a written agreement between themselves subject to the requirements of this Bill. The opting-out clauses allow by mutual consent that written agreement to not include some of the requirements of the Bill.

On the surface that would appear to be a victory for those enlightened people who think that we should place as few restrictions as we can on these sorts of agreements; but again I make the point that market forces are very hard to disrupt or dismantle, and market forces will apply even when this Bill becomes law, to the extent that the supply and demand of property ultimately will determine the sort of contract that is entered into by tenants and landlords. During a period of low economic development where we have an excess supply of accommodation over the need for accommodation the contracts will be onerous for owners. What will happen if there is an excess supply of accommodation is that a tenant who is reasonably astute will go to the landlord and say, "I want to rent that accommodation." The landlord is anxious to rent it. The tenant will say, "The conditions of the contract will be as laid down in the Act and there will be no opting out." The landlord, because he needs to get tenants in in order to pay his own mortgages and costs, probably will have to opt for the more onerous terms of the Bill. On the other hand, at a time of high economic development when there is a shortage of accommodation available and each unit of accommodation is being sought by two or three people, the landlord will go the other way and opt out of every clause he can; the people who may miss out in those circumstances are the tenants. So the opting-out clauses do not solve very many problems because the supply and demand that is part and parcel of this business will determine what sort of contracts are entered into. That is assuming, of course, that tenants and landlords can understand what is in the Bill. Having spent three or four days reading it in some detail, I have to say that I still do not understand a lot of it and I am sure that landlords or tenants who know little about legal matters will have some considerable difficulty working out where they stand on this matter.

Hon Kay Hallahan: I reckon you would be surprised how they understand what they need to understand.

Hon N.F. MOORE: I need to understand it -- I am standing here arguing about it. I have spent hours reading it clause by clause, trying to work out how the clauses fit in with one another. The Bill is out of sequence in parts. It says certain things will happen if something 10 clauses down the track happens -- so one has to find that clause, then come back to the clause three in front of it; then it refers to the next part, and then to a Bill somewhere else. It is one of the most convoluted Bills I have ever seen, designed, I regret to say, to ensure that very few people can understand it. It is no wonder that representatives of real estate agencies are happy for the Bill to go through; significant numbers of landlords will have to get agents to look after their interests.

Hon P.G. Pental: You are in good company -- the Minister does not understand it either.

Hon Kay Hallahan: I do not think it is so complicated, having read it for four hours.

Hon N.F. MOORE: The Minister is very fortunate, as are all Ministers in this House who come in with advisers. When we go through the Committee stage the Minister simply

repeats the views of the adviser and need not know anything about the legislation the Government has introduced; all the Minister need do is move to the Table and have somebody explain matters to her when she does not know the answer. It was five years after I came here before an adviser was brought into this House. Previously, Ministers handled not only their own legislation but also legislation from the other House, and they did it on their own. At present, Ministers are not only bringing advisers into this House -- something to which I do not always object -- when handling Bills for other Ministers, but also when handling their own Bills, and that is not good enough. They also have people sitting in offices from one end of Parliament House to the other, and that is one of the reasons why one can hardly move in the corridors from time to time, and when somebody says something in here that the Minister does not understand the advisers write that down, that message is sent out to somebody and an answer is sent back in here. That is a very lopsided approach.

The Minister says that she understands the Bill perfectly, which is great. I do not understand the Bill totally at all. I have not had the benefit of a departmental adviser to tell me what is good or bad about the Bill, I sat down by myself and went through it clause by clause, which was very difficult. I suggest that Hon Doug Wenn reads the Bill, and if he understands it in two days without asking any questions he can come back and tell me, because then I will know that he is a genius of considerable proportion. In addition, this Bill was introduced on Tuesday of this week, the week before Christmas, and contains significant amendments from the other place, yet we are asked to debate it not one week after that introduction, which is the usual procedure, but the next day, even though we asked whether it could be delayed for another day so that we had at least two days to do something about it. That is not good enough. A Bill of this significance and magnitude ought to be properly reviewed by all those having an interest in it. There are people in the community, including members of the Law Society -- a significant organisation -- who have asked for this Bill to be deferred because they have been unable to consider it.

Hon Kay Hallahan: Are they under-resourced, too?

Hon N.F. MOORE: They are. The only organisation with the resources that it wants whenever it wants them is the Government, which uses taxpayers' funds whenever it likes. This Government is a classic example of that; it filled the Premier's department with advisers and provides all sorts of resources the Government needs, saying to everyone else that it is sorry, but the people have enough resources and do not need any more. I made a speech about schools and was told, "They do not need resources", yet the Government brings in all sorts of resources for its own benefit.

Hon Doug Wenn: It is not fair, is it?

Hon N.F. MOORE: It is not. If the member does not want to come back here in 12 months to change this Bill, he should make sure that it is in a proper form when it is passed. When the member is on this side of the House, which is a time not far into the future, he will realise that to have decent legislation things must be done properly. One of the great virtues of having been on both sides of the Chamber --

Several members interjected.

The DEPUTY PRESIDENT (Hon D.J. Wordsworth): Order! Members should come to order and cease interjecting. There are eight members on the Government side of the Chamber all interjecting at the one time. I suggest that they give the person speaking a chance to be heard. I am happy to allow the odd interjection when it is called for, and I think that at times the member speaking has called for that, but when there are a large number of members interjecting at the one time the House is disorderly.

Hon N.F. MOORE: I was making the important point to new members who have not been on both sides of the House that it is good for one's education to have been on both sides. I do not like being here, but it has changed my views about how this place should operate. I have learned that legislation by exhaustion at the end of the session is no good for anybody -- not the Government, the Opposition nor the people who will be the subject of that legislation if passed. This happened while we were in Government, and is happening while the ALP is in Government.

The DEPUTY PRESIDENT: Order! My remarks apply also to Hon Phil Lockyer and Hon Phillip Pandal, whom I cannot see behind the member on his feet, but I think I heard him speak.

Point of Order

Hon P.G. PENDAL: I did not say anything. I was actually reading.

Debate Resumed

Hon N.F. MOORE: There is an interesting aspect of this legislation that was changed in a minor way in the other House. The Government sought initially to require that all bonds payable by tenants to protect the interests of landlords be paid into a fund administered by the Crown Law Department. The interest earned on those funds was then to be used for a variety of things including the administration of the Act, and for public housing, I believe. That was amended in the other House to allow a discretion as to where bond moneys went. The discretion is that that money can be put into the Government administered fund or into a financial institution such as a bank or building society. However, no matter where the interest was accumulated, be it in a bank, building society or Government fund, it was to go into the Government fund, so the interest on all tenants' bonds would go to the Government. I wonder whether the tenants know that. I think that tenants should get back interest earned on their bond money, which they provide in good faith and which is paid so that the landlord can repair any damage caused by a tenant when that tenant leaves. However, if a person has been a good tenant and has not caused any damage, that bond money is returned.

The Bill requires that an amount of four weeks' rent be paid as bond money. That money is to be put up by the tenant and kept in trust, in effect, yet the tenant will get no interest on that money. If a person has a 10-year lease, that is 10 years during which the bond money will sit in an account, and the person will get no interest from it. On the other hand, the Government, which collects our taxes and uses part of that money to carry out the objectives of the Act and the administration of the money, will collect that interest to be used to administer the collection of the money.

Hon John Halden: You can't tolerate the concept of consumer protection.

Hon N.F. MOORE: It is not consumer protection. How can one protect a tenant by taking his money, putting it into a fund, keeping the interest and then giving him the money back? That is not protection, that is taxation! In fact, it is probably robbery -- which is taxation, anyway -- two words for the same thing. The member says that this legislation will protect the tenant. How can one protect the tenant by saying to him that he has to put up four weeks' rent as a bond and at the end of the tenancy can have that four weeks' rent back but will not get the interest on it? Is that protection? Let us be sensible about this. What is wrong with having in place a system that provides for proper agreements between tenants and landlords where the bond money goes into an account from which the tenant gets the interest? What is wrong with that? This happens with many tenancy agreements now.

Why should Consolidated Revenue not pay for the activities of the Small Claims Tribunal? Why should it not pay for the activities of the Consumer Affairs Department as it does in every other case, but not this one? In this case it is not only the users of those departments but people who do not use them who are paying for them by way of this additional impost. Tenants are paying their taxes to maintain the Department for Consumer Affairs and to maintain the Small Claims Tribunal and now the Government wants to use the interest on their bonds to do the same thing. That is unfair. That is not protection!

Hon John Halden: It is not unfair; what is unfair is the existing legislation, or the lack of it.

Hon N.F. MOORE: I have said that the current situation should not be changed. I have already told the honourable member we should have a new system, but it should not involve tenants having to forgo interest on their bond simply because the Government sees that as a way of taxing a significant group of the population. Tenants should know that they will be taxed under this Bill.

Hon John Halden: They do.

Hon N.F. MOORE: Under the present system I know of many cases where the bond is held by the landlord, and the tenant not only gets the bond back at the end of the tenancy, but the interest it earns goes towards the costs of any necessary repairs. This is a silly and unfair inclusion in the Bill which I consider to be a taxing measure. There are many parts of this Bill about which I will argue during the Committee stage, rather than prolong this second reading debate. The Opposition and the National Party have a number of amendments on the

Notice Paper which will be considered during the Committee stage. If those amendments are accepted this Bill will be marginally less onerous than it is now. This legislation is necessary to the extent that there is a problem in the community, but it is a problem of a minor nature.

Hon John Halden: That is rubbish.

Hon N.F. MOORE: The problem is not as significant within the overall rental market as members opposite would have us believe, but we accept that legislation is needed to overcome it. As I said earlier on, we do not need a sledgehammer to crack a peanut. It would have been better if the Government had consulted with the Law Society to find an easier way of solving the problem. Many lawyers who are vitally interested in this have told me that if they had the time they would redraft the section and make it easier for everybody concerned.

Hon Fred McKenzie: You were a long time doing it.

Hon N.F. MOORE: They only got it at the end of October.

Hon Fred McKenzie: I am talking about over the years. This problem has not just commenced today, it has been there for years -- when you were in Government too.

Hon N.F. MOORE: That is no excuse for bringing in faulty legislation. If it has taken this long to be dealt with, there is all the more reason to wait a bit longer. We could wait a couple of months until the next session, let the Law Society consider the legislation in its much amended form, and next session bring in a Bill which would find general agreement.

Hon John Halden: Landlords are basically happy.

Hon N.F. MOORE: They are not basically happy.

Hon John Halden: They go on radio and in the Press to say they are.

Hon N.F. MOORE: They come and tell me they are not.

Hon John Halden: You had better organise your act.

Hon N.F. MOORE: People these days, as the honourable member will know, often say publicly what they do not mean privately for a variety of reasons.

Hon John Halden: Is that what you are doing now?

Hon N.F. MOORE: I always say publicly what I mean, and that is what I am doing now. We have been told by the Minister in another place who is responsible for this legislation that it will take about six months for the Bill to be proclaimed and put into practice. This House has to come back in April, maybe even earlier, why not --

Hon E.J. Charlton: The way we are going we will still be here.

Hon N.F. MOORE: There is a lot to be said, and I expect the honourable member will have his say as well. One of the difficulties with adopting a reasonable approach to a piece of legislation near the end of the session is that one is criticised for taking a serious interest in it.

Hon John Halden: From your own people.

Hon N.F. MOORE: Hon E.J. Charlton is a member of a third party and entitled to take a third point of view.

My suggestion to the Minister is that he should take the advice of the Law Society, take on board the views of the Opposition, which acknowledges the need for legislation, and leave this Bill on the Table until next session. It will take several months for the Bill to be proclaimed, so what difference would another couple of months make? We might even find at the end of the day that we have a Bill -- unlike the one we have now -- which will not impinge upon the people for whose benefit members opposite argue it is. Under the proposed Bill tenants will be disadvantaged because there will be a reduction in the accommodation available, which will cause rents to go up; there will be added costs to the landlord, which will be passed on to the tenant; and tenants will be unfairly taxed to finance the operations of a Government department. With a bit of goodwill we could come back in April or May with a Bill which would overcome these problems, and would not take six months to be agreed upon, because it would be acceptable to all sides.

I regret that because this Bill has already been heavily amended, and I expect it will be

further amended in this House, it will become a hotchpotch of a Bill which reflects the views of people in disparate places who have each contributed some input. It is like the horse designed by a committee which emerges as a camel. This Bill will look like that camel at the end of its passage through Parliament. There is nothing to prevent the Government from taking up my proposition that we let this Bill lie on the Table, let the Law Society consider it, and come back next session and tackle it afresh. While we are not going to oppose the second reading, I urge the Government to take on board and give serious consideration to my proposal.

HON E.J. CHARLTON (Central) [11.37 am]: The National Party's position regarding this Bill was made crystal-clear from the very first time the legislation was introduced into Parliament, which is that the Bill in its original form was unacceptable. As a result, we made it clear to everyone who contacted us that there were important changes we wished to see implemented before we would agree that the Bill should proceed any further through Parliament. Some people seem to think that this means that the National Party has entered into an arrangement -- the commonly used word was "deal" -- with the Government as to how the legislation would end up. If anyone wishes to take this up with me they are welcome to do so. We responded to correspondence from interested groups, both those who want this type of legislation and those who are totally opposed to it, by indicating the parts of the Bill to which we were opposed. Some of those points were: Tenants and landlords should be able to contract out of the provisions of the legislation, and draw up an agreement between themselves if they want to; they do not have to abide by the agreement form; the Small Claims Tribunal should be the appropriate venue for all disputes, not the courts; access to the Small Claims Tribunal should be granted for landlords and tenants; there should be a clear right for landlords to discriminate against bad tenants. That is what this legislation is all about. It is not about the 95 per cent of people who get on very well and honour the agreements between themselves with no problems.

There would be no need for this legislation if it were not for the small percentage of people who are all too willing to take advantage of their fellow human beings -- just as there would be no need to have speed limits on our roads if everyone drove at a reasonable pace, and no need for breathalyzers if people did not drink. However the need exists for agreements in all walks of life.

Hon Graham Edwards: And in politics.

Hon E.J. CHARLTON: In politics we have the tyranny of numbers.

Hon Graham Edwards: You do not suffer that.

Hon E.J. CHARLTON: That remains to be seen. The National Party amendments will ensure that the interest on bond money is used in an efficient manner and not put into a fund to encourage waste; that Homeswest, GEHA, ICEHA and Westrail housing is covered; that the minimum period of notice of termination on general grounds is reduced from 90 days to 60 days; that the Bill clarifies that payment of rent with a cheque that is subsequently dishonoured is a breach of the tenancy agreement; and finally that a larger bond be held where the rented property is the landlord's normal private residence.

The National Party took its stance on the provisions of this Bill months ago when people asked what the party would be doing with this legislation. We stated we were opposed to it in its earlier form and outlined the totally unacceptable areas. The National Party amendments moved in the Assembly were accepted by the Government for two reasons: The Government saw a need for the Bill, did its sums and realised that acceptance by National Party members in this place would bring about the implementation of it. The National Party would not accept the Bill unless the changes were agreed to. Other legislation within this nation makes provision for people to challenge tenancy agreements through the courts if they feel they have been unfairly treated. It is most important to have tenancy agreements of some sort and, putting aside all other legislation, the need exists for this Residential Tenancies Bill. It is said that the wealthy can pursue matters through the court system and others may receive financial assistance to do so; although some people say they cannot do so due to a lack of funds. However the middle classes are denied the opportunity; that is 75 per cent of Australians are denied this right. The very rich have unlimited opportunities and those on the bottom rung of our social structure have more opportunity than middle-class Australians. The theory that the further down the social scale the more intense life becomes, does not make sense.

Cases may occur where a policeman, school teacher, public servant or bank officer is transferred to the country. This person owns his own home and is trying to pay it off, so the home is rented. The number may not be significant and they certainly do not own multiple residential properties around the State, but they must be considered. Some people who live in the far north of the State will be victimised by this Bill because they do not have consistent contact with their tenants or agents. We should keep all these people in mind as well as the 10 per cent who will always take advantage of any situation.

The National Party has taken its stand and recognised the unacceptable provisions of this Bill. We have not yet had the opportunity to look at the relevant regulations. If they are unacceptable, this Parliament will take the opportunity to disagree with them. This debate is not the end of the line, as opportunities will occur further down the line. Anyone with an interest in this Bill should know this and the public should be made aware that proclamation will not take place for six months. As a previous speaker said, it is a shame that during the last days of this session such significant amendments have been put forward by the National Party in another place and the Bill has had to be rewritten.

Hon N.F. Moore: We put in a couple of amendments too.

Hon E.J. CHARLTON: Some people forget the National Party and when it is convenient to remember, everyone wants to know about it. I hope *Hansard* recorded that both sides of the Parliament regard the National Party as important.

Hon N.F. Moore: We all know how important you are, Mr Charlton; we can all count up to 17 anyway.

Hon E.J. CHARLTON: It is when one gets to 18 that it is important.

Hon N.F. Moore: When you get there you don't have to worry about 17.

Hon E.J. CHARLTON: It is important that the public of Western Australia should know what the situation is. It will not be the end of the line as far as residential tenancy legislation is concerned. Some landlords have said, "This is the end; I will never be in a position to rent out property again." That is being stupid and jumping at shadows. The legislation is not yet through the Parliament and amendments are still being put forward. The Government has to have another look at the legislation before it is proclaimed, and the Law Society will have an opportunity to consider it because the Government has said, and I accept, that the legislation will not be proclaimed tomorrow or the next day — it will be many months down the track. It is to the Government's advantage to make sure the Law Society considers the Bill before the Government proceeds further. It is important that the society or some other independent legal people have an opportunity to look at the legislation and make comments to the Government before it proceeds. The Government should accept that and say that it will give those people an opportunity and it will recognise what they have to say.

Hon Tom Stephens: I understood the Law Society was advised a long time ago.

Hon E.J. CHARLTON: I had a phone call this morning from a lady who is very concerned about the amendments that have been proposed. She says if they go in they will significantly change the Bill. She said to me, "It is worse than having nothing." I said we could soon fix that by kicking out the legislation and leaving things the way they were. That was a bit heavy-handed, I suppose, but I do not think it is correct for Hon Tom Stephens to say that people have had plenty of opportunity to consider the legislation. They will not have an opportunity to see the final document until it has gone through this House. Some of the things that were changed a couple of months ago and which people envisaged would be in the Bill are not there now. Many things in life which took place five years ago are now recognised to be wrong. Why do Governments amend legislation they brought in a few months ago?

Hon Tom Stephens: By and large lawyers are not involved in residential tenancies anyway.

Hon N.F. Moore: But they know about law; this is a piece of law.

Hon E.J. CHARLTON: The answer to that is that the Government often says Crown Law has looked at a piece of legislation and advised that certain things should be done, and we respond to Crown Law's advice. What is the Crown Law Department if not comprised of legal people? Therefore it is not unfair to say that the Law Society, which is a group of individuals, should have an opportunity to make an input. The society will have that

opportunity anyway, but I am saying the Government should recognise that fact, and if it does not want to take any notice of the Law Society it should give an opportunity to some other group of independent people. Residential tenancy involves a whole spectrum of other legislation. I do not know what the Government's position is as regards the Small Claims Tribunal maintaining a register of complaints and the names of people who repeatedly lodge complaints, or who have done so on several occasions. If half a dozen landlords or tenants dream up problems and take them to the Small Claims Tribunal and put pressure on that body, perhaps their names should go on a list so that people can have an opportunity to go to the tribunal and look at the names of people who the tribunal believes are a problem to the residential tenancy industry. There may be a group of people, whether landlords or tenants, who are a problem in the industry, and tenants should know about landlords who take advantage of individuals, and landlords should know about problem tenants so that they do not get involved with them. That would dramatically reduce the incidence of problems in the industry.

I understand that consideration is being given in New South Wales, if it has not already been done, to the Small Claims Tribunal taking over complaints from farmers and very small business people. At the moment they have to go to the Department of Corporate Affairs. A lot of transactions take place around the nation, and I have always thought that if one made a deal which proved to be a bad deal one learned by the experience and made sure he did not get caught again. However, I acknowledge the fact that not everybody is prepared to bite the bullet and they have to have an opportunity to go to someone with their grievance and ask for it to be looked at. The Small Claims Tribunal should be the place; that is what it was set up for. We should give it that recognition and the opportunity to handle small claims which are very significant to the person involved irrespective of their magnitude, especially for the people I mentioned -- farmers and small business.

The National Party put forward amendments in the other place which were accepted, and it has distributed further amendments to be considered in the Council. We believe our amendments are worthy of consideration and some certainly will be of benefit by making the legislation clearer and more precise. They will take away the opportunity for people to say that one clause says a certain thing and another says something different. Our amendments will take out some of the anomalies. Most people would say they are minor amendments compared with those which were our bottom line and were put forward in the Assembly. Others obviously will draw a response from the Minister and we will listen to her remarks. I say here and now that the National Party likes to listen to the debate and make its judgment irrespective of whether we have put forward amendments. That is what we will do with this Bill. We have not said, "Here is a package." We will look at the amendments on the Notice Paper, listen to the debate and the reasons why things should be implemented, and make our decisions. People often overreact to situations by contacting members of Parliament, throwing up their hands in the air in despair and saying that if certain legislation is passed they will be ruined.

Most of the amendments requested by the National Party in the other place were included in the Bill. However, we still have a series of amendments which we believe are worthy of consideration. Whether we proceed with those amendments will depend on the debate during the Committee stage. One amendment which the National Party will move and about which it feels very strongly is that which provides for the legislation to be reviewed in two years. It is a new Bill and it is not an amending Bill. A Bill as complex as this should be agreed to by everyone it concerns. Obviously any Government would want legislation as complex as this brought back to the Parliament at a later stage for amendments. By inserting a clause to the effect that it be reviewed in two years, we will ensure that it will be reconsidered. The Bill will not be 100 per cent correct, and people on both sides of the fence will be concerned about different aspects of it.

It is important that the people who will be affected by the legislation will have two years in which to research it and put forward constructive criticism in order to make the legislation desirable.

As I have said, the National Party will move amendments during the Committee stage; and regardless of whether they are passed, it will still support the legislation. The National Party is also of the opinion that before the Bill is proclaimed the people involved should be given six months in which to advise the Government of any significant problems they see resulting

from the legislation. If this is not to be the case, the Government will lay the foundation for people to be able to say, "We told you it would not work." This legislation is being debated at the end of this session, and we will be into another session of Parliament before it is proclaimed. The media has the responsibility to advise the public about the legislation. When the Bill is passed through this House, it will not be the end of the story, but it will be close to it.

The National Party supports the Bill.

HON MAX EVANS (Metropolitan) [12.05 pm]: I hesitated slightly because I thought some members of the Opposition may wish to comment on this legislation.

Hon John Halden: You mean, the Government.

Hon MAX EVANS: I thought members opposite would have made some valid points about the legislation with regard to the way it will affect their electors. Comment has been passed about how this legislation will affect the tenants. I come up against many landlords who have had bad dealings with tenants and it has cost them a great deal of money. The bond of four weeks' rent does not go very far when one considers some of the damage that is caused to rental properties. Landlords have very little redress to be reimbursed for damage caused. A landlord usually loses two weeks of that bond money in lost rent. In looking after properties for clients and my own property, I have been lucky because I have not come up against any problems of severe damage. The damage is sometimes incurred maliciously, but in some instances it is caused by friends of the tenants and the costs cannot be recovered. I cannot see anything in the Bill which protects the landlord. The first 20 pages of the Bill consists of legal jargon. It is several pages before one reaches the part of the Bill which concerns rent, residential tenancy, and the protection of both parties.

I commend the National Party for the amendments it moved in the other place. It certainly has put a lot of effort into the legislation. As the previous speaker said, this is completely new legislation. We have been talking about it for between 12 and 18 months and have considered the South Australian and New South Wales legislation. I congratulate the Government for not incorporating parts of the legislation from those States in this Bill. The consideration of this legislation has been like the Federal tax legislation. Every time the Federal Government makes a Press statement a person absorbs it, but when the changes are actually implemented, they do not resemble what was outlined in the Press statement.

People have asked why this Government has not been able to make decisions regarding this legislation. The reason is it has debated at length whether parts of the South Australian legislation should be included in this State's legislation. It was not until the legislation had actually been printed that one could start to absorb it. This Bill was available to members last Monday, and it is no good the Government saying that the legislation which was presented to the other House was available. That is irrelevant considering the number of amendments moved by the Government, the National Party, and the Liberal Party. We have had to start from scratch and to dot the "i's" and cross the "t's". Hon Norman Moore has outlined the problems of interpreting the various clauses. It is a mishmash and there are so many penalties, rules, and regulations included in it. It is negligence on the Government's part to push this legislation so quickly through the House.

I commend the Government on the fact that the legislation will not be promulgated for six months after it has been passed through this Parliament. It will give the Government the chance to govern by Press release. It will say to the tenants, "You must vote for us because we have looked after you." It will take some time before we know how good the legislation is. I hope the landlords will present their opinion of the legislation. I cannot see how this legislation will catch out the bad landlords. We will have to revert to the old days when we had television licences and an inspector had to go from house to house checking on them. The only way to enforce this is for someone to go from door to door asking people whether they are tenants and whether their landlord has complied with this legislation. All the baddies will get away with it, and the goodies will say that they will abide by the legislation because they have read about it in the newspaper.

Many landlords do not speak English, and they will not be able to grasp this legislation. I ask the Minister how it is intended to bring those landlords into line. The legislation will make it more difficult for people like me. I hope Hon Joe Berinson has a few rental

properties and that he has to deal with the same problem. However, he is very lucky that he has a legal degree and he is a Queen's Counsel. If he has tenants giving him problems he will be in a position to give himself a free legal opinion on how to handle the matter. Only this morning I had to obtain two free legal opinions in this House on the interpretation of this legislation, and I think that I have some commonsense. Many people will find it hard to interpret this legislation. It will be very easy to misinterpret the provisions of the Bill, which will create confrontation. Confrontations create problems. No legislation should be so vague that people can misinterpret it. The problems created will give the court extra work. The legislation has been rushed through without proper consideration and as a result the provisions will not be clear to the people who will operate under them.

There are many Government amendments on the Notice Paper for this Bill. In a previous debate when I referred to the number of Government amendments to a Bill, the Leader of the House said it was an indication of how responsive the Government was to the Opposition's views. I do not believe that is the case; it is an indication that the officers and experts in Crown Law Department have not done enough research. If they had covered all aspects of this field they would have prepared better legislation in the first place which would not have needed so much amendment. I am trying to get an understanding of the exemption of the Crown. I would like further examination from a QC on this point. Clauses 5 and 6 deal with this aspect, as they exempt all Crown agencies, such as Homeswest and GEHA. If they are exempted, why is that the case? Also, why should tenants of that housing not have the same rights as other tenants? I presume that if Crown properties are exempted the tenants will not have the same rights. I am only a bush lawyer but my interpretation is that only those two clauses bind the Crown agencies and I can find no further reference to that situation in the Bill.

Hon N.F. Moore: They are exempt if the Government wants to exempt them.

Hon MAX EVANS: If this matter is to be regulated it should bind the Crown as it does everyone else. After all, Crown agencies are the biggest landlords in the State.

Hon N.F. Moore: The Bill is not specific.

Hon MAX EVANS: No, it is not, and that comes back to the question of interpretation. The tenant in a State Housing Commission home could have all sorts of problems and if those problems became too big the Government could merely claim exemption and not have to worry about those problems. I ask the Minister to give some clarification on that point.

I refer now to rent paid in advance, which is set at a limit of two weeks. I presume that is because the bond will be four weeks' rent and it is considered more desirable to pay six weeks' rent at the beginning of a tenancy rather than eight weeks' rent. However, how does the landlord change the method of payment to four weeks in advance for the balance of the tenancy? In the higher range of rental properties many tenants would prefer to pay their rent four-weekly or monthly in advance. The Bill contains some very obscure wording that the advance rental payment cannot be increased until the first payment has been made and the landlord must then lose another period. That is bad drafting and the provisions should be more clear.

I hope this legislation can be interpreted by the owners who have one or two properties, or a small block of flats to let. Many of the people who will need to interpret this legislation are migrants who are keen to own assets in this country and they look after those rental properties well. The ones I have met have been good, honest landlords; some do not have a good grasp of the English language but they have plenty of commonsense and are prepared to be fair to their tenants. If they get the wrong tenants they will have to interpret the provisions of this Bill, which many would find hard to understand. I cannot understand why the limit has been set at two weeks' rent in advance. It is modern practice to pay rent 12 times a year, say on the 5th, 10th or 20th of the month. Some smart alec may say that it is not completely fair because some months have more days than others and, for instance, because February has only 28 days, he has been robbed. It does not work out that way over a six months' or 12 months' lease. Why does the Bill not also include provision for rent to be paid four weeks or one month in advance? On a rental of \$100 a week, that works out at \$400 for four weeks or \$433 a month. That is a very easy concept for the people who are handling these properties. Many owners use members of the Real Estate Institute of WA and those companies would prefer the payments to be made monthly because their accounting is

done on that basis. It is in everybody's interest and I ask for a further explanation in this area before we consider the amendments. It is archaic to limit the rent period to weeks rather than months. In the old days tenants paid weekly and the landlord came around on his bicycle and collected the rent, but times have changed. I ask the Minister whether the Homeswest tenants pay weekly, fortnightly, or monthly. What is the pattern and is it variable? Does the tenant decide what he wants to do?

We do not know what regulations will apply to this legislation. That is happening a great deal with legislation in recent times. Reference is made to the standard tenancy agreement which I would like to have seen a copy of. I have seen and used the current tenancy agreement used by members of the Real Estate Institute. In the northern part of my electorate are many low-cost houses and flats, and I can tell from the electoral roll that many people live in that area. Many of those people do not speak English, but most are basically good landlords and good tenants, although there are probably some bad landlords and some bad tenants. How will they interpret the provisions of this Bill?

The Bill has now been amended to allow for the deposit of bond moneys in financial institutions, as well as in the fund administered by the Crown Law Department. I was concerned from a legal point of view about bonds being paid into the Treasury and I thought that a very narrow view. Comments have been made about whether lawyers would have sufficient knowledge of this area. The average lawyer around town knows far more about legal tenancy problems than the Crown Law Department or the Government advisers because he deals with them as part of his bread and butter trade. Most lawyers cut their teeth on those problems when they first go into legal firms. As time has gone on many of them have owned and rented a property themselves, and there is nothing like owning a property to understand the problems involved and the effects of them. This Bill will create a lot of work, but it will not go to the lawyers. These problems will not be dealt with by the legal profession because the costs are high for these small amounts. The tribunal will be very much in demand.

The Bill states quite clearly that rates and taxes will be paid by the landlord. That has always been the case. If landlords are wise they will consider the increases in taxes, water rates and council rates when they are setting their rents. The Minister will say that water rates are going down, but in fact they are static. Land tax is going up by virtue of revaluation of property. I own a small property which is rented out at \$100 a week and the land tax on that property is equivalent to \$11 a week, in addition to which I pay council and water rates. I keep thinking I should hold on to that property because, as a result of this legislation, many people will sell their rental properties, and, therefore, as rental properties become more scarce, rents will double. I have two wonderful options: I can sell my property and get more money, or I can hold on to it and get more rent. I cannot lose.

Hon Neil Oliver: That is exactly what happened in South Australia and Victoria.

Hon MAX EVANS: It is a no-lose situation for landlords. Rents will go up, property values will go up and I will get a better return. My present return is four per cent, taking into account rates and taxes on the property. I could also sell the property and do better elsewhere.

Hon E.J. Charlton: It is like retail trading -- if you open the shops someone has to pay for it.

Hon MAX EVANS: That is what will happen to us. I have been blessed with good tenants for the blocks of flats I look after. They are in a good suburb; we keep them in good condition. People in other places have many problems. We refurbished these flats last year. I was going to sell them under strata titles for a big profit, and then I found rents had gone up by 50 per cent in six months. I thought it was good that I could get a tax deduction for repairs. I have held onto those flats for 20 years. I had a big increase in rental, but I kept them on for the wrong reasons. Make no mistake, rents have really gone up, and they will continue to go up. I do not think restoring negative gearing will help. Many high-salaried people have gone in for negative gearing, which may put many properties on the market, particularly in the \$80 000 to \$100 000 range. It will not apply to the bottom end because people are trying to buy a big tax deduction by borrowing \$50 000 or \$60 000 on their properties. They want negative gearing on \$10 000 or \$15 000 interest against a high salary. Despite all the negative gearing, property values are not going up; people are receiving the benefit of tax deductions. Now tax rates have dropped from 65c to 49c, there will be less incentive for persons with high salaries to go into negative gearing because the tax benefit is

less. Property prices are going up, but not due to negative gearing purchases, as the Government hoped. The depreciation rate was dropped from four per cent to 2.5 per cent to offset the cost to revenue of negative gearing. The Government knew it would make a profit by saving the tax deduction of 1.5 per cent on the depreciation of residential properties. The Government will do well out of taxes because the deduction has been reduced and people will not go into negative gearing.

What are the alternatives? Either sell up or get more rent. After selling, the alternative is to go into commercial tenancies, and this is a little more difficult. As a result of large sums becoming available from superannuation, there is a great demand on commercial tenancies around the \$50 000 to \$150 000 mark. Why do people go into commercial tenancies? With a good tenant they will achieve a return of 10 per cent. The tenant pays the water rates, the council rates, and the land tax, and he must repaint the building during the period of the lease. There is usually an option to renew, and everything goes along nicely with the rent being paid into the bank account.

The person who has to deal with this legislation, which covers residential tenancies, might receive four or five per cent net return on his money. His growth rate, or increase in value, is more likely to come from the value of the land because of his rentals. With a commercial tenancy, many rents go up after a year, based on the CPI. If they go up by eight per cent, the value of the property goes up by eight per cent, because commercial tenancies are paid on the basis of what return can be achieved. As the return goes up, so the value of the property goes up to maintain the original return. The alternatives for the landlord are wonderful. The alternatives for the tenants are terrible. Fewer rental accommodation units will be available for tenants, and the rents will be higher if this measure backfires. This Bill is perceived as being a very good vote catcher. It is perceived by many people on the student campuses as a means by which they can screw down the landlords to get a good deal. Perhaps they do not have much to pay rent with, but in the long term it will backfire on the community if it is too severe and people do not accept it.

Once we have a shortage of accommodation, Homeswest will have problems. The surplus income from interest on bonds will go towards assisting in housing, but it will not be nearly enough. Homeswest will have to sell houses and build a lot more at low rental rates, and that must be happening now. I would like to see statistics similar to those brought out in South Australia on what housing is becoming available. It was reported yesterday that Homeswest had underspent its budget by \$41 million. It had a budget of \$205 million and spent \$164 million. With houses at \$50 000 -- and Homeswest houses would not be that -- it would mean that 16 houses per week were not put on the market. There will be a great need for those houses, but no explanation was given as to why that budget was underspent. Rental is very attractive with Homeswest. The service is first class. If a door is kicked in during a drunken orgy, the tenant can ring up and it will be fixed that night or first thing next morning. I would not do that for my tenants with self-inflicted damage. I might if the water system broke down. There may be a baby in the house and I would probably jump to it that night. But with self-inflicted damage I would tell the tenant to sweat for a while; the water can come in; he caused the problem, I did not. But Homeswest has low rents and the very best maintenance operation in Western Australia. I am not critical of its maintenance teams; they are on stand-by and they do a great job. One of my first jobs in Parliament concerned some problems with the State Housing Commission. A contractor was not getting paid for some work. I solved this for him. Big money is being made in the repair and maintenance of housing. There is a terrific volume of work, and they must drop everything to do it immediately. We could almost use that staff as contract workers on the wharf; they are almost the same as those painters and dockers. They do the same sort of maintenance and repair jobs. If we had them on stand-by we would solve all the problems of what to do with those people on the wharf. The State Housing Commission has dozens of teams under supervisors. The cost to the State is great, but many people need the service. There is not enough reporting of what it is costing per house. In many cases it might be better to give the tenant the house rather than pay for the cost of maintenance.

Hon S.M. Piantadosi: Would you care to spend a week with me in Girrawheen?

Hon MAX EVANS: They receive very good service.

Hon S.M. Piantadosi: Not always; it is not as good as you like to think.

Hon MAX EVANS: I know the Education Department does not get its maintenance as and when it wants it. Has the member been following up why that maintenance is not done? It is because many people say they are called out early in the night.

Hon S.M. Piantadosi: The service does not really exist.

Hon MAX EVANS: If more pressure is put on Homeswest for more houses because less are available, the rents will go up, and that will put on more pressure because people cannot afford to go into the higher quality accommodation because investors must receive a return on their money; they are not fools. More funds are needed. Capital expenditure comes from only one source, and that is revenue taxation. The only way the Federal Government gets its money is by taxation. It makes grants to States for capital works, housing, and so on, but it all comes from one source. If we waste it we will need more revenue at the top. The books must be balanced, and it snowballs right around Australia. All our money for capital works, housing, roads, and everything comes from revenue in the end. We can borrow and pay the interest, but it is only from revenue that it can be paid off.

We have the Real Estate Institute of Western Australia, which is very quiet. I am often critical of my own profession in respect of taxation. We often do not fight the Taxation Department with difficult legislation because we have a vested interest; we will make more money out of it. In the last three years we have had fringe benefits tax substantiation rules, capital gains tax, and a few others. The work in a taxation practice has doubled in the last few years as a result of legislation. It is becoming more and more complicated. Lawyers could have a field day getting into it, and the commission has been very busy. REIWA will have a lot more work, because many people, particularly those living in the north west, bought flats and so on in order to have a residence down here when they return to Perth because they live rent free in the north.

They would have to use someone like a REIWA agent to look after it because it is very hard from a distance with an Act in one's hand to know what to do -- when to charge the tenant four weeks up front and so on. It is complicated and landlords will have to fall back on REIWA. That is wrong because their return will be less -- the collection fee is about 8.75 per cent of the rental. Some charge a fee up front for letting the property, which can be half a week's rent or one week's rent and on bigger properties it can go up to about 15 per cent. This is another reason that many people go out of residential real estate -- they are forced by circumstances to resort to the experts at REIWA because they cannot do it themselves. That includes people such as bank managers or businessmen who go over east, or people who go up north and let their houses in the city. It used to be easy, but now these people do not want to get caught and have the legislation thrown at them. These good, honest landlords will have to resort to outside help. We have not seen much about this in the Press. The Press writes a lot about the tenants. I wish every journalist owned a house and rented it to someone. They see the view of the tenant because they are young people, and there is nothing wrong with that, but if they owned such a property and saw the complications and the significance of this Bill they might write a different story. They would have a different perspective -- a perspective of self-interest.

I want to support the second reading and debate a lot of points at the third reading of this Bill. I think many of the provisions of the Bill are not well drafted or clear. This legislation has to be used by private individuals, many of whom do not have English as their first language although they own a lot of property. They will have to use this legislation to deal with their tenants because they want to do the right thing; therefore it should be simple and easy to read. I hope the Minister will give us a clear understanding of what will happen in the next six months as amendments come through. It is no good her saying the Bill has been around for a while -- it has not; a brand new Bill hit the deck this week. In fact in the redrafting of the Bill from last Wednesday to Friday in another place, I gather the putting together of it was wrong. A whole lot of mistakes were made in it and it had to be reprinted between Friday and Monday. That is how complicated it is. So we came back on Monday and looked at it -- and we have had other legislation to worry about this week.

It is an insult to the people of Western Australia, landlords and tenants -- and the tenants are just as important as the landlords -- that the legislation has not been properly drafted. We have a responsibility -- that is all we are in Parliament for. This could go on for another two weeks. We are in Parliament only for legislation, not all this claptrap that goes on. We are

here to make good legislation that does not make a fortune for lawyers and REIWA but can be interpreted by the honest little old lady who has blocks of flats and houses. That is what it is all about and it will be on the head of this Government if it cannot make good, simple legislation.

HON NEIL OLIVER (West) [12.33 pm]: I am astounded that this legislation should be brought into the House at this time. The previous speaker --

Hon Kay Hallahan: He just said dealing with legislation is the most important thing for us to do.

Hon NEIL OLIVER: I do not know what is the great urgency of the Government in endeavouring to force this complex legislation through this House at this time. There is nobody on the Government benches. Only the Minister is here, and nobody is taking an interest.

Hon Kay Hallahan: Have you had a look to your left?

Hon NEIL OLIVER: I just believe that at the end of a session we should be giving our full attention to such complex legislation as this.

Hon Kay Hallahan: Hear, hear!

Hon NEIL OLIVER: It is all very well to say that this legislation was introduced in New South Wales, that a major review of similar legislation was made in Victoria by its Ministry of Housing, that the legislation was introduced in Victoria, and that it has been further improved on and introduced in South Australia. I really wonder what this Government is about. This legislation sets out to do exactly the opposite of what the Government intends. It sets in motion the reverse situation in which the Government wants to create a means of resolving disputes between landlords and tenants. In fact, the opening remarks of the Minister's second reading speech indicate that the Bill proposes to establish the principles of fair dealing between landlords and tenants and to provide a cheap, speedy mechanism for resolving disputes.

Hon Garry Kelly: Isn't that laudable?

Hon NEIL OLIVER: Frankly, it is quite the reverse. It was found to be the reverse in South Australia.

Hon Kay Hallahan: That is not so.

Hon NEIL OLIVER: It would be interesting for Government members to substantiate with statistics for South Australia --

Hon Garry Kelly: You said that last night in the Budget debate.

Hon NEIL OLIVER: -- that disputes have been resolved more swiftly there, and that there have been fewer disputes and a greater availability of rental accommodation. I challenge the Government and the Minister to advise the House, firstly, that there have been fewer disputes between landlords and tenants; secondly, that they have been more speedily resolved; and thirdly, that the legislation has resulted in an increase in rental accommodation rather than a decrease. I challenge the Minister or any other member in this House to back that up with the basic statistics that are available from the Australian Bureau of Statistics on those factors.

Several members interjected.

Hon NEIL OLIVER: I challenge the Government or any member who wishes to respond in this place -- and if the member interjecting were of any substance he would already have examined those factors and would not interject. I presume that those people who are interjecting have examined those figures and know that what I am saying is incorrect.

Hon Kay Hallahan: Hear, hear!

Hon NEIL OLIVER: I will further issue that challenge to any member who may wish to compare those figures with those for the State of New South Wales, the State of Victoria, and the State of South Australia --

Hon E.J. Charlton: And the state of the nation.

Hon NEIL OLIVER: -- and I would very much like to hear from them about the research they have gathered from the Australian Bureau of Statistics.

My reason for entering this debate is that within my province are a large number of landlords who follow farming pursuits. These people operate on a temporary rent arrangement, not on long-term leases. I have risen to speak on this matter because of the many problems raised with me; it is a constant problem for people. It is not satisfactory for a landlord to deal with a tenant when there is a degree of tension involved. I believe that the aim of a landlord is generally to obtain a tenant who will provide long-term, reasonable protection for his investment with the least hassle. The aim of any landlord is to get a reasonable return on investment while at the same time ensuring that his property is cared for. In exchange, the tenant can live in harmony and without interference as if the premises were his own. That is the intent of any agreement between landlord and tenant and the basis of any tenancy agreement.

A tenant should be able to enjoy peace. I cannot recall the exact terminology of a tenancy document, but it is to the effect that the tenant should enjoy quiet and peaceful control of the property. There are landlords who are totally irresponsible and unreasonable -- in fact, extremely difficult to get on with. I am certain that there are people in this category. In such circumstances tenants are placed in a serious and unpleasant situation, particularly if it is difficult for them to find alternative accommodation often because of the costs involved in seeking out suitable alternative accommodation closer to their place of employment and within their financial capacity. That is no reason for us to rush headlong into legislation that will squeeze such people out of the market so that they will have nowhere to go, possibly finishing up in a refuge. I am talking now of people who live in substandard accommodation, and there is considerable substandard rental accommodation available. I am disappointed with the Government in relation to this matter.

There has been a failure during 15 or 16 years of Labor Governments to address the matter of poverty housing. This Government has ceased to address that problem, but like every other Labor Government has started committees and inquiries into this matter. The Leader of the House may be able to refresh my memory in relation to the date, but I think it was in 1972 that Professor Henderson was commissioned to prepare a report on poverty. That report was published in 1974 and is now languishing on library shelves gathering dust; nothing has been done about it. There has been no endeavour to provide poverty housing in Australia. In fact, such housing in Australia has been provided by the private and not the public sector. We know that many people now living in Homeswest accommodation no longer meet the criteria required to attain that accommodation and that many of them are sufficiently affluent to be living in normal accommodation purchased in the normal way. This has placed enormous pressures on Homeswest, which is not in a position at the moment to provide emergency accommodation. I am sure Hon Tom Butler and Hon Sam Piantadosi will speak of the problems that exist in their electorates in relation to emergency accommodation for deserted wives and widows. There is a woman in my electorate who has a family and who lives in a rental property. If I were to take up the matter of that property it would be condemned and the woman would have nowhere to go.

Sitting suspended from 12.46 to 2.00 pm

Hon NEIL OLIVER: This legislation, like any other, should benefit both parties. The current legislation is beneficial to neither the landlord nor the tenant. As far as the tenants are concerned, it will almost certainly result in a situation where it will be impossible for low-income earners to find accommodation. This has happened in other States in Australia. I presume it is the intention of this Government to protect and offer hope for those people living close to the poverty line in poor housing conditions.

The PRESIDENT: Order! I do not want to have to say this again. The audible conversation in this place is out of order and will not be permitted. Members are to cease immediately.

Hon NEIL OLIVER: When this legislation was introduced into South Australia it was necessary, because of the sell-off of accommodation by owners, to provide additional emergency accommodation to meet the enormous demand placed on the system. The amount needed, to March 1988, to service emergency housing was \$5 612 527. It is unfortunate that, of that sum, \$2 612 575 is for office charges. Because the situation has deteriorated in South Australia so much since the introduction of this legislation, that Government has had to introduce a rental release scheme which provides subsidies for low-income earners and enables them to keep a roof over their heads.

I am directing my remarks towards low-cost housing, and people on low incomes, whom I have always believed this Government purports to represent. The sequence of events which has followed on in South Australia since this legislation was introduced has also emerged in other States. It is unfortunate that this Government has chosen not to take into account the effects for low-income earners that flow from this legislation.

It is ironic that of all the States in Australia the most successful State housing statutory body has been the South Australia State Housing Trust. That body has always been regarded as the most efficient organisation, which has fulfilled the need for welfare housing in Australia, of any other similar body in any other State. Its commissioners have been recruited by the Federal Government over the years to serve on various committees dealing with welfare housing, in order that the experiences they have gained in South Australia may be passed on to other States. The advice of that body has consistently been sought in order to emulate its success. Yet in this instance, with a change of Government, a decision was made to move into the improvement of tenancy legislation in a way which will have a disastrous effect upon low-income earners. There has been a failure to come to grips with low-cost housing by successive Labor Governments. The Government has failed to support the people it represents. The number of Australians living in substandard accommodation has increased, and many rental properties should be condemned. The number is not so significant in Western Australia, but most members are aware of the poverty stricken areas in this country. I have spoken many times on the need to take action on this problem.

The Premier of Western Australia is very keen to introduce privatisation. The time has come to expand the operations of Homeswest which is funded by the taxpayers. The Government does not have the ability to raise revenue to satisfy the housing needs in this State. The amount required would be too large and the Government should look to the private sector and offer incentives for the building of rental accommodation.

Hon Kay Hallahan: That is what the negative gearing changes have done.

Hon NEIL OLIVER: Tax incentives should be offered to private enterprise to provide housing --

Hon Kay Hallahan: What about negative gearing?

Hon NEIL OLIVER: -- instead of wasting money on flow-ons from this Bill. Incentives should be given for investment in the rental accommodation market as an alternative to investments in long term bonds. In this way the difference between the two investments would not be so great and perhaps significant inroads could be made into the backlog of tenants requiring Homeswest accommodation. This legislation will worsen the situation; it will increase the length of the waiting list for Homeswest housing. Statistics support that this has happened in every State where similar legislation has been introduced.

Hon Garry Kelly: Rubbish!

Hon NEIL OLIVER: The number of tenants waiting for accommodation has increased, and the cost of rental accommodation has increased; that is a fact.

Hon Kay Hallahan: It is not a fact.

Hon N.F. Moore: It will happen here too.

Hon NEIL OLIVER: I am concerned by the added cost flowing to the taxpayer with the requirement to provide emergency services, and the adoption of a rental subsidy scheme -- which I am sure a Minister will be required to introduce into this place within the next 12 months.

I have referred to the problems experienced by Hon S.M. Piantadosi in attempting to find emergency accommodation for widows or deserted mothers. The member will agree with me that the situation is serious and at times hopeless. A refuge operates in the Midland area for people in these circumstances. Recently a young family with one child and expecting another arrived in the heat from Whyalla looking for employment as they had heard that Western Australia suffered less unemployment than other States. This family had nowhere to go. My appeals through the parliamentary liaison officer were not successful and accommodation could not be found that evening. No doubt members could give many similar examples. Rental accommodation will dry up except perhaps for the generosity of a few property owners who may not have been caught in the capital gains net or the disastrous

decision of the Hawke Government on negative gearing. As members realise, the negative gearing provisions had to be hastily withdrawn because they threw the rental market into a shambles. In New South Wales and Victoria, rentals went through the roof due to the decision of the Hawke Government to remove the negative gearing provisions. Forty-seven countries of the world, from Austria to the Argentine, offer incentives for owners to provide rental accommodation -- every possible tax incentive is given in those countries. I am prepared to make available a handbook published by the worldwide association of building societies covering the tax incentive provisions in those countries.

I am astounded that the Government has brought forward this legislation. I have read the Swinburne Technical College booklet, prepared by an academic, covering the implications of this Bill. This is the only documentation which in any way suggests that tenancy legislation is in the best interests of the tenant and the owner. This proposal smacks of big brother, and its implementation follows the move by Labor Governments in other States to establish tribunals which will damage private sector investment confidence, possibly irreparably.

It is interesting to read the priorities review staff report on housing prepared during the time of Prime Minister Whitlam. That document is relevant to 1985. The priorities review staff group worked within the Prime Minister's Department during the period of the Whitlam Government and produced a document of 485 pages. This document in true socialistic style suggests in its final recommendations that changes in the law concerned mainly with the States should be sought for the following reasons --

Tenancy bonds are a perennial source of dissatisfaction. State authorities with power to hold all bonds and to arbitrate disputes over bond retention could limit bond-snatching. Interest on bond monies would cover the expenses of an active administration; little or no capital funding would appear necessary.

To ensure that both parties are reasonably aware of their general legal rights and obligations, a brief statement of those rights, together with a copy of the lease document, should be supplied when a lease is signed. Statutory penalties for non-compliance may be necessary. A suitable general statement could be prepared by the relevant State Government.

By golly, there are some statutory penalties in this piece of legislation! The document goes on as follows --

While increases in security of tenure cannot be guaranteed if rents can move, the tenure provisions of s.63(5) of the A.C.T. Landlord and Tenant Ordinance 1949-1973 seem to provide some protection against victimisation of tenants who attempt to assert such rights as presently exist. In brief, these provisions prevent arbitrary eviction, or eviction for trivial arrears, without disturbing the landlord's right to possession on reasonable grounds.

I ask members to note that these recommendations from the priorities review staff in the early 1970s are identical to those we have been served up today. It is a consistent policy of Labor Governments. This is a socialistic Bill, not a normal Bill. It has been brought in without adequate consideration, and it is full of holes. I do not know how many amendments have been made and how many will be put forward to try to make this legislation satisfactory and to the benefit of all concerned, which is what this Parliament is about.

It is interesting to read the conclusions of the Australian Government in this document, because it believed it had considerable power to improve indirectly the position of those occupying rental accommodation, and it recommended that there should be an enforcement of tenancy legislation. The document states --

The rental market is diverse and complex and likely to frustrate many forms of direct intervention. Most forms of subsidies to tenants, builders or landlords appear inefficient as welfare tools. We do suggest that present anomalies between the tax treatment of tenants and of home-owners should be lessened by action along the lines of one or other of the options . . .

Various tax options are put forward in the document. It goes on to say --

Further action to remove anomalies could include:

reinstatement of low depreciation allowances on rented buildings.

This is exactly what I have said in this House on several previous occasions, and I have said it in regard to endeavouring to privatise welfare housing. This would be a further adjunct to what I was suggesting in regard to inviting investors out of Government long term bonds and into providing welfare housing and subsidising the interest rate between the long-term bond rate and the market rate for rental accommodation: A further example would be to provide some form of depreciation allowance to owners of rental property which would bring forward more investors prepared to provide welfare housing. Another incentive could be the exemption of landlords from the surtax on unearned income which is appropriate to the particular tenancy agreement — for example, rates and taxes and other outgoings which are basically tax items. The document comes to the conclusion that further action could include "the modification of the Landlord and Tenant laws in territories to restore the contractual position of tenants. . . and an approach to the States urging similar action." That is what they had to say in 1974 in the Prime Minister's Department.

This Government is inflexible; it has to do what was done in New South Wales, Victoria, and South Australia and add improvements to it. It trundles out a Bill which then needs something like 90 amendments.

Hon Mark Nevill: We are accommodating you.

Hon NEIL OLIVER: It shows how badly it has been conceived. It takes no account of the ramifications that will flow from it. There has already been in Western Australia an exodus of people from rental accommodation because of the cloud hanging over this Bill.

Hon Garry Kelly: What nonsense! You make it up.

Hon Mark Nevill: Where are your figures to substantiate it?

Hon NEIL OLIVER: Hon Garry Kelly said I was making it up, but I wonder why there were 200 people at a meeting in Nedlands eight months ago to discuss tenancy legislation?

Hon Mark Nevill: Were they all tenants?

Hon NEIL OLIVER: Three months ago I was at a meeting attended by over 400 people at the Raffles Hotel near the Canning Bridge —

Hon Garry Kelly: Were they all tenants?

Hon NEIL OLIVER: They were 400 owners of property.

Hon S.M. Piantadosi: It is about time you came clean.

Hon NEIL OLIVER: That was a very interesting meeting. Everybody was invited, but I noticed there was no representative from the Government. For the benefit of members, I was not representing the Leader of the Opposition at that meeting; the shadow Minister for Housing attended in that official capacity.

Hon Garry Kelly: That's nice.

Hon NEIL OLIVER: No wonder representatives from the Labor Government did not turn up, because I can tell members that the owners gave us a hot time. They had been given a draft copy of the Bill and they wanted to know what it was about. I hope that the association which called the meeting will circulate copies of this speech to the people who were at the meeting so they can read the interjections Government members are making. Members opposite are interjecting and stating that owners in this State have a vested interest and, therefore, they are biased towards this legislation. It seems to me that Government members are of the opinion that owners of properties should not be considered.

Hon Mark Nevill: You are getting more direct every day.

Hon NEIL OLIVER: They are indicating that I should not endeavour to seek the opinion of the people who represent the other side of the coin.

Several members interjected.

Hon Fred McKenzie: Who said that?

Hon NEIL OLIVER: This Bill is really only about one side of the coin. The interjectors are telling me that I represented the owners. I attended the meeting --

Hon S.M. Piantadosi: Representing the tenants!

Hon NEIL OLIVER: -- to hear what the owners had to say. For the benefit of members I would like them to know that I have received deputations from tenants and the Tenants Advice Service, which used to be subsidised by this Government, but that subsidy has been removed. I have a file on that subject.

Hon Fred McKenzie: What did they say?

Hon NEIL OLIVER: If members want the file they can ask for it to be tabled.

Hon Mark Nevill: Table it.

Hon NEIL OLIVER: Previously the Tenants Advice Service was able to handle the situations that arose and to help tenants oppressed by unsatisfactory landlords.

Hon Mark Nevill: Table the file and we will see who were the oppressed people.

Hon NEIL OLIVER: This Government has removed the subsidy that assisted those people.

Government members are trying to tell me that no-one is concerned about this legislation and if owners are concerned they are totally biased. At the meeting at which there was no Government representative, the member for East Melville, the member for Avon and I were given a fairly hot time. The people wanted to know why we had allowed the Government to consider this legislation. In fact, they wanted to know how this legislation could actually be presented.

Hon Mark Nevill: Such drama.

Hon NEIL OLIVER: The minutes for that meeting are available.

Hon S.M. Piantadosi: Table them as well.

Hon NEIL OLIVER: Questions were directed to me as to how we allowed this legislation to be introduced.

Hon Mark Nevill: Table the file.

THE PRESIDENT: The honourable member's time has expired.

Point of Order

Hon NEIL OLIVER: Mr President, during my speech I drew attention to the fact that the clocks were not working. I wanted to know what was the time limit and I was told to continue my speech. I do not in any way wish to delay the House, but I am somewhat surprised that when I looked at the clock it was not working.

The PRESIDENT: I share the concern of the honourable member about the clocks. It is one of those administrative things to which I appear to be able to get no solution. Notwithstanding that, I have been endeavouring to do it for the last year, but my requests have been denied. I sympathise with the member because normally there is a warning when the clocks, for which we paid a lot of money to have installed, actually work. I am in a quandary because I guess that if the honourable member had been alerted to the fact that his time was nearly up, he may have been able to round off his comments. He did not ask for an extension of time and I will not permit that, but I am prepared, if the House is prepared to accept my suggestion, to give the member a couple of minutes to round off the comments he was making.

Debate Resumed

Hon NEIL OLIVER: Thank you, Mr President, for the opportunity to conclude my speech. I did have a considerable amount of evidence to indicate our concerns with regard to the statistics from other States relating to the low-income earner. This legislation, like other legislation, should take all factors into account.

I believe this is ill-conceived legislation; it has been hastily prepared; little consideration has been given to the public at large to make an input; it has been rushed through and the interjections I have received from Labor members indicate either they are on a short fuse or they want to get out of this place as soon as possible.

The PRESIDENT: I have been reminded of an arrangement that the Leader of the House made with me yesterday; that is, in the interests of completing its business as quickly as possible, the House will not adjourn for afternoon tea. However, afternoon tea will be

available in the normal place from 3.45 pm and members can partake of it as and when they wish.

HON KAY HALLAHAN (South East Metropolitan -- Minister for Community Services) [2.38 pm]: This Bill has been a long time in the making and it is the result of the working party on residential tenancy law reform which reported in 1984. It has been with the community for a long time. For those members who are concerned about the role of the Law Society of Western Australia, that report has been available to the society since 1984. In addition, the Bill that is being debated was with the Law Society on 9 October. Therefore, the society has had the Bill for two months and has had the opportunity to comment on it. It is not incumbent on Governments to insist all people react to legislation, but the society has been given that opportunity and I want members to be clear about that. It is true that we are looking at model legislation from South Australia. The reason that was the direction the Government chose to take is that that legislation has been working extraordinarily well for nine years. I would be concerned if we started off with legislation which has proved to be very effective and we changed it considerably. It would be a retrograde step.

I think the House will accept the point made by Hon Eric Charlton concerning his proposed amendment with regard to a review of the legislation. We would be well advised to keep the legislation, as much as possible, in the same form as the Bill has been printed, knowing that there will be a substantial review, as proposed by the National Party, at the end of two years.

Hon N.F. Moore: Have you come to an agreement about the review clause?

Hon KAY HALLAHAN: There is an amendment on the Notice Paper and I thought that would be a good way to go; that is, let us not tinker too much with a Bill that is working in another State. Let us have the benefit of that and see how it works in Western Australian conditions. Tenancy law has been an area of great contention in our State and has needed addressing. Most of the contention arose because there was no clear relationship between landlord and tenant, and a whole lot of misunderstanding has led to many of the conflicts.

Reference was made to the number of amendments made to the Bill in the Legislative Assembly. It is quite correct to say that the Government has been very accommodating of the suggested changes to the Bill. Contrary to what Hon Neil Oliver said, the Government has not been at all rigid. The Government regards this as important legislation which has been modelled on the most workable system, which is recognised as a very good system. The one accusation sometimes levelled against the legislation is that it favours landlords, yet landlords in South Australia have found it very workable. If it leads to better understanding between landlords and tenants, that is exactly what we need. If it can be accused of assisting one side or the other, but increases the understanding between landlords and tenants, we should move in that direction and achieve that for Western Australia. I do not want to go into too much detail except to make it quite clear that the National Party's amendments in the Legislative Assembly were given full consideration and were accepted; the Government has been very mindful of that party's concern in this area.

I draw to the attention of members two reports in relation to the statements by Hon Neil Oliver. The first is called "The private rental sector -- Problems, prospects and policies" and is written by T.W. Burke; the second is entitled "The private rental housing market in Victoria -- implications of tenancy law reform", and is contained in a discussion paper "Investor behaviour and attitudes", working paper No 3, prepared by consultants for the Ministry of Housing in Victoria. Both papers show that tenancy law is a very minor and secondary factor in decisions about investment in residential housing. They also show that there is no evidence that tenancy legislation has had any effect on housing availability in those States. With regard to the situation in South Australia, the vacancy factor in March 1987 was twice the rate of Western Australia's; that is, South Australia's was 3.7 and Western Australia's was 1.7. Probably Hon Norman Moore will say that is an indication of South Australia's economy, but his colleague in the Opposition put forward a different argument. Within one party it is interesting to note the several positions put forward.

Consultation has been wide and long and it has been difficult to reach agreement on this difficult legislation. A great deal of accommodation has taken place over the years and I list again the groups which were fully consulted: The Property Progress Association, the Perth Tenants Association, the Real Estate Institute of Western Australia, the Landlords Advisory Service, WACOSS, and the Legal Aid Commission. Other groups were mentioned in the

second reading speech whose submissions were fully considered when arriving at the final draft of the Bill before this House.

Hon Max Evans made a good contribution to the debate, although he seems a little confused about the way the Bill will work. There has been a huge amount of community debate and, if members have not taken part in all of it -- very often members of Parliament do not have an opportunity to engage in that community debate -- they come in at a later stage when the debate has moved forward a long way, but they go back to the base grade. That situation was reflected in the comments of Hon Max Evans.

With regard to property damage, that will be easier to redress under the proposed system. At present it is necessary for owners to take tenants to court, which can be a difficult process. However, under the proposed system the tenant can be ordered by a referee to make compensation for damage. In addition, it was mentioned that tenants sometimes leave the property and do not pay the last couple of weeks' rent, and in that case an order for compensation can be made. The Bill also provides a penalty on the tenant for that sort of behaviour. It is desirable that we develop some maturity in the community about contracts and people's liabilities under those contracts. There will not be any doorknocking about it, complaints will be made and it will be dealt with in that manner. The member's notion about needing armies of staff to monitor the situation will not be applicable.

Hon Max Evans: Tens of thousands of tenants and landlords will not operate under this Bill. Only those who know about the Bill will comply with it. It has been said that there are 77 000 landlords in this State and the provisions will not apply to tens of thousands of them.

Hon KAY HALLAHAN: That is why it was stated in the second reading speech that the Bill would not be proclaimed immediately. We need to go through an education programme with the community and industry groups, and at least six months will be allowed for that to take place. At the end of that period the number of landlords and tenants not operating under the provisions of the Bill will be much less than the figure referred to. A marginal group may complain that they are not aware of the provisions but if a complaint is made, those provisions will apply. I could not follow Hon Max Evan's query with regard to exemptions for the Crown. The Bill contains a general provision for exemptions in certain circumstances, but it does not exempt the Crown per se. It does not exempt Homeswest, and perhaps we can tease out in the Committee stage the reason for the Opposition's perception in this area.

With regard to rental payments in advance, it was the opinion of the working party, and people consulted agreed, that very often tenants have a tough time in the first couple of weeks of a tenancy because they have to pay a bond, rent in advance, a letting fee, a fee for connecting power and other facilities, and stamp duty. It is not unusual for those costs to amount to \$1 000. It was considered that while people go through that initial period, additional advances should not be requested. However, if from thereon an arrangement is made to pay rent monthly in advance, nothing in the Bill precludes that. The sort of accounting to which the member referred is possible.

Hon Max Evans: The wording is not clear.

Hon KAY HALLAHAN: That is the meaning of the clause, but we can go into it in more detail in the Committee stage if there is a problem.

With regard to the speech made by Hon Neil Oliver and the views to which he referred, a number of people expressed concerns some months ago and since then many of the concerns have been addressed, prior to the Bill going to the Legislative Assembly.

Hon Neil Oliver: The Labor members spoke out strongly against the Bill.

Hon KAY HALLAHAN: We shall have a long and interesting discussion in the Committee stage, since we are considering very important legislation. I reiterate that the legislation is working well elsewhere, and when it was reviewed in South Australia only minor amendments were made to it. This State has the benefit of that experience. I ask members to be cautious in insisting that the House accept further amendments, bearing in mind that if we change too much from what is known and accepted by the industry, the outcome and the workability of the system will be much less clear and positive.

Hon N.F. Moore: What industry?

Hon KAY HALLAHAN: The real estate industry.

Hon N.F. Moore: People come to see us and complain bitterly about it.

Hon KAY HALLAHAN: There will always be small sectors.

Hon N.F. Moore: They are not small sectors.

Hon KAY HALLAHAN: It works in their interests in South Australia, and it will do the same here.

Hon N.F. Moore: You do deals with everybody else.

Hon KAY HALLAHAN: That is not true.

Hon N.F. Moore: It is.

Hon KAY HALLAHAN: There has been consultation since 1984.

Hon N.F. Moore: Then you tell somebody, "We will give you what you want and in return we want your consent."

Hon KAY HALLAHAN: You have forgotten what it is like to balance conflicting interests.

Hon N.F. Moore: You have not balanced them.

Hon KAY HALLAHAN: This is the balancing of a range of conflicting interests, and I am quite confident that the Bill before the House will meet with general success. Some groups would like to go more in this direction or that direction, but they accept that the setting out of clear relationships between landlord and tenant will clear up a very messy area in our lives.

I ask members to support the second reading.

Question put and passed.

Bill read a second time.

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 N.F. MOORE: The Minister's very fleeting consideration of the concerns of the Law Society seem rather strange.

Hon Kay Hallahan: Were you in the House when I spoke?

Hon N.F. MOORE: I heard the end part of it.

Hon Kay Hallahan: Right!

Hon N.F. MOORE: Perhaps the Minister might care to say it again.

Hon Kay Hallahan: I shall be happy to do so, seeing Hon Norman Moore was not in the House.

Hon N.F. MOORE: For one fleeting moment!

Hon KAY HALLAHAN: What I said was that the report of the working party was available from 1984. The Law Society has had an opportunity to comment on that report since 1984. In addition, it has had a copy of the Bill which went to the Legislative Assembly since 9 October; that is two months ago. If the member is of the opinion that the Law Society has not wanted to comment, that is the society's affair. I accept that members of the Law Society are busy, professional people. Nevertheless the society has had that Bill since 9 October. The Government makes Bills available to various groups, but it is not possible to twist their arms behind their backs to respond. Those were the two points I made. The society could have been involved in the comprehensive and remorseless debate which has gone on since 1984, and it has had the Bill since 9 October 1987.

Hon N.F. MOORE: I am pleased the Minister has explained the situation in the way she has, because it demonstrates her unpreparedness to understand the legislative procedure. When working parties look at particular functions and operations and areas of law, we are not talking about Bills or potential Bills. There is not much point in voluntary organisations like

the Law Society spending an enormous amount of their voluntary time looking at reports which may not necessarily become legislation. This Bill, which is the end result of the so-called deliberations, is all that counts. It does not matter what was said in a report; all that counts ultimately is what goes through this Chamber. All that counts before we start debating these matters in the Parliament is what is introduced into the Chamber. I have a letter from the Law Society to Hon Joe Berinson, Attorney General, the Minister the Law Society would have most to do with. It states that the Law Society received the Bill towards the end of October. I cannot argue whether it was 9 October or towards the end of October. That organisation farms out things of this sort to people to examine the consequences on a voluntary basis.

Hon Kay Hallahan: Like all other groups.

Hon N.F. MOORE: I know. Sometime in October, be it early, late or in the middle, this Bill was sent out to a lawyer who, in his own time, was to examine it. I know a lawyer who had a long, detailed and hard look at it, but he could not make any decisions for the Law Society. It was necessary then to convene meetings of the Law Society to consider its reaction, based upon his recommendation. The letter dated 2 December sent by the President of the Law Society to Hon Joe Berinson asked for this Bill to be deferred.

Hon Kay Hallahan: What do we say? The Law Society asks for the Bill to be deferred. What are you suggesting?

Hon N.F. MOORE: If the TLC asks for a Bill to be deferred, I expect the Government would say, "Oh, yes, three bags full, when would you like us to bring it in?"

Hon Kay Hallahan: You have a lot of mythical beliefs.

Hon N.F. MOORE: Do not give me that sort of tripe. The Government bows to those pressure groups which have some control over what it does. We read in the paper every week about what the Labor Party executive or the TLC says the Government should or should not do. The Minister has argued this point before. The construction of this Bill is very complicated. The Minister may understand it perfectly, but members of this House who have had legal training do not understand it perfectly and cannot work out the meaning of some clauses. The Law Society, which is concerned for the law we pass -- Hon Tom Stephens interjected this morning to ask what lawyers have to do with this --

Hon Tom Stephens: If they had spent more time talking to the Government they might have been in a position to understand.

The DEPUTY CHAIRMAN (Hon John Williams): Order! I am going to say this once and once only. A great deal of work is being put into this Bill by Hon N.F. Moore and his associates, Hon E.J. Charlton and the Minister. If other members are going to contribute they must stand on their feet. If they are not going to stand on their feet I will very rigidly adhere to Standing Orders. I want to make that absolutely clear.

Hon N.F. MOORE: The interjection made today is pertinent to this whole argument. Hon Tom Stephens said that lawyers are not very involved in tenancy agreements and the areas being covered by this Bill. I accept that, although some are involved in drawing up agreements. But many lawyers are interested in the sort of law we pass. A clause in this Bill says that the onus of proof is on the owner, which is an exact reversal of what normally applies. Because lawyers respect the law, and they are part of the law process, they are entitled to have a say about what sort of laws we pass.

Regarding the argument that the Law Society should be going to the Government and not to the Opposition, the society has only come to me in the last couple of days. I had no dealings with the Law Society till about two days ago, when it approached me and said, "We have seen the Bill as it has gone through the Assembly, but we still have not had time to investigate it thoroughly; we would like it deferred. Could you do what you can to have it deferred?" I expect they said the same thing to the Government. I presume the Government has told them to get lost. I do not know what the Government has done, but I would have to assume that from what Hon Kay Hallahan has said.

I come back to the point: It is not just because the Law Society wants it deferred but because I believe we will get better legislation ultimately if we defer it now that it has reached this stage and been severely amended. We will be able to lay it on the Table of the House and

then, in about April when everybody has had time to digest what each clause means, we can try to produce some worthwhile, useful, and effective legislation. That is why I ask the Minister to give more thought to the proposal. She did not give it much thought at all. The Minister, or the Government, has decided to have this legislation, whether or not it takes us until Christmas Day and whether it is good or bad legislation.

Hon Kay Hallahan: It is good legislation.

Hon N.F. MOORE: That has yet to be proved.

Hon Kay Hallahan: It has been proved in South Australia.

The DEPUTY PRESIDENT (Hon John Williams): Order!

Hon N.F. MOORE: There are enough people in the community who are arguing that it probably is not good legislation -- a society of people who deal with law are sufficiently concerned to say it is not good legislation. All of that combined is good enough reason for the Government to defer it until the next session.

Hon KAY HALLAHAN: I will make two points. First, the legislation is modelled on legislation that is working in another State. We are not reinventing the wheel. We know we are dealing with something that has worked in practice and we do not need to be concerned with that, as we may well do with some legislation. Secondly, the working party document of 1984 stated that we would be modelling our legislation on the South Australian legislation. That would have given the Law Society adequate time to examine the South Australian law and to express concerns about that type of legislation. I agree that people cannot work on working paper documents very well, especially not if they are looking at an end product of what is going to be in the law, so I take Hon Norman Moore's point about that. However, it was clearly indicated that the Bill would be modelled on the South Australian legislation. As well, while the input of various interest and professional groups is always valued, those people do have to pay some attention to that. The fact that the Law Society has not got onto this earlier indicates that its members know it is a workable piece of legislation and were not disturbed about it. How else does the member explain the society's late entry into the process?

Hon Max Evans interjected.

The DEPUTY PRESIDENT (Hon John Williams): Order! Again, if Hon Max Evans wishes to make a comment he will do it at the appropriate time. I have ruled that interjections are disorderly. I am not going to tolerate them.

Hon KAY HALLAHAN: I think I have made my points. It is sound legislation that we are considering. I agree it is a new area of law in our State and for that reason I can accept that people want to be assiduous and cautious about it, but this kind of legislation is working in other places and we have modelled our Bill on the legislation that has been evaluated as being effective and working well. I ask members to keep those matters in mind as we go through the Committee stage.

Hon MAX EVANS: In defence of the Law Society, and I have said this before to the Minister, there is no way one can review working papers, discussion papers, and so on.

Hon Kay Hallahan: I agreed with that.

Hon MAX EVANS: It was not so long ago that the present legislation was dealt with in another place, and it was reprinted last Monday afternoon. There is no way the Law Society could have got around to examining it, especially at this time of the year. That is what makes it so difficult. To say the Law Society has been slow on it is not right -- it just has not had time to react to it and do justice to it. All the Law Society wants is for us to make better legislation. Its members are not getting paid for it; they are making a contribution. During debate on the Trustee Companies Bill the other day amendments brought to this Chamber were found to be completely wrong and badly drafted; yet the mistakes were discovered only when the trustee companies looked at it. They can only look at the hard copy, the Bill itself. All the talk and the waffle prior to going to the parliamentary draftsman means nothing.

Hon Kay Hallahan: I acknowledged that.

Hon MAX EVANS: We were talking about the South Australian legislation more than 12 months ago. I spent a lot of time on it. We were talking about one thing then, but we have a

whole new thing now. It is a bit like tax legislation in that so many changes have been made. Talking about the South Australian legislation's having been changed, it is quite amazing that we started off with our legislation very close to that, but so many amendments have gone through. So much for the South Australian legislation! It required so many amendments in another place that it is now our own legislation, which is what it should have been in the first place. The reference to other States and what they do is not relevant. With all the amendments that have been made, our legislation now cannot bear much relationship to that in South Australia. It is Western Australian legislation which, once upon a time, did look like the South Australian legislation. So I wish the Minister would stop talking about how it has worked in South Australia -- there have been a lot of changes to it.

Hon N.F. MOORE: I want to make one final point. I will quote from the letter the Law Society sent to the Attorney General -- and obviously it should have been sent to the Minister for Consumer Affairs, but that is another story. The letter was signed by Robert Meadows and stated in part --

It is understood that the South Australian Government has reviewed the operation of legislation after some two years and is proposing significant amendments designed to improve its effectiveness and to remove anomalies that have arisen. The Society believes that your Government can benefit from the South Australian experience. The Society would seek to take into consideration the results of the review in South Australia in making its submission to Government.

Can the Minister tell me whether the Law Society has it wrong? Is this Bill based upon the latest, most up-to-date version of the South Australian legislation, or are significant amendments to the South Australian Act likely to come up? When she has explained to me what is the real situation with respect to South Australia I will decide whether to argue further that we should continue to delay the Bill now.

Hon KAY HALLAHAN: I think there is some misunderstanding of the proposal in the South Australian legislation. All it does is allow the interest to be spent on public housing.

Hon N.F. Moore: So the Law Society has it all wrong?

Hon KAY HALLAHAN: Apparently.

Hon N.F. Moore: Perhaps you could let the adviser do the talking instead of you.

Hon KAY HALLAHAN: I am sorry, he cannot speak but he is very eloquent.

Hon N.F. Moore: You are like a ventriloquist.

Hon KAY HALLAHAN: There is no need to be rude.

Hon N.F. Moore: I am not being rude.

The DEPUTY CHAIRMAN (Hon John Williams): Order! I find the heat in the Chamber oppressive and I advise members that under our Standing Orders if they wish to divest themselves of their jackets they may do so. I extend that to the attendants in the Chamber and also to the Clerks at the Table. If they wish to make themselves comfortable by divesting themselves of their outer garments they should feel free to do so. I also pass that on to the male Hansard reporters. If they feel comfortable without their jackets, as the heat is so oppressive in here they should feel free to remove them.

Hon E.J. CHARLTON: I think the heat will become worse as we go on. I am not disagreeing with you, Mr Deputy Chairman, one iota.

The conjecture that is being put forward about the relationship between this legislation and that in South Australia is like everything else that comes into this Parliament. Sometimes we say, "They have this legislation in another State and therefore that is a good reason for us to have it here." At other times we use the argument the other way, on both sides of the Parliament. I want to place on record that I certainly would not want to do everything that South Australia did. I would not want to have Don Dunstan in Western Australia, for a start. Secondly, I made the point during the second reading debate that we wanted to see a review in two years' time. We have to make a decision as to whether we should try to put off the implementation of this Bill, in whatever form, whether it be in six months' time or longer, or put all the amendments forward that we think are practicable and try to get the best legislation we can, so that as soon as the Bill is proclaimed we will know that if the

Government accepts that amendment regarding the review -- which we will do our best to ensure and which I think the Minister has already acknowledged -- we will then be in a position to have a review two years down the track. I am confident that if the Bill were put off for 12 months it would not be totally what the National Party or a lot of other people want. I received a phone call this morning from a person representing tenants who said, "If you move any more amendments it will be worse than nothing." I responded by saying that we could look after the person's interests by not having a Bill at all, if that was what he wanted. There are two extreme points of view in relation to this matter, and I am sorry to say that a number of concerns are held about what may happen.

Hon N.F. Moore: That is the point I am making.

Hon E.J. CHARLTON: I can tell the member what might happen next year if there is not 13 inches of rain in the agricultural areas. We, too, want to find out. We should do the best with this Bill that we can under the circumstances, provided that the Law Society has a look at it and makes some suggestions, and provided we can make the Government understand that there is concern out there and that before it has the Bill proclaimed it takes that on board. More importantly, there will be a review in two years when we will be better informed and when all the dissatisfied people will have been able to come to us saying, "We were worried about this when the Bill was introduced, but now we know that part is working and seems to be okay", and so on. The National Party has extreme reservations about this legislation but has made a judgment that because of the amendments already accepted we will proceed along present lines but will take that on board.

Hon MAX EVANS: Will the Minister explain what is intended in relation to delaying the proclamation for six months? Is that to set up the corps? What will be the mode of operation to take on board comments made, because the Parliament will sit during that six months? What is intended to happen during that period to improve the legislation?

Hon KAY HALLAHAN: I am speaking on behalf of the Minister for Housing in the other place when I say that it was certainly the intention that consultation about the Bill would continue and that there would be a sound educative process going on so that everybody became aware of it. I am sure that he would be receptive to change if there were a serious flaw in the legislation and I have no doubt that he would bring it back in April. I can only give members an assurance that I have no doubt that the Minister for Housing will consult with bodies such as the Law Society after he sees the final shape of the legislation. There will be no problem about that. Whether he would want to enter into a series of minor amendments I am not sure, but the Minister would consider any serious flaw. If there were a lot of peripheral, minor amendments, the legislation would never go ahead and I resist committing him in relation to that.

Hon MAX EVANS: There will be a new Parliament sitting next year, so will there be the power to bring the legislation back to have it amended?

Hon KAY HALLAHAN: If there were amendments to be made they would appear as a small Bill amending the principal Act.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Interpretation --

Hon MAX EVANS: Line 17 refers to "land appurtenances appurtenant to premises". Would the Minister explain the meaning of that interpretation because it is part of the definition of "premises".

Hon KAY HALLAHAN: I would not write that way myself, but do not think it is incorrect. I think the meaning is clear enough.

Hon MAX EVANS: We have been told that the meaning is clear enough, but I do not know whether other members wish to comment on this matter, because it is not clear.

Hon KAY HALLAHAN: There is no problem about changing the word, if the member wishes it changed. It could just be "appurtenant to premises", I would have thought.

Hon N.F. MOORE: It was my intention to raise the matter of terminology as a question rather than seeking to amend. On the first page of the Bill there are words that people do not

use in everyday language. An "appurtenance" is a lean-to, or an addition or appendage. There is then use of the noun "appurtenance". This is appurtenant to what? I am sure that this is grammatically correct but it is equivalent to saying, "lean-tos leaning to" or, "appendages appendaged to". This is a reflection on the sort of language contained in this Bill and on the way in which it is written to almost ensure that anybody who wants to read the Bill and draw up an agreement pursuant to it will have no idea what they are talking about.

Hon KAY HALLAHAN: My advice from a person with legal training is that it is quite specific and accurate.

Hon N.F. Moore: Nobody said that it wasn't, but it is hard to understand.

Hon KAY HALLAHAN: Lay people will not refer to the Bill.

Hon N.F. Moore: So they are not expected to understand it?

Hon KAY HALLAHAN: I think that we should let it go because it is precise in its meaning and not at all ambiguous in legal terms. We will let Hon Mark Neville and the committee on gobbledegook have a go at the legislation.

Hon MAX EVANS: What are appendages to premises; can the Minister give me an example?

Hon KAY HALLAHAN: Under common law a tenant rents the land and not the house so that if the house is destroyed then, all else being equal, the tenant is not relieved of the duty to pay rent. This Bill changes the law in that the tenant rents both land and buildings and appurtenances; hence, this definition. "Appurtenance" would include such things as clotheslines, garden sheds and so on, so it is broader than lean-tos and direct attachments, which might have been the interpretation put on it before. I now understand why "appurtenances" should appear in the interpretation, but why should it say, "appurtenances appurtenant to premises"?

Hon KAY HALLAHAN: It is perfectly clear why it is there.

Hon G.E. Masters: You agree with us, but you cannot think of anything else to say. That is what it is.

Hon KAY HALLAHAN: Who the devil would want to rent a house, then discover he has rented the land and if the house blows away he is committed to paying rent on the land? That is ridiculous.

Hon G.E. Masters: If you were sitting in Hon Norman Moore's seat and he was sitting where you are, you would have a ball.

Hon KAY HALLAHAN: I do not deny that. That is why I am being so good-natured. The interpretation means things which were taken for granted as making up a domestic home, such as clothes lines, garden sheds, and patios.

Hon N.F. MOORE: The interpretation also states --

"residential tenancy agreement" means any agreement, whether expressed or implied --

I presume an express agreement means one which is written down in some lawful form. I understand that if there is no written agreement, the conditions of this legislation will apply, and that would be an implied agreement. Does the absence of a written agreement between a tenant and a landlord mean that there is an implied agreement between them which is based upon this Act? In other words, the terms and conditions of this Act will apply as if it were an agreement.

Hon KAY HALLAHAN: What the honourable member is implying is not the case because an express agreement is one which is entered into overtly.

Hon N.F. Moore: I presume it is a written agreement.

Hon KAY HALLAHAN: Not necessarily in this section.

Hon N.F. Moore: What is an implied agreement?

Hon KAY HALLAHAN: It is one where, perhaps, somebody moves in, stays over, and after

a certain time says, "Look, it is about time I kicked in and paid rent for the space I am using." Gradually a relationship builds up but it has never been overtly stated or set out as an express agreement. An implied agreement would be something which happens informally, whereas an express agreement would be a straight-out negotiation on an understood position.

Hon N.F. MOORE: Does that mean that if there is no written agreement between a tenant and a landlord that is also an express agreement?

Hon KAY HALLAHAN: Only if they have agreed expressly for there not to be.

Hon N.F. MOORE: My understanding is that in the absence of a written agreement between the tenant and the landlord the conditions of this Act apply. Am I correct in assuming that if a tenant and a landlord agree for the tenant to occupy the landlord's property, and there is no written agreement between the two, simply a verbal agreement, the conditions attached to this Bill apply to that tenancy?

Hon KAY HALLAHAN: Yes, they do apply, plus any other verbal agreement they enter into.

Hon N.F. MOORE: This may not be the right time to raise this matter, but it relates to the answer which has just been given regarding what is meant by an agreement. Further on in the Bill several clauses provide certain conditions. For example, there is a clause which states that a term of the agreement may or may not allow subletting. What happens to a verbal or non-written agreement, based upon the Act, where the Act provides for certain options to apply?

Hon KAY HALLAHAN: I am advised that it is the same position as exists now. If one of the alternatives is not chosen, then nothing applies.

Hon N.F. MOORE: That is an interesting answer, because if nothing applies who is in the wrong if something happens, such as a tenant subletting property which the landlord does not want him to sublet? I can see the virtue in the Bill of making a relationship between the tenant and the landlord clear, but if it is going to provide for unwritten agreements which are based upon the Act, the Act ought not to provide options. If it provides options and the tenant and landlord do not come to some agreement about them -- for example, subletting -- and the tenant does something the owner does not like, who has right on his side?

Hon KAY HALLAHAN: If the owner does not prohibit something, one assumes he has agreed to it. That would be an implied agreement. The person who would be considered to be in the right now, would also be in the right in that situation. I should have thought the owner would disagree with anything going on which he does not like.

Hon N.F. MOORE: I will argue more about that when we come to those clauses. We ought not to allow existing areas of conflict to continue. What the Minister is saying is, in the absence of any decisions by the landlord to the contrary, the tenant can do whatever he likes. It is extraordinary that if the landlord has a verbal agreement with the tenant, and does not say, "You cannot do these things", the tenant can do anything he likes.

Clause put and passed.

Clause 4: Position of Crown --

Hon N.F. MOORE: In relation to the Crown's position under this Bill, this clause states --

Subject to . . . sections 5(2)(f) and 6, this Act binds the Crown.

If it did not specify the sections, but simply stated that the Act binds the Crown, then the Crown and its agencies such as Homeswest, the Government Employees Housing Authority, and other organisations would be bound by the provisions of the Act. Clause 5(2)(f) says --

(2) This Act does not apply to any residential tenancy agreement --

(f) where the agreement is entered into as owner, whether generally or in prescribed circumstances, by any prescribed person or agency being a person or agency that is acting on behalf of the Crown;

Clause 5 provides a potential exemption for persons or agencies acting on behalf of the Crown. Clause 6 says --

The Governor may by regulation --

The Governor of course means the Government. To continue --

-- provide that a provision of this Act shall not apply to . . .

- (c) any prescribed person or agency being a person or agency that is acting on behalf of the crown.

Clause 4 binds the Crown -- in other words, it is subject to the conditions of the legislation -- but there are two provisos in clauses 5 and 6 which allow the Crown to opt out. Why was it put in in the first place if the Crown is able to opt out in the second place? When the Minister explains where I am wrong -- if that is the situation -- will she also explain Government policy in respect of Government agencies? Does this Bill intend that Homeswest, GEHA and other agencies will be bound by this legislation? If not, will separate agreements be drawn up based on the opting-out provisions?

Hon KAY HALLAHAN: There will be exemptions for Homeswest; National Party exemptions were passed in the Assembly.

Hon N.F. Moore: Not under clauses 5 or 6?

Hon KAY HALLAHAN: The provision applies to all tenancies -- simply to allow flexibility; for example if someone rents a farm, the house on the farm does not come within this provision.

Hon N.F. Moore: We are talking about agencies of the Crown. Clause 6 says this shall not apply to any person acting on behalf of the Crown.

Hon KAY HALLAHAN: Apparently we were only to exempt Homeswest from some provisions. The amendment was passed and these clauses are not seen as being the appropriate way to cover the situation.

Hon N.F. MOORE: Clause 4 says that "under this Act the Crown is subject to certain further provisions". One would understand the Bills's binding the Crown to mean that the Crown and its agencies must abide by the provisions of the Bill, subject to certain exclusions.

Hon Kay Hallahan: Along with other landlords.

Hon N.F. MOORE: Clause 6(c) says the Governor -- meaning the Government -- may by regulation provide that a provision of this proposed Act shall not apply to any prescribed person or agency acting on behalf of the Crown. I understand that to mean the Governor -- which is the Government -- by regulation can exempt Homeswest, which is an agency of the Crown, from the provisions of the legislation.

Hon KAY HALLAHAN: It means that, but it also means other provisions of the Bill -- clause 4(a) and (b); it has not singled out the Crown per se. We are now talking about the Governor being part of the Government; in a Bill last week we were talking about the Governor's having some other role and not being linked to the Government as closely as it suits debate today. I can only say that the provision applies to subclauses (a) and (b) as well.

The regulations will be coming back to Parliament. On such a prolonged Bill there will be much scrutiny of the regulations, as no member will lightly wade through the regulations.

Hon N.F. MOORE: The Minister is saying not only will the Crown be exempt but also anybody else in certain circumstances. My understanding was that initially the Minister was saying Homeswest was not apart because the amendments were put in place in the Assembly by the National Party; if the Government did not agree to certain amendments, the Bill would not be passed through this place. The provisions have been changed to make sure Homeswest is part of the Bill. Is it the Government's intention, under this new version of the Bill, for Homeswest to be subject to the requirements of the Bill? Will agreements between Homeswest tenants and Homeswest be based upon the provisions of the Act or on written agreements which take into account some of the opting out clauses?

Hon KAY HALLAHAN: Homeswest will be covered. Homeswest tenants were to be exempt from paying bond money because many people did not pay that; now they will be subject to the provisions of the Bill.

Hon MAX EVANS: Homeswest does not pay the bond money, the tenant does. Will Homeswest pay the money into a special account?

Hon KAY HALLAHAN: Sometimes Homeswest tenants pay very small bonds; it is not a

regular tenancy provision for Homeswest tenants. The Bill gives flexibility in that way to accommodate the developed practice.

Hon MAX EVANS: The Minister is saying a few bonds are paid and they are retained by Homeswest. Does everything else in respect of this legislation apply to Homeswest? Is this the only provision from which Homeswest is exempt?

Hon KAY HALLAHAN: The Government will be in a position to look at all tenancy relationships once this Bill is passed. Decisions will be made in that regard but the general intention is that it will.

Hon MAX EVANS: The legislation will apply to Homeswest until such time as the Governor decides otherwise?

Hon KAY HALLAHAN: Once this legislation is passed the Government will have a huge job deciding on its relationship with its properties. The general intention is that the Bill will apply but I cannot give the member a line-by-line account of Government policy as this has not been developed.

Hon MAX EVANS: Will Homeswest tenants be protected? They may find they have no rights against the landlord. Hon Sam Piantadosi pointed to the problem in respect of repairs to Homeswest housing. If tenants do not have any rights, and pressure is being brought to bear for repairs to be done, the tenants may be left out in the cold. Agreements must apply to all tenants and landlords; we should not be bringing legislation to this House if we are not catering for all tenants and landlords. The Government must have some idea how it stands with all tenants.

Hon KAY HALLAHAN: I resent the member's saying that the Government should not do this or should do that; it makes me angry. When the Bill was introduced in the other place these things were listed -- such as reasonable areas from which to exempt Homeswest. As a result of amendments, we now have this ambiguous situation. Members must live with the situation and work out what will happen from now on.

Hon N.F. MOORE: The Minister has now confirmed my original statement that the Bill is a hotchpotch. She has said that because of all the amendments which were made there are ambiguities. She is quite right. One of the reasons I asked her to delay this legislation is that we have a hotchpotch of a Bill and that because we have so many amendments, whether good, bad or otherwise, we now have a Bill which contains ambiguities.

Hon Kay Hallahan: That can be sorted out.

Hon N.F. MOORE: We are here to pass legislation and it is our job to sort it out before it becomes law. Hon Max Evans and I have been asking the Minister what is the relationship between the Crown and its agencies in respect of their tenants. It is important for the tenants of Homeswest houses and GEHA houses to know what they can expect as a result of this Bill. I asked the Minister twice, and I will ask her for a third time whether she has given consideration to the sorts of agreements which will be entered into between Homeswest and GEHA and their tenants. Will they be based on the Act as it will become; will they be written agreements, and if they are will the Government be taking advantage of the opting-out clauses which were put into the Bill in the other place? It is important for people who are going to be tenants of the Crown to have a rough idea of what the end result of this Bill is going to be in terms of their circumstances.

Hon MAX EVANS: The Minister referred to deleting these matters in another place, and Hon Graham Edwards had to further amend an amendment the other day because it was not correct. Our position is to look at this carefully because a lot of amendments were made. That is the problem; so many amendments were made that something had to fall apart -- the wheels fall off. We are trying to put the wheels back on. I took legal advice on this before the debate, and the Bill says that subject to clauses 5(2)(f) and 6 it binds the Crown. So the Crown is bound only subject to those clauses; there do not appear to be any others on a strict legal interpretation. I do not believe that is right. What does the Minister intend? Perhaps we should adjourn to devise some better wording because if it is supposed to bind the Crown, and Hon Norman Moore and I believe it should, I point out that 25 per cent of the tenants in this State are subject to this arrangement and some of them get a pretty raw deal in the country. Some tenants out where Hon Sam Piantadosi lives are getting a raw deal. He said before that they could not get repairs and maintenance done to houses owned by Homeswest.

We know people in the country are getting a raw deal. I want to make certain that they have some protection. What is sauce for the goose is sauce for the gander.

Hon KAY HALLAHAN: I give an undertaking that it is not the intent of the Government to exempt its Homeswest tenants. I have said that several times, and we can tease it out, but that is not the intention. I do not know what more I can say.

Hon N.F. MOORE: I am not going to pursue this matter except to say it demonstrates before we have got past page 3 of this Bill that it contains ambiguities. We do not know where the Government stands in respect of its own policy or its own tenants. I would have thought if we are passing legislation which is ostensibly to help out tenants that those who are tenants of the Government should know where they stand. The Minister's answer is totally unacceptable. She should have come in here with an assurance from the appropriate Minister that this is what will happen in respect of Homeswest and GEHA and that these are the sorts of agreements which will be negotiated between the tenants and the agencies, and we would have had no argument to put up.

Hon KAY HALLAHAN: The Government's position is quite clear. It is not the intention to exempt those tenants. In other States the legislation does not cover the Crown. We are not going that way in this State because we are concerned about tenants, and security is something which is basic to people. In Western Australia we are going further than other States, and I cannot imagine why members have hooked onto this particular area. I do not understand it. In Western Australia it is not the intention for the Crown to be exempted. The exemptions in the Bill apply to the whole market if there are certain things which need attention. I am sure members will agree that in something as complex as housing in a State as large as ours we do need flexibility.

Hon MAX EVANS: Just to clarify one point; the amendments made in another place deleted reference to Homeswest. I thought it was deleted because Homeswest was exempted from the Bill, not that it was tied in. The Minister may be able to clarify that aspect.

Hon Kay Hallahan: The member's understanding is not right; that is not the case.

Hon MAX EVANS: If those words which were previously in the Bill bound Homeswest, why were they deleted? I would like some clarification because I have not been able to go back and look at the speeches on that point.

Hon E.J. CHARLTON: One of the amendments the National Party moved in another place was to incorporate Government housing as part of the Bill. We considered it was wrong to say to one group of people in society that we were going to make a law for them and certain things would have to be done and the relationship between tenant and landlord would be such, and all other people involved in rental housing would have some other arrangement. I mentioned earlier today that the National Party believes everyone should come under the same arrangement. If we bring everyone under the arrangement and one aspect is to differ, whether bond money or something else, it is up to the Government to say what the differences will be. I do not think it is relevant to say we want to see what all these points will be when we have already agreed -- I have agreed anyway, and I am satisfied -- that the regulations will come back to Parliament, and there will be a review. There are two lines of thought, and I am not being critical of anyone who adopts one stance or the other. We have already agreed that the regulations must come back to Parliament, so we will see them before they are implemented. I cannot see what the problem is. I am not saying that people should not raise these matters and be concerned about them.

Hon N.F. MOORE: The National Party put up the proposition in the Assembly that the Crown should be required to be treated the same way as everyone else. I agree with that. All I am drawing attention to, for Mr Charlton's benefit as much as anyone else's, is that under clauses 5 and 6 the Crown can be exempted by regulation.

Hon E.J. Charlton: And we are going to see the regulations.

Hon N.F. MOORE: Of course we will, but we do not always have the numbers to knock out the regulations, and sometimes they come into this Chamber in such a way that one cannot do anything about them. I refer to one I have on the Notice Paper now which has not even been debated because it was worded in such a way that it could not be debated. Mr Charlton should not believe that every time someone says these matters will come back to the Chamber by way of regulation it is the best way to fix the problem. It is better fixed now

when we are debating the Bill. He should not believe that his party's amendment in the other Chamber solved the problem that he thought it would solve. It has gone a long way towards doing that, but we have left parts in the Bill which expressly state that the Crown can be exempted by regulation.

Hon Kay Hallahan: Along with everybody else.

Hon N.F. MOORE: Okay, but the Government's intention initially was that the Crown would be exempted. The Minister is in charge of the regulations and if at some stage down the track the Minister wants to get his own way, or the way the Government initially sought to go as was contained in the original Bill, there is nothing to stop the Government during the Christmas period when the Chamber is not sitting from bringing in a regulation which exempts Homeswest from any of the provisions of this Bill, and the Government then going ahead and making its own arrangements with its tenants. That is possible, and there is nothing Parliament can do about it because until Parliament sits and knocks back a regulation, that regulation applies and is operative.

Hon MAX EVANS: What are the initial regulations to which Hon Eric Charlton referred? What regulations are on the drawing board and which regulations will be brought down in the near future? Under this clause the regulations can be brought down at any time. I cannot see that it has anything to do with the exemption of Government agencies.

Hon KAY HALLAHAN: I am not in a position to give the member that information until the Bill is in its final form and we have consulted with industry groups about the regulations. That will be the next exercise. The first exercise is to get the Bill to the Parliament. The honourable member is welcome to be involved in that process if he desires. Quite frankly, after this debate I hope that every member will take a huge interest in the regulations.

Hon MAX EVANS: What type of regulations will be required? I know that the regulations have nothing to do with Government agencies.

Hon KAY HALLAHAN: Many administrative matters will need to be dealt with and forms etc, will have to be printed. Some basic matters will have to be dealt with by regulation.

Clause put and passed.

Clause 5: Application of Act --

Hon MAX EVANS: What is meant by "prescribed person" in paragraph (f) of subclause (2)? The Bill does not define such a person.

Hon KAY HALLAHAN: I am advised it would be somebody who is acting as an agent for the Crown.

Hon MAX EVANS: Are we talking about the Crown per se, or statutory authorities?

Hon KAY HALLAHAN: Statutory authorities would be included under the definition of Crown.

Clause put and passed.

Clause 6: Modification of application of Act by regulation --

Hon MAX EVANS: How is it proposed that other tenancy agreements or class of residential tenancy agreements will come into operation?

Hon KAY HALLAHAN: It allows for a range of developments which already exist, such as employee housing or any other type of housing which could be considered as a block. It could be described as a "class" and it allows for a situation where we are not dealing with individuals in those cases; the north west is a classic example of that.

Clause put and passed.

Clause 7: Transitional provisions --

Hon N.F. MOORE: I have an amendment on the Notice Paper, but I will not proceed with it if the Minister can give me the assurance I require. When I first read this clause my tiny brain found it very difficult to follow subclause (3). It is like a jigsaw puzzle and one is not sure whether one really understands it. Subparagraph (ii) on page 6 of the Bill states that if the amount of bond held exceeds the amount so allowed, the excess shall be paid to the tenant. When I read this clause initially I thought it meant that if any bond money currently

held under existing tenancy agreements exceeds four times the weekly rental, which the Bill provides for, on the coming into operation of this Bill, any amount in excess of four times the weekly rent would have to be paid to the tenant. In other words, there would be a retrospectivity attached to it and the repayment to the tenant would be retrospective. I have since reread the clause and I do not think it means that.

Hon KAY HALLAHAN: The member's initial understanding of the meaning of the clause is accurate.

Hon N.F. MOORE: The Minister tells me that my first thought was correct. I will refer to the current situation. For example, a tenant who currently is renting a property from me at \$100 a week may have paid five times his weekly rent as a bond. Does it mean, when this Bill comes into operation that I will be entitled to hold a bond of only \$400 and that I will have to pay to the tenant \$100?

Hon Kay Hallahan: That is right.

Hon N.F. MOORE: I think that is wrong.

Hon Kay Hallahan: Don't you think it is a good concept?

Hon N.F. MOORE: I think it is retrospective. I have an amendment on the Notice Paper to delete subparagraph (ii) on page 6 of the Bill because I wanted to get rid of the retrospectivity aspect. If we go back to the example I gave where I have a tenant in one of my properties and he and I have agreed that the bond will be \$500, I cannot see any reason that we should bring in legislation which will affect retrospectively that agreement reached between us. The Minister has said that my concern is correct and the provision will be retrospective and, therefore, I move an amendment --

Page 6, lines 1 and 2 -- To delete the lines.

[Questions taken.]

Hon N.F. MOORE: We should get rid of the retrospective nature of this Bill. It is grossly unfair to pass legislation which affects an agreement reached prior to the introduction of the legislation.

Hon KAY HALLAHAN: The Bill should stand as it is. The point Hon Norman Moore made confirms the Government's position in including the provision. Money should be held in trust on behalf of the tenant in a separate account. Many of the disputes and much of the dissatisfaction is caused because agents do not follow that course, and they should suffer no financial discomfort because the money is not theirs to be used in any way they choose. It should be held in a trust account on behalf of the tenant. An amount equivalent to four weeks' rent is a sizeable bond. One could say that amounts above and beyond that figure are excessive and we should start on the right foot with this legislation by asking that the amount above four weeks' rent is refunded to the tenant from the trust account in which the money is held.

Hon N.F. MOORE: The agreements which relate to those bonds were made in good faith between the tenant and landlord and it is not for us to say that we shall change agreements made between two consenting adults.

Amendment put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon Garry Kelly): Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows --

Ayes (14)

Hon J.N. Caldwell
Hon E.J. Charlton
Hon Max Evans
Hon Barry House

Hon A.A. Lewis
Hon P.H. Lockyer
Hon G.E. Masters
Hon N.F. Moore

Hon Neil Oliver
Hon P.G. Pental
Hon W.N. Stretch
Hon John Williams

Hon D.J. Wordsworth
Hon Margaret McAleer
(Teller)

Noes (12)

Hon J.M. Berinson
Hon J.M. Brown
Hon T.G. Butler
Hon Graham Edwards
Hon John Halden

Hon Kay Hallahan
Hon Robert Hetherington
Hon B.L. Jones
Hon Garry Kelly
Hon Mark Nevill

Hon Tom Stephens
Hon Fred McKenzie
(Teller)

Pairs

Ayes

Hon C.J. Bell
Hon Tom McNeil
Hon H.W. Gayfer

Noes

Hon Tom Helm
Hon D.K. Dans
Hon Doug Wenn

Amendment thus passed.

Clause, as amended, put and passed.

Clause 8: Functions of Department under this Act --

Hon N.F. MOORE: I wonder why this part of the Bill is included. Ostensibly the Bill is to provide a dispute-solving mechanism between tenants and owners, that mechanism being the Small Claims Tribunal. Most of the legislation refers to that function but clauses 8 and 9 relate to the Department of Consumer Affairs and the Commissioner for Consumer Affairs. It gives them a substantial and powerful role in the whole question of tenancies. I do not mind, for example, if the department carries out investigations into the general subject of tenancies, if it writes reports, disseminates information or whatever, provided it is simply taking an overview of tenancies or providing information to tenants and owners as a result of legislation such as this. However, paragraph (a) states that the department has the following function --

the investigation of and conduct of research into matters relating to the interests of parties to residential tenancy agreements generally or any particular party or parties.

What it seeks to do is to allow the Department of Consumer Affairs to investigate and conduct the research into tenancies as a general issue, and also into agreements relating to particular parties. The Department of Consumer Affairs could conduct an investigation and research into tenancy arrangements which I might have with a tenant in a house I might own. I do not see any need for that. If there is a problem between me and my tenant, the proper place to resolve it is the Small Claims Tribunal. I have given notice of an amendment which I shall move in a moment to delete the words in subclause (1)(a) "or any particular party or parties". I do not see any necessity for the department to be involved in such circumstances.

Paragraph (d) reads --

the investigation, upon the complaint of a party to a residential tenancy agreement or otherwise, of an offence against this Act or of an infringement of a party's rights arising out of any residential tenancy agreement and the taking of action by negotiation, prosecution of such offence or otherwise;

We have here something which says that if the tenant and landlord do not agree, they can take their complaints to the Small Claims Tribunal. The Bill wants to give power to the Department of Consumer Affairs to investigate and initiate action in respect of tenancy agreements and seek to prosecute or take any other action it deems necessary. I do not know why we need to give that power to the department. Essentially, if a tenant goes into a property, a relationship is established between him and the landlord or the owner, and the contract is between the two. Why is there any need for the department to become involved? A couple of clauses later I will be asking why we need to give the commissioner the power to do similar things. Before I move my amendment, I would be interested to hear what the Minister has to say to justify the inclusion of those words at the end of paragraph (a).

Hon KAY HALLAHAN: I thank the member for giving me the opportunity to respond before he moves his amendment, because we must keep in mind when considering both these amendments that the Consumer Affairs Act already gives the commissioner those powers contained in clause 8.

Hon N.F. Moore: In respect of tenancies?

Hon KAY HALLAHAN: He has all these powers.

Hon N.F. Moore: I am asking if he has all these powers in respect of tenancy agreements under the Consumer Affairs Act.

Hon KAY HALLAHAN: Yes. This extends the services of the commissioner to owners. We believe the amendment proposed by the member would simply reduce the rights and services to owners and landlords. We feel fairly strongly about this. It is a fairly key provision that owners and landlords should have those services as effectively as tenants. It would be regrettable for that amendment to be adopted unless we do not want them to have the same sort of services. We should think that matter out a bit.

Hon N.F. MOORE: I take on board the Minister's comments. I did not sit down and read the Consumer Affairs Act because I had enough trouble reading this Bill. Given another week or so I would have done that. If the Consumer Affairs Act already provides for the Department of Consumer Affairs to investigate and conduct research into tenancy arrangements I have with a tenant, then the Consumer Affairs Act is wrong. If that Act already allows the Department of Consumer Affairs to institute proceedings on behalf of my tenant against me, or vice versa, that is wrong.

Hon Kay Hallahan: It cannot be vice versa.

Hon N.F. MOORE: The Bill refers to a complaint by a party to a residential tenancy agreement. I refer the Minister to subclause (1)(d). A party to a residential agreement is the tenant, the landlord, or some other person. Or it could be somebody else; it could be the Minister, or Joe Bloggs down the road. If the Minister is saying that the department already has that power in respect of tenants --

Hon Kay Hallahan: In respect of consumers.

Hon N.F. MOORE: The tenant is a consumer. If a tenant goes to the Department of Consumer Affairs, that department can do all these things in relation to agreements which that tenant has with that landlord? Is the Minister saying that can happen now?

Hon Kay Hallahan: Yes.

Hon N.F. MOORE: This extends that wonderful power to the landlord, so that the landlord can now be a party to a complaint. He can go to the Department of Consumer Affairs and get it to act on his behalf.

Hon Kay Hallahan: That will be critical for this.

Hon N.F. MOORE: The Bill also says "... a party to a residential tenancy agreement or otherwise". Does that mean someone who is not a party to a residential tenancy agreement? If so, it means that Joe Bloggs down the street who does not like the arrangement I have with my tenant can go to the Department of Consumer Affairs, lodge a complaint and get the department to conduct an inquiry.

Hon KAY HALLAHAN: The end of subclause (1)(d) says "... and the taking of action by negotiation, prosecution of such offence or otherwise". That has nothing to do with people; it is about how one can go about the thing. The member seems to indicate it means other people, but it is not saying that; it is describing how to go about this action.

Hon N.F. MOORE: Let us just forget about the Department of Consumer Affairs for the moment. As I read it, this clause provides that any person who is a party to a residential tenancy agreement -- that is the tenant or the landlord -- or otherwise, which I presume means that they are not party to it -- may go to the Department of Consumer Affairs and have that department take action. That action may involve negotiation, prosecution for an offence, or otherwise -- which could mean something else again and is not spelt out. Bearing in mind the basic intent of the Bill, which is to provide a problem-solving mechanism, I wonder why it is necessary to give a department of the Crown the right to take either side, or even to get involved in the terms and conditions of a residential tenancy agreement.

Hon KAY HALLAHAN: I apologise; I thought the member was looking at another "otherwise".

Hon N.F. Moore: What does this "otherwise" mean?

Hon KAY HALLAHAN: It obviously has different meanings in different contexts. The

"investigation, upon the complaint of a party to a residential tenancy agreement" is all right. The "or otherwise" there could well be that the department may take an interest in something in the Small Claims Tribunal. It may well be appropriate for the department to become involved in a complaint which is there but which it is not in the process of investigating. Again, it is a matter of flexibility. If there are relevant things they would fall within the scope of this clause, but they would have to be very much related.

Hon N.F. MOORE: I have a feeling this is going to be a very long Committee debate because we are dealing with some clauses where I feel the Minister is not as well advised as she might be. I found her last explanation very difficult to comprehend, although I have to say immediately that that may well not be a reflection on her explanation --

Hon Kay Hallahan: Thank you.

Hon N.F. MOORE: -- but on the heat or on my inability to comprehend. However, I asked the Minister why she believes the Department of Consumer Affairs ought to have any role in the relationship between tenants and landlords, bearing in mind we are about to enact a piece of legislation which makes it very specific as to what each party can or cannot do. Why is there a need for any of clause 8 at all?

Hon KAY HALLAHAN: I do not think members have grasped the idea that both owners and tenants, throughout the consultations, have indicated clearly that they want assistance. Usually, I guess, we deal in a conflict model but in this one there will be a lot of conciliation and the department will have a role in that. Some members made reference to penalties. Penalties are not seen as the way of solving problems under this Bill but rather as the last resort when other sanctions have been tried and have failed. This provision will allow the department to become involved in something of an assisting, advocacy role between the two parties. Many of the complaints in the tenancy law area can be resolved by a referee-arbiter type decision, spelling out clearly the understandings and responsibilities of each party. This is a facilitating Bill in broad terms, not a heavy-handed Bill. It is to improve the relationship between tenants and owners and that is why there is that area in which there may be cases where it is appropriate for the department to be involved. That has evolved because of the expressed concern of both parties throughout the consultations that, very often, people need assistance to resolve their problems.

Hon N.F. MOORE: I will not pursue this any longer except to say that clause 8(1)(d) is not one for providing what might be seen to be simple assistance. It enables the department to commence prosecution.

Hon Kay Hallahan: It says, "negotiation, prosecution of such offence or otherwise;"

Hon N.F. MOORE: It does not say the department must negotiate first. It can, but it can also prosecute and do otherwise -- and we do not know what "otherwise" means. Anyway, I will not persist with my amendments, not because I do not believe they are right but because I believe this is one of the things the community can wear as a result of this Government's legislation. What will happen is that tenants will rush to the Department of Consumer Affairs whenever they have a problem with their landlord and say, "Under section 8(1)(d) of this Act you can, as a result of my complaint, initiate a prosecution on my behalf." When that happens I will just have to say, "I told you so."

Hon KAY HALLAHAN: I really think the honourable member will be quite pleased with the response he gets to his dropping of those two amendments. In fact, tenants already are going to the Department of Consumer Affairs while landlords do not have anywhere to go. I think we are making the right decision in not pursuing those amendments.

Clause put and passed.

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

Hon N.F. MOORE: This clause deals with the powers of the Commissioner for Consumer Affairs to institute or defend proceedings in respect of this legislation. It covers about three pages of the Bill and I must say it is another area where, unless one sits down for quite a long time and concentrates totally, it is hard to know what it all means. Clause 9(1) gives the commissioner, upon his being satisfied that there is a cause of action and that it is in the public interest, on behalf of any party to a residential tenancy agreement, the power to institute legal proceedings. We have just gone through an argument as to whether the

Department of Consumer Affairs ought to do this sort of thing, but now we have an additional clause which allows the commissioner to institute legal proceedings in the public interest. As I understand this clause, those legal proceedings are not just legal proceedings in the Small Claims Tribunal but legal proceedings in another court; because when we look at subclause (4)(c) and (e) we see reference to "court or referee". I assume that what clause 9 enables the commissioner to do is to institute legal proceedings, not only in the Small Claims Tribunal where problems relating to residential tenancies are to be resolved, but also in any other court.

I wonder what sort of public interest the commissioner will involve himself in which will require him to take action in some other court beyond the tribunal which has been set aside to deal with these matters. I would like the Minister to explain to the Chamber why she wants us to give the Commissioner for Consumer Affairs these powers in respect of residential tenancy agreements. Let us be quite clear, that is what we are talking about.

Hon KAY HALLAHAN: We are looking at a situation similar to that which applied when we considered the earlier clauses. This clause expands section 18 of the Consumer Affairs Act to owners as well as tenants. At present tenants can go to the Department of Consumer Affairs but owners cannot. The reason for the term "commissioner -- and the member seems to worry that that is beefing it up a bit --

Hon N.F. Moore: No, although you are beefing up what he can do. It sounds tougher.

Hon KAY HALLAHAN: -- is that the department is not an entity that can take legal proceedings, so that power must be vested in the commissioner. This clause talks as well about circumstances where an appeal may be taken to the Supreme Court against a decision of the tribunal. Does that help to explain it to the member? Generally the clause is expanding to landlords and owners what already exists in the Consumer Affairs Act.

Hon N.F. MOORE: I thank the Minister for that explanation. Once again I am horrified at the powers we have given to the Commissioner for Consumer Affairs in the past. Could the Minister give me an example of where the Commissioner for Consumer Affairs should be given the power to institute legal proceedings in the public interest in respect of tenancy agreements? Let us be quite clear that this Bill is not about selling faulty toys which will explode in the face of a child; it is not about Golden Aeroplanes or whatever they are called; it is about the relationship between two people -- a tenant and an owner -- who are coming together to reach an agreement for one to rent the property of the other. Why is it necessary for the Commissioner for Consumer Affairs to be able to institute legal proceedings in the public interest? Can the Minister give an example of the sort of public interest involved? Does it mean, for example, that if an owner decides that he will not grant a tenancy to an Asian family because he does not want Asians on his property the commissioner, with the consent of the Minister, can institute proceedings under the Equal Opportunity Act to make that owner take on to his property people of Asian descent whom perhaps he does not want there? Is that the sort of example the Minister is talking about?

Hon KAY HALLAHAN: I am advised that the only actions taken under that type of section are appeals to the Supreme Court. The public interest involved related to clarifying a point of law and to getting a decision. In relation to the member's point about discrimination, people go to the Equal Opportunity Commission and make their complaints, but they do not need a commissioner to do that.

Hon N.F. Moore: It would be a lot cheaper to have a commissioner, who would have much more clout.

Hon KAY HALLAHAN: People do not need that, as the Equal Opportunity Act is quite strong.

Hon N.F. Moore: Is my example a potential example under this clause?

Hon KAY HALLAHAN: If somebody suffers discrimination they go to the Equal Opportunity Commission and make a complaint. That is how it operates at present. I do not know why a commissioner would get involved in that happening, as there is no necessity to do that.

Hon N.F. MOORE: The Minister says that this has happened in the past and that this is what is intended should happen. This Bill provides for all sorts of circumstances and although I

will not win any arguments by pursuing this matter, I believe this sort of power is unnecessary. I am told that I should take on board the fact that power in respect of tenants resides with the commissioner and that we must now give it to him in respect of owners, which is one of the few balancing-up aspects of this Bill.

Hon Kay Hallahan: I would have thought the member would like that balancing-up.

Hon N.F. MOORE: The Minister is saying that if somebody has a right it should then be given to somebody else. People are to be given the right to do something that is not nice instead of removing the right from the person who has that power, thereby making them equal.

Clause 9(10) states --

In this section "tenant" includes a prospective tenant or former tenant and "party" in relation to a residential tenancy agreement includes a person who is prospectively or was formerly a party to such an agreement.

Will the Minister explain what a prospective tenant is and what legal status they have? How does one become a prospective tenant? Am I a prospective tenant because I might want to rent in 10 years' time? What is meant by including a person who is prospectively a party to such an agreement?

Hon KAY HALLAHAN: A prospective tenant could be somebody who has an option on a tenancy. I think that the member will now ask me about someone who was formerly a tenant.

Hon N.F. Moore: No, that is someone who has been a tenant.

Hon KAY HALLAHAN: In this context it would be someone who has an injustice or something else to be sorted out, otherwise it is not relevant.

Hon N.F. MOORE: I raised the question of prospective tenancies because I wondered how one could be considered under this legislation to be a tenant if one had not yet become one. A tenant, under this legislation, can take proceedings. If one looks through this clause to see what tenants can do one sees that the legislation gives that power to people who are not yet tenants. The Minister says that such people have an option, presumably a binding one, and that the person has taken out that option to take up a tenancy.

Hon KAY HALLAHAN: It does say "tenant" in this subclause. It is somebody who has taken out an option. People arrive at legal agreements before they move into premises and become the tenant, or take out an option on a property, and certain conventions apply to that.

Hon N.F. MOORE: I give the example of an Asian person who takes out an option over the phone and is a prospective tenant who can take action under this legislation. When the landlord finds out that that prospective tenant is not what he thought he was, and no tenancy agreement has been signed, the prospective tenant -- who may have been told he could not have the tenancy because he is an Asian -- could go to the Commissioner of Corporate Affairs and institute proceedings under another Act.

Hon KAY HALLAHAN: In relation to this, an option is a contract. We are talking about something which has some status.

Clause put and passed.

Clauses 10 and 11 put and passed.

Clause 12: Jurisdiction --

Hon N.F. MOORE: Subclause (7) of this clause defines the maximum amount that can be dealt with by the Small Claims Tribunal as "\$3 000 or such other sum as may be prescribed". It is a good idea, in a sense, that the Minister is specifying what the amount will be, but because it can be prescribed it can be changed by regulation. At some time in the future might that not cause some people to get the wrong impression or to act in a way in which they do not have to? For instance, in five years' time somebody could look at this legislation, see the amount of \$3 000, and take action for \$3 000 when the amount has been changed by regulation to \$5 000. Would it not be better to put "sum to be prescribed" as has been put in most other areas? Mentioning the amount of \$3 000 might cause confusion further down the track.

Hon KAY HALLAHAN: We are not opposed to doing that. There has been a whole lot of debate about whether amounts should be put in Bills at all, and that perhaps in preference a clause should be placed in the back of the Bill that the sums are subject to the CPI, or we strike a fancy formula and put it somewhere else. I take the point raised by the member. Perhaps it should be raised more often. Perhaps we should get into the practice of not having amounts in Bills at all.

Hon N.F. Moore: It is usually the other way, that it is not in the Bill.

Clause put and passed.

Clause 13 put and passed.

Clause 14: Time for determination of proceedings --

Hon N.F. MOORE: This clause provides that proceedings before the tribunal shall be heard and determined, wherever practicable, within 14 days after institution and, where that is not practicable, as expeditiously as possible. It has been put to me that 14 days may be too long in some cases. If one looks at the time frame in which action can be taken before the tribunal it means that in some cases a landlord trying to get rid of a tenant who is making a mess of his property will have to go through a long period before the person is actually evicted. This is one of the parts of the time frame that will add to the time taken for an eviction to be effected. I am speaking of a small minority of cases because, as has already been said, most tenancies are amicable arrangements between good landlords and good tenants. Will the Minister give consideration to providing for an urgent hearing? It was suggested in the other place that one should not write legislation that tells a court when it must hear something, and I accept that. The court system is one of those rather slow-moving systems where things happen in their own good time and it is not for us to tell it to hurry up, I understand. However, there is a good argument put that, if at all possible, one should provide in the legislation for an urgent hearing, as that may make some landlords happier in some circumstances where they see their house being wrecked and cannot do anything about it.

Hon E.J. CHARLTON: Before the Minister responds I wish to make a similar comment on this valid point. The situation may arise where no rent is coming in, and the hearing has not taken place because of the unavailability of the tenant through sickness, or for some other reason. I acknowledge that it is difficult to tell courts when and how they should deal with cases, but this is an important point and the Government should understand, if this legislation is to be successful, that hearings should be brought on quickly.

Hon KAY HALLAHAN: I am glad members have raised this point because it deals precisely with one of the benefits of this legislation. One of the problems under the existing legislation is that if an owner wishes to get rid of a tenant, and the only way he can do so is by eviction, it would take three months to do so.

Hon N.F. Moore: We agree with that. We have already said there is a problem in the current system.

Hon KAY HALLAHAN: In relation to hearing a case within 14 days, courts have discretionary power to deal with matters urgently. That power exists for the tribunal, and it exercises it. In a way, this is what the bond money is for. We are talking about an administrative problem, not a legislation problem, and if there is difficulty getting to court the bond money covers that eventuality.

Several members interjected.

Hon KAY HALLAHAN: That decision would have to be made by the tribunal. I am told the tribunal exercises its power adequately, and I presume it will continue to do so.

Hon N.F. MOORE: I wish to clarify one belief which the Minister seems to hold and which is not correct. She seemed surprised when I said that we agreed that the existing system has flaws in it. One of the major problems under the existing arrangements is how to get rid of tenants. If we are bringing in a Bill to replace existing legislation, it should be better. There are long periods of time between the instigation of action by one person under this Bill, and the final outcome. I will argue as we go through these clauses for the reduction of time in various other instances. If we arrive at a system which means that this discretion can be resolved in the shortest period of time, we will overcome one of the biggest existing problems.

Clause put and passed.

Clause 15 put and passed.

Clause 16: Enforcement --

Hon N.F. MOORE: This clause reads --

(1)A person shall not, without reasonable excuse, fail to comply with an order under section 15(2) --

Clause 15(2) relates to orders made by a referee. To continue --

-- other than an order for payment of any amount.

Penalty: \$2 000.

I have a letter written to me by a lawyer whose view is that we do not need such large penalties. The letter says --

In my experience in the law if a party fails to comply with a Court order that party is in contempt of Court and at the request of the opposing party is invariably dealt with by the Court in an appropriate manner. The drafters of this legislation do not appear to recognise that our legal system works very well and that major disputes involving many millions of dollars between strong and aggressive combatants are settled and determined in our Courts and the parties are made to comply. Fines such as this are totally unnecessary and in my view show a lack of understanding of the operation of the law in this country.

That is not my view, but the view of a competent lawyer in our town who cannot understand why this clause has been so drafted.

With respect to subclause (2), which deals with the refusal by someone to pay funds being subject to the Local Courts Act, can the Minister explain how the Local Courts would regulate funds which have not been paid.

Hon KAY HALLAHAN: At the risk of saying something suitably acid about writing a letter to Hon Norman Moore, could I say --

Hon N.F. Moore: You should not feel reticent about saying it.

Hon KAY HALLAHAN: I know I should not. I do not know why I do it. The Small Claims Tribunal is not a court and the provision of contempt does not apply. There was a need to find another way to deal with it.

Hon N.F. Moore: That comment was probably made when the Bill was first introduced.

Hon KAY HALLAHAN: There must be some other reason why somebody should write such a silly letter.

Hon N.F. Moore: That was a legitimate reason, and it is my fault for raising it. Is \$2 000 a reasonable figure?

Hon KAY HALLAHAN: Yes. That is the maximum figure. I imagine a lot of orders will be made for less than that. In relation to the inquiry about the Local Courts, they will operate in exactly the same way as they do now, and ultimately the same provisions will apply as apply now.

Clause put and passed.

Clause 17: Application to vary or set aside order --

Hon N.F. MOORE: This clause deals with applications to vary or set aside orders made by the referee. I refer to subsection (2). I was tempted to move an amendment to change 14 days to 21 days or 28 days, but that would be unfair to both parties in some circumstances. A problem could arise under the 14 day provision, for example, for a landlord living in Gascoyne Junction who lets property in Albany, which is looked after by an agent. If the tribunal has made an order, with the mail system the way it is, by the time the landlord finds out about the order and lodges an application to vary it or set it aside, 14 days could have easily passed. Could some provision be made to give the referee discretionary power to deal with applications to vary or set aside orders which arrive after 14 days have passed because of difficulties experienced by the applicant, perhaps by virtue of a mail strike, or something else outside his control.

Hon KAY HALLAHAN: There is no flexibility to allow for a longer period of time. If, while the Bill is in force, we discover that that time is too short, additional time could be added to the regulations. The general belief is that 14 days is adequate. If somebody wants to know which order is made, they can always ring up.

Hon N.F. Moore: You work on the assumption, as all city members do, that you just get on the telephone and ring up, and that does not apply.

Hon KAY HALLAHAN: No, we are talking about people who know something is going on. People do ring up to inquire about matters in connection with their own wellbeing -- whether it is their home or a property investment. We will look very closely at this area. People believe 14 days is enough time; if that is proven to be incorrect we can lengthen the time in the regulations.

Hon N.F. MOORE: The Real Estate Institute of Western Australia and other organisations involved would have said 14 days is long enough because they know a person in Subiaco can ring someone in West Perth and send a courier if needed. However, the Kununurra branch of the landlords association -- if there is such a body -- was not involved in the drafting of this Bill. If a landlord is overseas and cannot be contacted, another situation would arise. Is it possible for the Minister to consider a provision which would allow the referee some discretion in this matter. I am not asking for this to be written into the legislation, but could consideration be given to allowing discretion where circumstances are such that an application to vary or set aside an order has not come through within 14 days? The order could contain a \$2 000 fine.

Hon KAY HALLAHAN: A \$2 000 fine does not apply in this circumstance. We will look at this provision as it relates to remote areas. However, persons who travel overseas usually appoint an agent.

Hon N.F. Moore: The agent might not know whether to seek or set aside an order; he will need to contact his client.

Hon KAY HALLAHAN: I have been in that situation and have received phone calls overseas to inquire about what I wish to do. The caller needed the information urgently.

Hon N.F. Moore: But you are a Minister of the Crown --

Hon KAY HALLAHAN: I am talking about before I was a Minister of the Crown. Since I have been a Minister I have hardly been overseas. I travelled overseas far more before I became a Minister, I can assure the member of that.

Hon N.F. Moore: Can we have the Minister's guarantee?

Clause put and passed.

Clause 18: Form of applications and notice of hearing --

Hon N.F. MOORE: This clause says that an application shall be accompanied by the prescribed fee. What is the prescribed fee likely to be in this case?

Hon KAY HALLAHAN: The prescribed fee would be around \$20 or less; not a high fee.

Hon N.F. Moore: That depends on how much money one has.

Hon KAY HALLAHAN: I agree. The small claims fee is \$15, so the prescribed fee under this clause is similar. The member can see the dilemma if the provision is not in the Bill.

Hon E.J. CHARLTON: I did not hear that exchange. Did the Minister say the fees will be shared between the tenant and the landlord?

Hon KAY HALLAHAN: The fee will be the same for the tenant and the landlord.

Hon N.F. MOORE: Does this mean the person making the application pays the fee, whether the landlord or the tenant?

Hon Kay Hallahan: Yes.

Clause put and passed.

Progress

Progress reported and leave given to sit again, on motion by Hon Kay Hallahan (Minister for Community Services).

ADJOURNMENT OF THE HOUSE: SPECIAL

On motion by Hon J.M. Berinson (Leader of the House), resolved --

That the House at its rising adjourn until 10.30 am tomorrow (Friday).

House adjourned at 4.56 pm

QUESTIONS ON NOTICE
AGRICULTURAL EDUCATION
Disbandment

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

- (1) Is it correct that the agricultural education section of the Education Department is to be disbanded?
- (2) If so, what is the rationale behind this decision?

Hon KAY HALLAHAN replied:

- (1)-(2) No.

EDUCATION: SCHOOLS
Drug Problem

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

I draw the Minister's attention to an article which appeared in *The Western Mail* of 27-29 November 1987 which reported the head of the WA Drug Squad, Detective Inspector Bruce Dalton, as saying that calls received during Operation NOAH pointed to a drug problem in WA schools.

- (1) Is the Minister taking any action as a result of the allegations made by Detective Inspector Dalton?
- (2) If not, why not?

Hon KAY HALLAHAN replied:

- (1) No.
- (2) There has been no communication of concern from the Police Department to the Education Department. The Education Department knows, based on reliable data, that some school-aged youth are using legal and illegal substances in their leisure time. There is no reliable evidence to support the suggestion that there is a widespread problem of drug use by students in school time.

The Education Department is involved in a range of initiatives in relation to the drug issue. These include --

The comprehensive health education K-10 syllabus that contains a significant drug education component;
 in-servicing of health education teachers in drug education strategies that will provide a more relevant and effective drug prevention programme. This is a "Drug Offensive" initiative; and
 youth education officers and health education teachers, in conjunction with Health Department personnel, are conducting drug awareness courses for parents.

EDUCATION DEPARTMENT
Director of Operations

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

- (1) Was Mr Frank Usher an applicant for the position of Director of Operations in the Ministry of Education?
- (2) If not, why was he appointed?

Hon KAY HALLAHAN replied:

- (1) No.
- (2) Public Service Board regulations allow an invitation to be issued where no suitable person has applied. Mr Usher satisfies the requirements for the position in all ways, and was invited to accept the position.

WA COLLEGE OF ADVANCED EDUCATION

Claremont Campus

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

In view of the decision to close the Claremont campus of the Western Australian College of Advanced Education, will the Minister advise of the likely future use of the Claremont campus?

Hon KAY HALLAHAN replied:

No decision has been made to close the Claremont campus of the Western Australian College of Advanced Education. The decision which has been made is to have no new intakes into the primary teacher education programme at that campus from 1988 onwards. During 1988, the college will give further consideration to the use of the campus.

CANNING VALE PRIMARY SCHOOL

Closure

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

In view of the Minister's decision to close the Canning Vale School at the end of this school year --

- (1) Will the Minister advise if any children currently attending the Canning Vale School will not be required to attend a school next year because of section 13(1)(a), (b), (d), and (e) of the Education Act?
- (2) If yes, what action does the Minister propose to take to ensure that these children are transported to school?

Hon KAY HALLAHAN replied:

- (1) It is anticipated that Transperth will alter its services where necessary so that no student will be affected by section 13.
- (2) Not applicable.

PORT OPERATIONS TASK FORCE

Members

538. Hon H.W. GAYFER, to the Minister for Sport and Recreation representing the Minister for Transport:

With regard to the West Australian Port Operations Task Force --

- (1) Who are the task force members?
- (2) Who do they represent?
- (3) What are the terms of reference?
- (4) When is its reporting date?
- (5) To whom do they collectively report?
- (6) Is this report to be a final report or an interim report subject to being made public?

- (7) Are there similar task forces operating in other States?
- (8) If so, which States?
- (9) Is there a relative Commonwealth task force representing all States in existence?
- (10) If so --
 - (a) how often does it meet;
 - (b) who are the members;
 - (c) who do they represent?

Hon GRAHAM EDWARDS replied:

- (1) Hon Des Dans, Chairman; Jack Sumich; Colin Stewart; Tony Carter; Orm Richardson; Mark Cuomo; Bill Wood; Vic Slater; Richard Purkiss; John Watson; John Peraldini; Capt Beres Noble; and Mark Brownell.
- (2) These members do not represent any particular organisation. They were personally selected because of their broad experience of various aspects of the waterfront industry and their ability to contribute to the successful outcome of this task force. The chairman has the ability to second particular expertise if he feels it is necessary to the discussion on any given subject.
- (3) These are --
 - to identify operational impediments to the efficient passage of goods and vessels through Western Australian ports;
 - to determine practical measures to overcome the identified impediments;
 - to offer appropriate advice to the Government of Western Australia through the Minister for Transport;
 - to provide a forum for a two-way exchange of views between the industry and the Government of Western Australia on operational matters affecting the efficient passage of goods and vessels through Western Australian ports;
 - to represent, as appropriate, the view of the Western Australian industry in national decision making forums;
 - to investigate and report on specific issues in respect of port operations as raised by the Western Australian Minister for Transport.
- (4) The reporting date is determined by the particular issue under discussion.
- (5) The Western Australian Minister for Transport.
- (6) The task force will not issue a final or interim report as it is task orientated.
- (7) Yes.
- (8) New South Wales -- Sydney working party of the waterfront industry committee; Victoria -- Melbourne working party on shore-based shipping.
- (9)-(10) The present Federal Government waterfront initiatives are being progressed by four separate groups --
 - the stevedoring industry review committee;
 - the importer-exporter panel;
 - the Australian Transport Advisory Council;
 - the waterfront industry group.

These groups represent a broad cross-section of interests concerned with the waterfront industry. They meet at various times.

SCHOOLS OF THE AIR
Centralisation

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

- (1) Is any consideration being given to the centralising of the activities of schools of the air?
- (2) If so, have any decisions been made?

Hon KAY HALLAHAN replied:

- (1) The operation of the schools of the air is presently being examined. However, the schools of the air will continue operating from the commencement of the 1988 school year, according to the present arrangements.
- (2) No.

SOUTH STREET
Widening

544. Hon P.G. PENDAL, to the Minister for Sport and Recreation representing the Minister for Transport:

Has the Federal Minister for Transport approved funding to be provided to the Melville City Council for the purpose of widening South Street, east of Karel Avenue, during the year ending 31 December 1988?

Hon GRAHAM EDWARDS replied:

I refer the member to the response to Legislative Assembly question 2780.

TRANSPORT: BUSES
School: Committee

545. Hon MARGARET McALEER, to the Minister for Community Services representing the Minister for Education:

Would the Minister advise --

- (a) what conclusions the committee on school bus services reached; and
- (b) whether an update of the school bus services handbook has been undertaken?

Hon KAY HALLAHAN replied:

(a)-(b)

The Minister is considering the recommendation of the committee.

POLLUTION TAX
Introduction

546. Hon A.A. LEWIS, to the Minister for Budget Management representing the Treasurer:

- (1) Is the Government considering introducing a pollution tax?
- (2) If so, how will it be levied?

Hon J.M. BERINSON replied:

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

GOVERNMENT LAND: MARSHALLING YARDS
Bunbury: Sale

548. Hon A.A. LEWIS, to the Minister for Sport and Recreation representing the Minister for Transport:

Who purchased the old Westrail marshalling yards in Bunbury?

Hon GRAHAM EDWARDS replied:

The member will be advised in writing.

TIMBER

Tendering: Social Impact

549. Hon A.A. LEWIS, to the Minister for Community Services representing the Minister for Conservation and Land Management:

Is it intended to set up a working party consisting of CALM, representatives of the timber industry, and the Manjimup Shire Council to consider tendering and the social impact of tendering in the Manjimup area?

Hon KAY HALLAHAN replied:

The Shire of Manjimup has been invited to discuss its suggestion on this matter with the Department of Conservation and Land Management.

EDUCATION: SCHOOLS

Computers: Olivetti

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

I refer the Minister to his answer to my question 504 of 3 December 1987.

- (1) Was a decision ever taken to use a software and/or hardware package provided by Olivetti?
- (2) If so, what was this decision and why is it now necessary to call for new tenders?

Hon KAY HALLAHAN replied:

- (1) Late in 1986 a system proposed by Olivetti was recommended to schools for purchase from their own funds. This recommendation was subject to the satisfactory completion of the software.
- (2) With the decision by the Government to provide substantial funds for computerised administrative support in schools, and to meet the changing requirements of the ministry, acquisition by tender is appropriate.

CANNING VALE PRIMARY SCHOOL

Canning Vale: Closure

551. Hon N.F. MOORE, to the Leader of the House representing the Minister for Industry and Technology:

In view of the Government's decision to close the Canning Vale Primary School at the end of this year, will the Minister advise --

- (a) the purpose for which the school site is to be used;
- (b) the date the site will be required for its new purpose?

Hon J.M. BERINSON replied:

- (a) Industry or service commercial purposes;
- (b) 1988-89.

TRAFFIC COUNTS

Canning Highway, Como

553. Hon P.G. PENDAL, to the Minister for Sport and Recreation representing the Minister for Transport:

- (1) Have any recent traffic counts been carried out on Canning Highway, Como?
- (2) If so, has the number of vehicles using the highway in that area increased in the last two years?

- (3) Has any action been taken to encourage large commercial vehicles to use the Leach and Roe Highways, where possible, rather than Canning Highway?

Hon GRAHAM EDWARDS replied:

The member will be advised in writing.

TECHNICAL AND FURTHER EDUCATION

Balga College: Automotive Section

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

- (1) Is it correct that the automotive section of Balga TAFE is to be transferred to other TAFE colleges?
- (2) If so —
- (a) what is the rationale behind this decision;
- (b) was the decision taken by Cabinet or by the Minister alone?

Hon KAY HALLAHAN replied:

- (1) Yes.
- (2) (a) Greater efficiency and effectiveness of operation through the rationalisation of delivery locations for courses involving specialised resources. The rationalisation will maintain and further develop specialised provision for automotive engineering at one location in the northern population corridor;
- (b) this decision was made as part of TAFE's programme of rationalisation.

SOUTH WEST DEVELOPMENT AUTHORITY

Annual Report

556. Hon A.A. LEWIS, to the Minister for Sport and Recreation representing the Minister for the South West:

When is it expected that he will write to me with reference to question 478, asked on 23 November 1987, which relates to an annual report of 1985-86?

Hon GRAHAM EDWARDS replied:

The Minister for The South West wrote to the member on 16 December 1987 in reply to question 478. A copy follows --

Dear Mr Lewis

QUESTION NO 478 - LEGISLATIVE COUNCIL

I refer to the above Parliamentary Question of November 23, 1987 and would advise you that the answer is as follows:

- (1) (a) The following positions were occupied during 1985/86:
- | | |
|---|--------|
| General Manager (part year) | 6,077 |
| Senior Executive Officer | 42,087 |
| Executive Officer | 39,145 |
| Senior Research Officer | 29,545 |
| Assistant Research Officer | 23,375 |
| Projects Officer | 20,642 |
| Co-ordinator (part year) | 9,422 |
| District Officer - Mandurah | 28,828 |
| Community Development Officer (part year) | 14,216 |
| Media Officer | 34,735 |
| 10 x Base grade Clerical Officers (some short term) | 89,198 |

[COUNCIL]

Pro rata annual leave payments	1,785
Salary recoup to another Government Department	6,651
NESA Salary recoup	28

\$345,734

- (b) Nil.
- (c) Nil.
- (d) 14 wage earners were paid \$53,718. These funds were recouped from the Commonwealth Government.
- (e) Nil.

(2) Other staffing costs cover the following:

Payroll tax	5,342
Travel costs	42,671
Fares	17,840
Conference Fees and Staff Training	1,786
Workers' Compensation	10,190
Insurance	210
Transfer expenses	7,501
Commonwealth Funded Projects	27,337

\$112,877

(3) Services and Contracts cover the following expenditure items:

Office rental	6,817.56
Machinery, vehicle, aircraft, other hire	2,252.52
Cleaning charges	2,535.81
Other non-professional services	821.15
Rates, taxes, licences (operations)	452.73
Motor vehicle licences	294.00
Freight charges	4,674.51
Insurance - other than staff	2,060.11
Advertising	17,102.66
Printing	47,264.95
Subs and fees to businesses	134.20
Minor services	151.50
Committee fees/allowances, etc	22,962.62
Invitees and expenses	956.33
Legal fees - Glen Iris	7,800.00
Valuation charges	3,810.00
Rates, taxes and services (land acquisition)	6,020.42
Insurances	1,636.07
Sundry expenses	1,636.07

\$129,387.07

- (4) Increase in consumables represented materials purchased for use in a project which was funded by the Commonwealth. Reimbursement was incorporated as income for the year 1985/86.

Yours sincerely

JULIAN GRILL

MINISTER FOR THE SOUTH WEST

QUESTION WITHOUT NOTICE

REGIONAL TOURISM RESEARCH MONITOR

Role

501. Hon P.G. PENDAL, to the Minister for Sport and Recreation representing the Minister for Tourism:

- (1) Is the Western Australian regional tourism research monitor an arm of the Western Australian Tourism Commission?
- (2) If so, what are its specific roles?
- (3) What staff does it have?

Hon GRAHAM EDWARDS replied:

- (1) The Western Australian Regional Tourism Research Monitor, WARTM, is a major research programme undertaken by a private consultancy on behalf of the Tourism Commission.
 - (2) It is used essentially as a decision-making tool, and provides statistical data for the commission and industry for promotional and marketing purposes.
 - (3) Not applicable.
-