Legislative Council

Tuesday, 30 June 1987

THE PRESIDENT (Hon. Clive Griffiths) took the Chair at 11.30 am, and read prayers.

BILLS (13): ASSENT

Messages from the Governor received and read notifying assent to the following Bills—

1. Mining Amendment Bill.
2. Salaries and Allowances Amendment Bill.
3. Western Australian Marine Amendment Bill.
4. Government Railways Amendment Bill.
5. Superannuation and Family Benefits Amendment Bill.
6. Censorship of Films Amendment Bill.
7. Family Court Amendment Bill.
8. Valuation of Land Amendment Bill.
9. Workers' Compensation and Assistance Amendment Bill.
10. Waterfront Workers (Compensation for Asbestos Related Diseases) Amendment Bill.
11. Dog Amendment Bill.
12. Acts Amendment (Water Authority Rates and Charges) Bill.
13. Government Employees Superannuation Bill.

STAMP AMENDMENT BILL

Urgency Motion

THE PRESIDENT: I have received the following letter—

June 30 1987

Dear Mr President

Pursuant to standing order 64, it is my intention to move at this day's sitting that the House, at its rising, adjourn until 11 am on Saturday, July 18 1987 for the purpose of urging the Government to advise His Excellency the Governor to decline to assent to the Stamp Amendment Act 1987 because the Act, as it stands is deficient for the following reasons:

1. The Law Society is concerned that the Act:—
   (a) impinges on the fundamental principle that a person is assumed innocent until proved guilty.
   (b) fails to properly account for the complexities of modern day financial transactions.
   (c) is far wider in its scope than indicated or even suggested in the Minister's Media Statement of 13 January 1987.
   (d) has either consequences which were not foreshadowed by the Minister in his Media Statement or at least unintended consequences.
   (e) contains a number of drafting anomalies.
2. The mining industry is concerned on the financial impact of the retrospective aspects of the Act on the industry.
3. The mining industry has requested that the Act not be proclaimed and that the Government consult with the industry to discuss the consequences of the Act.
4. Mining Company executives only became aware of the consequences of the legislation on their industry this weekend and are assessing the financial cost and impact on their operations.

Hon G M Evans MLC

Honourable members, before this motion can be debated it is required that it be seconded by at least four members rising in their places.

Four members having risen in their places,

HON. MAX EVANS (Metropolitan) [11.40 am]: I move—

That the House at its rising adjourn until 11 am on Saturday, 18 July 1987.

This is a matter of extreme urgency, in view of the great importance of this legislation and the impact it will have on the mining industry. The House should be aware of this, and so should the public.

My urgency motion arises as a result of contact I have had, not instituted by myself, with the Law Society and the mining industry. Those bodies are greatly concerned about the Bill and wish to see it held over for further discussion. At the time of the debate the Minister said a supplementary Bill would be

introduced at the next sitting of the House, but that Bill would merely strengthen the present Bill.

The publicity in the Press in the last few days resulted from Mr Jim Boston of Whim Creek Consolidated mining company contacting me on Thursday to find out what the Bill meant and what impact it may have on his company. I explained to him the impact of this Bill on mining companies and mining tenements where companies owning mining tenements had been purchased, and the increased stamp duty which would be payable. I gave him all this information. On Friday morning he came back and said, "This is horrific. We have done deals worth $56 million. The additional stamp duty payable by our company could be of the magnitude of some $2 million."

I later contacted the Chamber of Mines of WA (Inc) and discussed the matter. This was the first the chamber had known of the problem. We have since discussed the Bill with the Association of Mining and Exploration Companies and the Law Society of WA. The Law Society came back with further comments to what it had given to our party when the matter was previously debated in this House. At that stage the Law Society referred to a letter sent to the Government in February of this year referring to a media release in January pleading with the Government to consult before putting through legislation in order to save any unnecessary problems, so that everyone could understand what was to be done. At that stage the stamp assessors did not know how they would assess duty on the transfer of shares of companies which held land.

I remind this House that that Press release made no comment on the impact of the Bill on mining tenements or mining leases. It referred to the impact on land and buildings and fixed assets, and how that duty would be assessed.

The *Sunday Times* contacted me on Saturday morning to say that that newspaper had been contacted by the Law Society. The Law Society rejected the allegation that it had been consulted on this matter by the Attorney General. The first information the Law Society had of the Bill was from my party when we sent it a copy of the second reading speech. I am not denying that the Law Society probably received a copy from the Government after that, but it believed it should have been contacted before. The Minister said that he had contacted the Taxpayers' Association of Western Australia, the Taxation Institute of Australia, the joint committee on legal matters of the Institute of Chartered Accountants, and the Law Society of WA. I have not checked on the other organisations, but there is no reference in the Minister's second reading speech to the mining industry, and that industry had no contact with him.

Hon. J. M. Berinson: I did not contact the building managers association either. Are you suggesting that in legislation of this kind everybody who might end up paying stamp duty should be contacted separately?

Hon. MAX EVANS: The reason I believe the mining industry should have been contacted is that the Minister's Press release in January made no mention of mining tenements, which are now included, bringing a new dimension to the Bill. These people putting through transfers of shares were not alerted to the possibility of a reassessment of the stamp duty.

The Law Society, as I said last week, was concerned that it had not been able to put the time and effort into this Bill that it wished. It was concerned that the Bill impinged on the fundamental principle that a person is presumed to be innocent until proved guilty. The Bill fails to account for the complexity of modern financial transactions. The Bill is far wider in its scope than indicated in the media statement of 30 January. It has consequences which were not foreshadowed by the Minister in his media statement, or unintended consequences, and contains a number of drafting anomalies.

The Law Society has now had time to look at the Bill further, and I understand that the Minister received a submission from the Law Society late yesterday or early today bringing together the submissions made in the last few days. The conclusion of that message to the Minister is that the Law Society urges the Government to defer this legislation until its full consequences can be properly assessed and amendments can be made to the Bill before it becomes law.

That letter has gone to the Premier, to the Minister for Budget Management and to Hon. Peter Dowding, the Minister who handled the Bill in the other place. The Law Society wrote to me yesterday saying this—

> The Law Society remains concerned about the far reaching consequences of the Stamp Duty Legislation which passed through the Legislative Council last week.
>
> The Society has now completed a more comprehensive commentary on this legislation which is still being considered by

> Lawyers with appropriate expertise in this area. We are not yet in a position to give you an account of the full ramifications of the legislation.

I repeat the comments of the Law Society last week. There was limited time for the Law Society to get its legal team to look at the Bill's full ramifications. The Law Society had to interpolate the amendments into the Bill to work out its impact. The drafting of this Bill took five months. The Law Society had five to seven days to consider it. One could not expect a proper job to be done in that time.

The Law Society's letter continues—

> The Law Society makes no comment about whether stamp duty should be paid on the transactions covered by the Bill or about the rate of duty which should be paid on them. These are political matters which it is for the Government to determine.

The amendment to section 26 is summed up by the Law Society in these words—

> This amendment then is ill conceived because it amounts to a reversal of the onus of proof in respect of the most important element of the offence. If a person has to disprove that element by rebutting what is deemed to be prima facie evidence of that element then that person is assumed guilty until he can prove his innocence.

I will not go into details. The facts are known by the Minister. This is a serious matter; it has been brought up in this House before and the wording of this Bill is far from satisfactory in an Australian judicial system.

> *Section 84 and 86*
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> There can be no doubt that the existing Section 84 is poorly drafted and leads to numerous anomalies and some avoidance practices.

It only leads to more legislation changes. A lot of these new provisions result in closing a loophole in one place and opening a loophole somewhere else. In his speech the Minister said that the Government did consult with senior counsel and private firms. I would be interested to hear comments on that because not every lawyer is fully conversant with the ramifications of the legislation. It really should be considered by lawyers who do these transactions regularly and know the strengths and weaknesses of the Act.

On page 3 of its letter the Law Society goes on to say—

> The main object of the Bill is to implement the announcement made on 13 January 1987. It has taken over five months from the date of the announcement to the Bill being introduced into Parliament and being available for study. The timing of the introduction is particularly unfortunate as in the period immediately prior to the end of the financial year the demands on practitioners and persons able to comment are such that their time is not readily available.
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> The Bill is complex and close study involving substantial time is required. Nonetheless even a superficial study reveals substantial deficiencies in the Bill.
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> The point can be made that the reason why land is acquired by a company as its only or major asset may well have nothing to do with any stamp duty avoidance and that the legislature is discriminating against persons who hold assets in the form of land (farmers and the like) as against those who hold other assets.

I believe I made it very clear in my previous speech that people who hold land and fixed assets in companies do not do so for the purpose of avoiding stamp duty at the time transfers in shares are made. The Treasury has obviously made an interpretation that it is entitled to a higher rate of stamp duty—that it has missed out on a higher rate of stamp duty it would otherwise have received on transfers of land. The fact that the land is held by a company means the Treasury has missed out on that higher rate. So be it; it was never intended that way. Companies have had assets and have transferred them before. Not only is the stamp duty relating to shares different from that relating to land, but shares are valued for stamp duty at the net worth of the company, at 0.6 of one per cent, whereas we are now talking of a much higher rate of 4.25 per cent on land valued at over $500 000 on the gross value of assets, not the net worth.

For the sake of keeping to the main points of the motion which urges the deferment of this Bill I will not go into the finer legal points. The Attorney General, being the top law man in this State, would be well aware of the implications of the proposal put to him by the Law Society.

Another senior lawyer whose firm is doing a lot in this regard has brought to my attention the fact that the amendments made last November, which were also rushed through this House, already have required an early amendment because of anomalies in the drafting. I fear the current legislation will result in more of the same. In this regard I have been advised as follows—

> The operation of Clause 31B(1)(c) of the Stamp Act (11 November 1986 amendment) went much further than was intended and the Government then made a Regulation exempting certain transactions under that clause. These mostly related to financial transactions.

This was gazetted in the *Government Gazette* on 16 April 1987 as the Stamp Amendment Regulations 1987, and stated—

> These regulations shall be deemed under section 22 of the *Stamp Amendment Act 1986* to have come into operation on 11 November 1986.

In other words, the Government made them retrospective. It realised it made a mistake because the legislation was rushed through. We will have more of the same in this case, and I believe the Government should defer the proclamation of this legislation to do justice to its own legislation and to the mining idustry.

The amendment in the *Government Gazette* was—

> Exemption under section 31B
>
> 8AA. For the purposes of section 31B(3), all transactions referred to in section 31B(1)(c) which would not be liable to duty if section 31B did not exist are exempted from the operation of subsections (1) and (2) of section 31B.

The Government made a mistake there; let us not have another one. Let us not rush things through. That amendment took until April to go through in the *Government Gazette*.

Last year legislation was rushed through in New South Wales. Maybe a degree of exposure to it beforehand meant it was not dealt with at the end of the session and they had a few more days to look at it; I do not know. I am advised that one of the proposed amendments to the New South Wales stamp duty legislation would have had a catastrophic effect on a large number of financial transactions. The financial institutions and the financial Press came out strongly, for good reason, against the legislation and the Government dropped the provisions from the legislation before it was submitted to the Parliament. They had time on their side; we do not. This legislation was submitted to the Parliament before the people who should have had an opportunity to speak on it could do so. The New South Wales Government did the right thing by industry, particularly the financial industry, and made amendments.

I believe the Minister is not fully aware of the consequences of this legislation and the impact it will have on many people. I believe he was probably not made aware of this by Treasury officials, who saw it as a way of gaining more revenue. The mining industry has estimated the extra revenue from the retrospective part of this legislation at $50 million; some people think it will be higher. I think that a conservative estimate of $50 million could be brought in from the mining industry, which was not aware of that fact until recently.

I repeat the comments made in the Minister's second reading speech—

> The main purpose of this Bill is to introduce measures aimed at eliminating stamp duty avoidance practices. The Government is committed to eliminating such practices which ultimately result in the rest of the community having to bear a higher burden of taxes and charges.

I cannot believe the Minister really believes that statement about avoidance when he is considering share transfers of companies that own property. It has been going on for years—it has been a normal practice. The Minister is saying that people were deliberately putting properties into the names of companies to avoid stamp duty. The consequences of the legislation will be that the Minister will catch many other people—farmers who have companies for different reasons, business people who want limited liability in their businesses or to bring other shareholders in, and so on. They did not do this for the purposes of avoiding stamp duty as implied in the Minister's speech.

I believe the legislation has been brought in to catch one group but is in fact catching all this extra revenue. I do not believe the Treasury officials or the people who drafted the legislation have been honest with the Minister about its likely impact, if they knew it. If they did not know it they should have found out what the impact would be on innocent parties who should not be paying these high duties just because this legislation has been brought in to catch stamp duty avoiders. I have never been able to find out what those schemes were; I had

to take the Minister's word for the fact that people were putting properties into the names of companies then immediately on-selling them. I warn the Minister that, with the legislation rushed through last year, there has already been one amendment and with this legislation more may be required.

The economic impact of the legislation on the mining industry has been outlined to me by Mr Ray Finlayson, the Mayor of Kalgoorlie, who contacted me after speaking with the *Sunday Times*. He said that if $50 million—and there may be more—which has not been budgeted for must now be paid in stamp duty, that will impact on companies and the amount of mining and exploration they can do, and on the amount of money they will be able to spend in Kalgoorlie, and that will impact on contractors, food, people, and so on, because it comes out of the companies' cash flow.

Hon. J. M. Berinson: Are you talking about future contracts or future sales?

Hon. MAX EVANS: No, I am talking about the stamp duty the mining companies will pay on deals they have done since 19 January until now.

Hon. J. M. Berinson: There is no evidence that any such sum is involved. I have had a single complaint put to me by a single company.

Hon. MAX EVANS: I will come back to that, using the Minister's words. If a lot more revenue were gathered, the impact on these companies would be very serious. Whim Creek, Croesus Mining—which has purchased shares to the value of $20 million—will now have to pay further stamp duty of approximately $800 000 to $1 million. Mr Ron Manners, the managing director of Croesus Mining—

Hon. J. M. Berinson: Are you talking about the single transaction of the purchase from CRA? Whether you are talking about Croesus or Whim Creek, you are still talking about a single transaction.

Hon. MAX EVANS: Of a subsidiary of CRA. Is the Minister going to tell me that they are exempt now?

Hon. J. M. Berinson: I certainly am not going to tell you that.

Hon. MAX EVANS: The Minister would have taken away my entire debate. I would have had a smile on my face for the rest of the day.

Hon. J. M. Berinson: You might be smiling, but the poor old taxpayer would suffer.

Hon. MAX EVANS: These people are entitled to do these deals as they have done them before. They did not, as suggested in the Minister's speech, do this as an avoidance measure. They were not avoiding stamp duty; they had always paid what they had to pay. They paid according to the law of the day—which was 0.6 of one per cent on net value of shares. Normandy NL probably does not know its liability because the chief executive officer of Normandy NL is over east and I have not been able to contact him, but I know that the company is involved in large purchases of mining tenements through subsidiary companies.

Dallhold is owned by Alan Bond. It has bought a lot of Western Mining leases. Dallhold is still ascertaining what its position is. The partners of the law firm were looking at the contracts on Saturday morning because they only learnt about this on Friday. They still have not assessed the impact this legislation will have because some of the leases were bought from a public company, some were from subsidiaries of public companies, and others were not. They do not know where they stand; it has nothing to do with Western Mining or the companies which have purchased its leases—and Dallhold is a major company. I heard from the financial Press that the value of those deals is almost $600 million. If they pay duty on that, it could amount to roughly $20 million. This extra duty will have to be found.

I believe many companies are not going public on this matter at the moment because it could affect their credit standing. The owners of one company mentioned to me that they went to their merchant bank and said, "This is what we want to buy"; they did a deal to purchase certain assets at certain prices. They know what costs—legal costs, stamp duty, etc—are involved and they know how much money must be raised from their shareholders. Croesus Mining, for example, raised its money finely tuned to what it needed. It did not put a few million surplus dollars into the bank; that would not have been good business. Now it will have to find an extra $800 000 to $1 million for stamp duty. This will affect future mining exploration on another lease or Croesus will have to go back to its shareholders and raise more money, or borrow more money. However, they are prudent businessmen and have tried to do this deal by finding another $1 million.

Whim Creek must be in a similar position; they must find $2 million for which they have not budgeted. They were not alerted to the fact by the stamp office or the Minister for Budget Management that they could be up for more stamp duty. I do not know what their debt for stamp duty is, but I do know that they have taken over a lot of shares so the financial impact there will be great.

Dallhold could have, according to the financial Press, a very big debt for stamp duty.

Hon. J. M. Berinson: What did Dallhold do?

Hon. MAX EVANS: Dallhold took over a number of Western Mining leases.

Hon. J. M. Brown interjected.

Hon. MAX EVANS: They have been informed by the financial Press of a $600 million deal. Mr Robert Pearce of Dallhold has not been available to confirm that to me. That is a very big amount of money. Until Saturday's Press, and after talking to Jim Boston, a few people knew about this. Most of these mining company executives did not know they would be liable for this amount of money. They normally had no liability. Mr Pearce is overseas and he may not even know about this. He may have read *The Australian Financial Review* yesterday about this Government's retrospective tax. Although the Minister for Budget Management may have only heard from one company, I can assure him many more will be subject to extra stamp duty.

The question of exemption is still not quite clear. It is still not clear why a deal done by a listed public company should be exempt from stamp duty. Is it because the Minister for Budget Management was led to believe that public companies are not doing avoidance business? They were not avoiding stamp duty, therefore they are clean and should be exempted. I believe the Minister for Budget Management was misinformed, if this is the case, because they are in the same position as all the other companies. They bought leases and I do not see why the shares of a listed public company should be exempt. As the Minister for Budget Management said earlier all the shares purchased in a public company should be exempt but if a public company buys shares, they are not exempt. The Minister may wish to elaborate further because this is not clear to me and I believe it was done on the basis that a public company was being taken over and had not put properties in there to avoid stamp duty and therefore it was okay. All the innocent ones are being caught by this legislation, and they should be exempt just like public companies or public companies should be taxed.

I cannot see why public companies' shares should not be taxed; I cannot see the difference. This was an urgency motion brought forward to explain to this House the fears and worries of the mining industry in this State. At the present time it is very buoyant and is making a great contribution to the wealth of Western Australia and to Australia in general. It is having a great impact on mining towns in the country. We are still living on time.

Last Friday I tried to get people to come forward to tell me how this will affect them because if one company is up for a couple of million dollars more stamp duty, it might not like to go public on this because its creditors might say, "It might tip the scale on its finances; they might be short of money if they pay that further stamp duty." We know that the companies must pay the extra duty because if they do not pay it the Government could sell off some of the leases. The Government can take their assets and sell them. Anyone can look at that company and say, "That company has a bill of $2 million; how will it pay that money?" Suppliers in town would look at a list of creditors for a big company and see who would lose the money; they would immediately cut off all the credit. If mining companies are going to have big debts in respect of stamp duty, it could worry their creditors.

Mr Jim Boston was quite happy to talk to me; so too was Croesus Mining. Dallhold must still assess the impact this will have on their liability for stamp duty. Not only do they have to assess their liabilities, but they have to reassess how to finance the debt. Do they go back and borrow more money? Do they cut back on some exploration?

Ray Finlayson, the Mayor of Kalgoorlie, is worried about the impact it will have by cutting back on exploration in the area. That would also have an impact by reducing the amount of gold that will be found in this State There has been so much talk about the value of gold to this country.

This urgency motion is a device to allow me to bring a matter of extreme importance and urgency to the House and the public. This matter must be debated and I look forward to the Minister's comments on this because I am certain that he, as a businessman and a lawyer, and after being instructed by the mining industry, realises what this is all about. The Associ-

ation of Mining and Exploration Companies only yesterday arranged a meeting with me for this Friday. It hopes to discuss the ramifications of this Bill with me because its members have come from all over Western Australia—from Leonora, Kalgoorlie, etc—to find out what the impact will be.

What is their position? They do not know. I sent information to them yesterday by telex to tell them of the impact. The Leader of the House has said that nobody let him know of the problems. I am telling him now; the Law Society believes the Bill should not be proclaimed until further discussions are held, and the mining industry is making the same request.

HON. NEIL OLIVER (West) [12.11 pm]: I support the motion, and I do not believe there will be any opposition from the Government because there has obviously been an oversight in regard to the mining industry. It is quite obvious it is an oversight—

Hon. J. M. Berinson: It is 1 July, Mr Oliver, not 1 April.

Hon. G. E. Masters: I do not think that is a very worthy statement to make in view of the seriousness of the matter.

Hon. J. M. Berinson: And in view of the fact that it is 30 June!

Hon. NEIL OLIVER: The thrust of the Bill when it was introduced was to eliminate stamp duty avoidance practices. If one examines the Minister's speech one sees that he went on to refer to the major avoidance schemes to be dealt with in the Bill which involve the transfer of real estate through the transfer of company shares, and the practice of trusts which are not truly public trusts, becoming "approved" trusts to take advantage of certain duty concessions.

Any country which has a high taxation structure will always have a prosperous tax avoidance industry. I have spoken on stamp duty in this House before, and in particular, to the Minister for Budget Management, with regard to the budgeted income for stamp duty collections as against the actual income. In every year they have blown out significantly, and that is a major area of concern. I have said that we should adopt some form of indexation because of the nature of the real estate market where there is a boom in property values and the Government has a revenue windfall which the Minister for Budget Management did not anticipate when he introduced the Budget. We had a considerable discussion on that during the last Budget debate, and I do not intend to have the same debate when the forthcoming Budget is introduced. The Minister agreed at the time that he wanted accuracy in his assessments of actual collections in the Budget.

This is an example of rushing through extremely important legislation towards the end of the session. Unfortunately the business community does not have the opportunity to examine the legislation and its impact.

In 1979 a major rewrite of the Stamp Act was introduced into the Assembly with explanatory notes on 7 August, and it was debated in that House on 16 August. The Labor Party Leader of the Opposition at the time spent three or four minutes saying that he did not know much about the Stamp Act but he appreciated the explanatory notes the Treasurer had given him and that his party would support the Bill. It was major legislation—I would have to examine the Act—but I think there were about 1 400 or 1 500 amendments in the Bill. In the Legislative Assembly the Chairman put the question in the Committee stage as to whether the clauses should be taken as a whole, and they duly were, and that Bill passed through that House in little more than five minutes from Committee stage to third reading and the transfer of a message to this House.

Hon. J. M. Berinson: Half his luck!

Hon. NEIL OLIVER: I appreciate that.

In the Legislative Council the Bill was introduced on 19 September and remained on the Notice Paper until 16 October before any action was taken to pass it. That is not an example of what is occurring now. There is a rush of legislation which the public and the business community of Western Australia should be given ample opportunity to become aware of and to consider its effect on their operations. We as members have the responsibility for contacting as many organisations as possible. In order to do that we need time, and in this instance it was not available.

This legislation is not only detrimental to the Western Australian economy—and I believe the Minister shares my concern—but also has more wide-ranging effects. It will have a major impact on the trade balance of the nation. Over the past few weeks the Prime Minister has expressed his determination not to impose any additional taxes on the gold industry. At present that industry has the opportunity to complement the Labor Party's policy by reducing the current account deficit. Prime Minister Hawke has stated that in the public arena on three or four occasions.

Hon. J. M. Berinson: Are you voting for him on the strength of that?

Hon. NEIL OLIVER: I am not voting for him. The Liberal Party and I understand the National Party members have categorically said that if any Government introduces gold tax legislation it will be repealed immediately.

The PRESIDENT: Order! Honourable members are not allowed to carry on audible conversations while a member is addressing the Chair.

Hon. NEIL OLIVER: When I spoke in that review of the Stamp Act legislation in 1979 I also referred to the matters brought forward today by Hon. Max Evans. The Bill impinges on the fundamental principle that a person is assumed innocent until proven guilty. I attacked the Government of the day—the Liberal-Country Party Government—on that occasion, and I was not supported by the Labor Party.

The Government's intentions in regard to this Bill and what it seeks to do about property transactions will not be achieved until complementary uniform legislation has been passed by all States and the Federal Government.

Therefore, I put it to the Minister that no element of speed is required in the passage of this legislation. No revenue will be lost to the State of Western Australia in the forthcoming financial year because of the very essence of the property transactions which he explained, and the legislation will not achieve the Government's aims until complementary legislation has been passed throughout the Commonwealth.

Therefore, I support the motion.

HON. E. J. CHARLTON (Central) [12.21 pm]: I support the motion, which is totally in line with the queries raised by the National Party during the debate on the Bill. Obviously, many people could be detrimentally affected by this legislation if it were proclaimed forthwith without giving them time to assess their financial position. On that ground, the National Party supports the motion put forward by Hon. Max Evans. He gave the reasons why the Government should hold off and give those people directly involved an opportunity to estimate the consequences of this legislation on their situation.

There is no doubt that the mining industry may need to make tremendous changes to its operation from a financial point of view. On that ground alone, in view of the economic situation with which everyone is confronted, the Government should be sympathetic to the motion. If that is not a fair and equitable proposition, I do not know what is.

I said previously when this Bill was debated that with much of the complex legislation with which we deal, the people who will be affected do not have time to make an input and have some say in the decisions made in this Parliament. I do not think it is asking too much to give the people who will be affected an opportunity to state their views. The Minister may say that they have had an opportunity because an announcement was made in the Press earlier this year which gave them plenty of notice. That may be the case, but we should at the very least give them prior notice of how they will be affected. For that reason the National Party supports the motion.

HON. D. J. WORDSWORTH (South) [12.24 pm]: I also support the motion speaking on behalf of those from the other side of the spectrum. When I was in Katanning on Friday I was approached by a member of the legal fraternity who was very concerned about the effect this Bill will have on the transfer of farming properties. I mentioned this during the debate on the Stamp Amendment Bill but I was not fully aware of the implications. I repeat to the House that the industry is very concerned indeed about the effect of this legislation and it was staggered to learn that this House had passed the Bill.

HON. J. M. BERINSON (North Central Metropolitan—Minister for Budget Management) [12.25 pm]: It is less than a week since the legislation was extensively debated and then passed by this House. I do not believe any useful purpose would be served by now entering into a whole new debate on the principles of the Stamp Amendment Bill.

I simply repeat that the purpose of the Bill was to counter serious and increasing avoidance practices and that it is important, given the emergence of practices of that kind, to move to protect the limited revenue base which the State has. That is by way of introduction. I need now only go to the specific matters raised by Mr Evans in his motion, and these relate in the main to two aspects, namely, the comments of the Law Society and the perceived effect on the mining industry of this State.

It is fair to say that the general approach of the Law Society was known to the House when we debated the Bill earlier. I refer to the Law Society's earlier criticisms and I am sure that in the normal course of events the members op-

posite would have received a copy of the same comments as the Government received from the society. That is the society's normal practice and I think it is a very proper practice and has been helpful for a number of years, to whichever members are occupying Government or Opposition benches. It is fair to say that no surprises emerge from the views of the Law Society which Mr Evans put to us today.

However, the more recent comments by the Law Society, which have gone into rather greater detail than its earlier submission, are in some respects new. Unfortunately, this submission is so recent that it only reached me at 11.15 this morning and it is not sensible to attempt in those circumstances to deal with each of its comments in an itemised way. However, I repeat the advice I conveyed to the House during the debate on the Bill. The legislation with which we then dealt was the result of a very long and detailed examination which had not only received the attention of senior officers of the Taxation Department and Treasury, but also of our senior legal advisers in the Crown Law Department and Parliamentary Counsel's office as well. In addition, and in accordance with a practice established by the State Taxation Department, the legislation had also been submitted for the consideration of practitioners in the private profession with specialised knowledge in this area—one of them senior counsel. Before the Bill was introduced in this House, a number of amendments were incorporated in it arising from their advice.

I have already indicated that it is not possible on literally one hour's notice to attempt a detailed response to the first point now made by the Law Society but I am in a position, on the advice available to me, to respond at least to the first point arising from the Law Society's recent comment which Mr Evans incorporated in his motion.

Paragraph 1(a) expresses concern that the Bill impinges on the fundamental principle that a person is assumed innocent until proved guilty.

[Resolved: That business be continued.]

Hon. J. M. BERINSON: I am advised that this question was referred to private senior counsel and his advice was that the onus remains on the commissioner to show that a fact was suppressed or that false facts were known to be false when included in an instrument. His conclusion was that no element of guilt is presumed until these matters are proved by the commissioner. Having said that, I am not in a position to comment in detail on other aspects of the latest Law Society document, but I want to make it clear nonetheless that I do not accept its conclusions. However, I reserve more detailed comment on them.

I have previously indicated to the House that the Stamp Act will in any event require a further Bill to be presented in the Budget session. If—and I heavily emphasise the word "if"—it emerges from our further consideration of matters put forward in the last few days, and for that matter other submissions which may come up between now and the Budget session, that further attention to the terminology of the Bill is required, that will be done.

I move now to the second aspect of Hon. Max Evans' motion, and that is the application of the Bill to the mining industry. Whatever else might be said today, it can hardly be said that it has come as a surprise to Mr Evans or to other members of this House that mining tenements are caught by the Bill. That very question was raised by Mr Evans and others in the course of our debate, and I made it very clear that mining tenements were caught and were intended to be caught by these provisions.

Let me briefly repeat what I said at the time: Mining tenements have always been treated in the same way as real property in terms of the application of the conveyancing rate established by the Stamp Act. That has always been the position, and as in the case of the transfer of real property, it is very difficult to perceive the principle in an argument that conveyancing duty ought to be applied to real property, including mining tenements, which have previously been held by individuals, but should not be applied because they have been held by companies in the specific circumstances which the Bill provides.

I refer here to the limiting provisions of the Bill. The property must comprise 80 per cent or more of the assets of the company being transferred; the value of the property must exceed $1 million; and more than 50 per cent of the shares must change hands within a 12-month period. Especially given those limitations, it is difficult to perceive what principle is being protected in the argument that it is all right to charge conveyancing duty if the property is held in one way, but it is not in order to impose that duty if the property is held in another way.

The effect of the Bill on mining tenements is to do no more than maintain uniformity in the treatment of real land and mining tenements for the purposes of the application of stamp duty. The question is, why should that uniformity not be maintained? So far I have not heard any answer in response to that question.

Hon. Neil Oliver: Your Prime Minister said he does not think there should be any imposition on the gold industry.

Hon. J. M. BERINSON: With due respect, that is a nonsensical argument. This is not a tax on the gold industry. It does not apply to the operations or to the production of any gold mine. It operates on the sale of property. If Mr Oliver wants to take that argument further, presumably he will next suggest that stamp duty applying to the transfer of shares in gold companies should not be subject to stamp duty. The interests of the gold mining industry might safely be left to the gold mining industry rather than to Hon. Neil Oliver. So far, and despite the gold mining industry's well-established capacity to put its own case well, even that industry has not gone to the extent of saying that the transfer of its shares should not be subject to stamp duty. I put it to Mr Oliver that his argument is quite irrelevant to the protection of the gold mining industry, which, I might add, no Government has done more to secure than the present Government in this State.

Hon. Mark Nevill: Well said!

Hon. J. M. BERINSON: One other aspect of what might be called the mining argument in this debate has relied on expressions of surprise about the application of the Bill to the sale of mining tenements. I have already indicated in general that mining tenements have always been treated in the same way as real property for the purposes of the application of stamp duty.

One more fact which might be mentioned in relation to the application of this Bill to the mining industry is this: I am advised by the Commissioner of State Taxation that following my statement in January and before the Bill was introduced in June, approximately 20 firms submitting documents for stamping were put on notice that the assessment of duty then made could be subject to reassessment with the passage of this amending Bill.

Hon. Max Evans: Mining tenements or real estate?

Hon. J. M. BERINSON: That is a very good question. The purpose of my raising these statistics was to advise the House that of those 20 applications, four involved mining transactions. One of them goes back to February, but I do not want to be held too finely to the dates.

It is rather surprising, as the Bill was drawn specifically to the attention of four companies involved in such transactions, that there should not have been some wider spreading of that knowledge within the mining industry. I do not say it did or did not happen. All I am saying is that it is rather surprising with particular transactions having been put on notice in this way that the event was not given wider currency within the industry.

I earlier asked why, given the background of uniform treatment of real estate and mining leases for stamp duty purposes, that uniformity should not be preserved.

I suppose one answer, if it represented the situation, might be because there is nothing to indicate that the holders of mining tenements are moving deliberately towards companies holding their tenements with stamp duty in mind. Unfortunately, that is not the case. Earlier reviews by the State Taxation Department indicated that just as there was an increasing tendency by the holders of substantial real estate to move to a structure where companies held these assets, that was also happening in the mining industry.

This was not the only means of avoiding stamp duty which has become necessary to counter and which our Bill does counter. Without going into specific details let me provide one example to the House. This is the example of a mining company sold for a sum in excess of $25 million which would, even under the 0.6 per cent share transfer duty, be liable for duty in the order of $125 000 to $130 000. It so manipulated its position around the days of its transfer that it ended up on face value claiming to be liable for something less than $500 in stamp duty. We have a transaction worth over $25 million which, under the old, most generous scheme, would have involved over $125 000 in duty and the company manipulating the circumstances and claiming that it is liable for less than $500 which is less than the owner of a modest home unit in one of our suburbs would be called upon to pay. One of those owners in a modest home unit would not be in the position to start transferring his or her property to companies and going into fancy manoeuvres of this kind.

A serious question is raised by the continued reservations expressed about the legislation we passed last week—who are we trying to protect? So far as the Government is concerned, we have absolutely no interest in attacking anybody. We are not looking to secure any oppressive or unreasonable revenue from any section of industry or the community. We simply say that everyone in the community ought to be looked to to pay their fair share. When it becomes necessary to pass amending legislation to prevent avoidance, it is our duty to do so.

Sitting suspended from 12.45 to 2.30 pm

HON. MAX EVANS (Metropolitan) [2.30 pm]: This legislation will raise additional revenue for the Government. It is a grab for more revenue under the guise of an attempt to stop tax avoidance. The Government will receive a bonus from the measure because I believe it was never intended to net all of the companies it will net. I am not trying to protect tax avoiders; I believe the Government has to stop companies deliberately avoiding the payment of stamp duty. However, many innocent companies have been caught in the net and I believe the legislation should be reconsidered for that reason.

I believe the rate of stamp duty proposed in the legislation is high. This is a transaction tax. As I said before, the revenue gained from stamp duty on conveyancing is nearly equal to the revenue obtained from iron ore royalties. In fact, this year I believe the amount gained from this tax will exceed iron ore royalties.

The public should be aware of the impact that this measure has on the economy. I believe the legislation was introduced for the wrong reasons. It is the Government's job to protect revenue. However, I cannot understand why this measure was not introduced when the rate was increased some years ago. Has it been introduced in this State because other States have implemented legislation to the same effect or was it introduced to gain more revenue?

I spoke with two gentlemen from the mining industry during the suspension for lunch. One of those gentlemen told me that his company will now have to find $2 million or $3 million to pay the stamp duty required by the Government. That will affect that company's ability to borrow and remain viable. These companies cannot cease operating. Much of the money that will be used to pay this retrospective tax has been set aside already for exploration purposes.

It is rubbish for the Government to say that only four mining companies were notified of the retrospective legislation and that those companies should have advised others in the industry. Many of these companies operate out of Kalgoorlie or out of Leonora. The heads of the firms spend much of their time in the field. I do not believe they had the opportunity to advise others in the industry of the pending legislation.

The Law Society of Western Australia pleaded for the deferral of the measure because it did not believe the legislation was well drafted. The tax is to be retrospective to 19 January. Many of the companies caught in this net accept the responsibility for having to pay the tax on future transactions and will set money aside for that purpose. However, I believe it is unrealistic for the Government to expect them to pay stamp duty for deals that have taken place already. Many of these companies will owe millions of dollars.

I have raised this urgency motion on behalf of the Law Society, the mining industry, and business people generally and to let them know that we are attempting to look after their interests. This Government is about gathering as much as it can in the way of taxes as quickly as possible. This device will do exactly that.

I will seek leave to withdraw my motion as I am required to do, Mr President. However, that withdrawal should in no way indicate to members that I did not mean everything I said. I hope the Minister will hold discussions about the impact of this legislation with the mining industry. I believe the industry deserves that.

Motion, by leave, withdrawn.

THE LATE SIR BILLY MACKIE SNEDDEN

Condolence

HON. G. E. MASTERS (West—Leader of the Opposition) [2.36 pm]:—by leave: Sir Billy Mackie Snedden died at the weekend and we offer our condolences to his wife and family. He was a great Liberal. Born in Perth in 1926 in very humble circumstances, he was the son of a Scottish stonemason and elevated himself to considerable heights in the political field.

He was elected to the House of Representatives in 1955 and served with great distinction as a member of that House for 27 years. He was appointed Leader of the Opposition and came to within an ace of becoming the Prime Minister of Australia when he lost the leadership of the Liberal Party to Malcolm Fraser. Appointed to the position of Speaker of the

House of Representatives, he was one of the most notable and respected Presiding Officers who ever held that office. He sought to lift that position above party politics and added dignity to it. He always felt that the position of Speaker of the House of Representatives should follow the traditions of the Speaker of the House of Commons. That was a worthy cause for him to pursue and I hope that his efforts will be successful one day and that the position of Presiding Officer will be placed above party politics.

Sir Billy Snedden retired in 1983 and I believe in all his time in Parliament he championed individual freedom and fought for the rights of the people in the community. He was known by people on all sides of politics, including members of the Labor Party and the National Party, as a very nice guy. His rise from a humble background was reflected in his performance in Parliament.

We pass the condolences of this House to his wife and family; he was a man of such integrity and respect that he will be sorely missed in the community and on the political scene, particularly by all members of the Liberal Party.

HON. J. M. BERINSON (North Central Metropolitan—Leader of the House) [2.41 pm]: I associate Government members with this condolence motion. I am sure that everyone who knew Sir Billy Snedden was sorry to hear of his sudden death.

I was associated with Sir Billy in the Federal Parliament during a time in which he was a Minister in successive Governments and later as Leader of the Opposition. As we have heard, he was later appointed as Speaker of the House of Representatives, and he had a distinguished career in that office as well.

On a more personal note, he and I had other things in common, despite the slight difference in our ages. For example, both of us were alumni of the same distinguished educational institution. Biographers these days seem keen to point to Perth Modern School as the educational source of political and community leaders. In fact, I am not referring to Modern School but to an even more distinguished, though rarely noted institution, and that is Highgate Primary State School, Bulwer Street, Highgate. Though I say so myself, that was a great training ground for generations of people who lived in that area. As is often noted, the Snedden family lived in Bulwer Street, and I often had occasion to pass that way.

We had one other thing in common and it is surprising that our respective biographers, of which I have none, have not mentioned it. In the very first competitive debate in which I participated, Billy Snedden was the leader of the other team—a team of young Liberals who were very active in the debating competition in those days. His team won but that is not the reason for my recalling the occasion now. What I do remember is that immediately after that debate he took the opportunity, as an experienced debater, to offer me some very good advice on the subject. That was the sort of instinctive and generous gesture on his part which at a personal level I found in later years to be typical of him. For those and many other reasons, I associate myself and Government members with this motion and express our condolences to Sir Billy Snedden's family.

THE PRESIDENT (Hon. Clive Griffiths): I also associate myself as the Presiding Officer of this House of Parliament with the sentiments expressed by Hon. Gordon Masters.

My knowledge of the late Sir Billy Mackie Snedden does not go back as far as that of some other members. My first real contact with him came about in 1977 when I was first elected as the Presiding Officer of this House. He had then been Speaker of the House of Representatives for one year and gave me great encouragement and assisted me in the early days in determining the approach that I should have in regard to this position in a House of the Parliament.

He was a great Western Australian, of course, which gives him a great number of pluses as far as we in this part of the country are concerned. He was the Speaker in the House of Representatives from 17 February 1976 until 1983. During that time, and at the many conferences and discussions I attended with him, he always portrayed and actively pursued the ideals he had with regard to the impartiality and integrity of a Presiding Officer of a House of Parliament.

He wrote several papers, which are now in the records, advocating the fact that Presiding Officers ought properly not to participate in political activities at all having once become the holder of such a position. He left behind many friends and acquaintances who regard the knowing of him and the friendship he offered as vital to their own lives.

I share in the expressions already put forward by those who have spoken in extending my sympathies to his family.

[Members stood in silence.]

VIDEO TAPES CLASSIFICATION AND CONTROL BILL

In Committee

The Chairman of Committees (Hon. D. J. Wordsworth) in the Chair; Hon. J. M. Berinson (Leader of the House) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Interpretation—

Hon. J. N. CALDWELL: I move an amendment—

> Page 3, after line 16—To insert the following—
>
> "restricted area" means an area of a public place that is set aside for the display of video tapes with a classification of "R", and that is clearly identifiable as such.

I believe this interpretation should be included in the Bill, because the words "restricted area" will bring to everybody's mind that "R"-classified videotapes should be restricted. I mentioned during the second reading debate that we had confirmation from the Premier that "R"-classified videos were to be put into a restricted area. To verify this, I read the letter dated 6 October 1983, signed by Mr Brian Burke—

> Videc material is currently subject to a rating system which includes the (R) restricted category. Such material cannot be openly displayed or shown to children.

This is exactly what this amendment is trying to achieve. It is important that video shops have a place which is set aside for restricted material.

I mentioned during the second reading debate that one of the major retailers of videotapes in the South Perth area was showing these tapes in full view of those passing by and looking in the window. I am pleased to announce that that shop has now been taken over by another person, who is taking all reasonable precautions not to have that material in the view of the public, and the restricted videos are now all kept in one place. I do not know whether they have foreseen this move, but I commend the amendment, and I hope the Leader of the House will see fit to verify it.

Hon. J. M. BERINSON: Governments at various times have given serious consideration to the proposal outlined in this amendment, but this Government does not support it because it has come to the conclusion that it would serve no useful purpose. The real problem in respect of this restricted material relates to the possibility of its supply to minors, and that is not assisted in any way by moving to a requirement for restricted areas. Control of the distribution of "R"-rated tapes can only be exercised effectively at the point of sale or hire, and that is a situation which is not really affected or helped by having a separate display area.

A further practical consideration arises from the question as to the harm that can arise from the display of these tapes in the general areas of the relevant stores. Whatever members might object to by way of the content of the tapes, the boxes holding them, and the illustrations on them, do not fall into that category, and they are required to meet certain requirements. I do not think it could reasonably be said that the display of the containers of these videos is in itself offensive, no matter what judgment one may make about the contents. For that reason, it appears that no useful purpose would be served by having restricted areas, while at the same time it could place an unnecessary burden on the people engaged in this industry.

I therefore oppose the amendment.

Hon. P. G. PENDAL: I signify my support for the amendment moved by Hon. John Caldwell, and make a couple of comments about the response given by the Leader of the House. He raised the question as to who would be the object of any harm attached to the display of video boxes. I suggest to him that if he has not had occasion to read some of them, it might be a good idea for him to do that, because while I acknowledge that we are dealing here with a value judgment and with something in respect of which it is very often difficult to draw the line because people have different attitudes to these things, I would seriously question the statement that there is nothing on the contents of these boxes which would cause any harm if it were displayed.

Hon. John Caldwell has canvassed some of the grounds. If we were dealing with a situation that involved video shops in considerable costs, then that would become another argument, although not one that I find compelling. It could be argued that video shops would have to bear the additional cost of providing partitioned areas, but from my fairly limited experience of my local video shop, I doubt whether any cost would be involved in supporting the amendment moved by Hon. John Caldwell.

There is another element to it which has so far not been answered in the debate, and that is that in 1984 the present Government supported the idea now being advanced by Hon. John Caldwell. I am not sure he is aware of that. I have in front of me at the moment a copy of *The National Times* of 15-21 June 1984, which is a full-page story outlining the Burke Government's activities in regard to "X" and "R"-rated videos. The report says that arising out of a Press conference called by the Premier a few days before that publication went to Press—

> ... Cabinet had decided to ban the sale and hire of "X"-rated video movies and force video shops to display "R"-rated movies in a restricted area.

That is exactly what Hon. John Caldwell seeks to do with this amendment.

I have been given some counter-arguments as to what might be produced by an amendment of this kind, and I do not propose to canvass them here because they have not been raised in the course of the debate, but it would seem that what we are dealing with is not a question of the use by adults of these videos, but rather their exposure to children. I made it clear in the course of my second reading contribution that I believed that adults ought to have the full right to choose what they see and hear.

The only qualification I place on that is the extent to which that material then becomes available to children or to minors, and this Bill goes to some pains to talk about minors, children and people under the age of 18 years—in fact so many classifications of people who are not adults that I find it somewhat confusing.

If one accepts on the one hand that, in the main, adults ought to be able to view what they want to view, that is okay as far as it goes. Mr Caldwell's amendment, as I understand it, attempts to look after the interests of many young people who use these stores, and for that reason I support the amendment.

Hon. J. N. CALDWELL: Hon. Phillip Pendal raised an important point in that this Bill has as its main purpose the protection of young children by keeping them away from illicit material. That, too, is the basis of this amendment, because we want to have this material in restricted areas where only a limited group of people can enter. It will be an area where the stores can keep these videos out of sight of children if that is the way adults or guardians would want it—their children need not enter those areas.

I also thought the amendment might let the Government off the hook, because if it does not accept the amendment it will have broken another promise, and we all know that Governments are apt to break promises. The Government clearly stated in 1983 that video stores should have a special area for the display of "R"-rated material. I think it is a commendable amendment.

Hon. P. G. PENDAL: This is the interpretation clause and Hon. John Caldwell has introduced a new definition into it. At a later point in the clause we will be dealing with definitions of unclassified material. I will take this opportunity to raise a matter that could have been raised in debate on clause 1 or now. The matter has arisen since the completion of the second reading a fortnight ago and it involves a question of some irony. The situation is that all members here, whether they be Liberal, Labor or National Party members, should understand how nonsensical have become the censorship laws of this country in the past 10 or 15 years, particularly as they apply to the sorts of definitions we are dealing with now and those we will deal with a little later in this clause.

I raise this specific matter as a result of a newspaper report that appeared at the time of the second reading debate in this place a fortnight ago. The article dealt with a comment from a member here to the effect that some members had been shocked by the violence on a video they had watched at Parliament House on the night of that second reading debate. That was a reference to those rather grotesque scenes that both Hon. John Caldwell and I outlined to members, because we were the members who were invited on the night to have a look at a series of extracts of scenes of violence in different videos.

In the course of that article a mistake occurred because it was believed by that journalist that we had been asked to watch "X"-rated material. In fact, within the hearing of Hon. John Caldwell, I had specifically asked the people who had arranged the viewing what classification of films we were watching and I was told that they were extracts from "R"-rated films. It was indicated in the Press article that we had been watching "X"-rated material.

I was approached from, of all people, someone who runs what is euphemistically called an adult shop who challenged me to explain what the relevance of "X"-rated videos had to the debate that was then taking place. I pointed out to him that it was not a case of our watching

"X"-rated material but of "R"-rated material, which was of particular relevance to the Bill we were debating.

The irony is that this person who runs an adult sex shop himself took exception to the level of violence contained in the so-called modified films being shown on Perth television. I thought there was some irony in someone of whom we have a certain image running an adult sex shop with the range of products they display and sell making this complaint. He was taking legislators to task about how it was that we could impose these sorts of restrictions on sex shops, restrictions with which he was happy to oblige, yet we still permitted quite horrific material to be shown at prime time on normal commercial television when children could be watching.

He posed a question which is relevant to the definitions we are dealing with, because somehow or other the definitions and the whole of the classification system are not relevant to this community if we bear in mind the question he posed. Referring to the debate here on 16 June he asked—

> Did the debate cover the facts that children have access to television when "modified" versions of "horror" movies are shown at peak viewing times, when many children are not under supervision. (Not all children under the age of 18 are sent to bed at 8.30 pm.) The first two minutes of "Children of the Corn" shown very recently on television, was of children obviously under the age of 18, cutting throats and drinking blood.

I am not sure whether that is accepted as a normal pastime among kids these days, but I doubt that many people would think so. Certainly I recall a helpful interjection at the time from Hon. Tom Helm to the effect that no Government member would suggest that the sort of level of violence I was outlining that Hon. John Caldwell and I had watched that night was acceptable—and I had given a rather vivid description of what we had seen, because the lady had said, "You people don't know what's on the market." I said that I did because I go down to the local video shop with my children and check on what they choose. But she insisted that we really did not know.

That is why we exposed ourselves to that sort of material. She was right. The stuff that I saw and subsequently described to the Committee was not only revolting but I think it would probably be quite harmful to most, if not all, children and a few adults as well.

I draw to the attention of the House the fact that somewhere along the line the classification system for films and videos and material of that kind in respect of moving pictures has broken down to the extent that it has become meaningless. I say "meaningless" advisedly because we had the situation of a sex shop proprietor himself saying to me, "Goodness, why did the authorities allow the 'The Children of the Corn' in its so-called modified version to appear on the TV screen?" It was his view that the material should never have been shown at prime time on the television screen. He further made the point—and I think it is relevant because of what we are doing in respect of definitions in this Bill—that under existing laws children under 18 can go into a video shop and hire "R"-rated material but children under 18 cannot go into his sex shop. As I understand it there are quite strict laws that apply to minors going onto the premises of a so-called sex shop.

If nothing else the situation that grew out of the second reading debate shows up the extraordinary extent to which the classification of films and videos in this country is not coping with what really is a reflection of the community's needs. In the course of that second reading debate I pointed out what I thought was a viable alternative to test what really the community thinks—whether the community's opinions on these matters is miles in front or behind what the censors claim or perceive community opinion to be.

I can see the day coming when we will reach the stage across Australia, and in Governments both Federal and State, where the whole of that classification system will need to be reviewed very fundamentally on that one point; that is, what does reflect true community opinion on these matters.

Hon. J. M. BERINSON: I have not denied for a moment that the Government in earlier days was attracted to a proposition of this kind. What I tried to indicate was that further consideration has led to the conclusion that no practical purpose would be served by implementing this requirement. There is no great question or principle or ideology involved. There is just a question of whether this further element or regulation would do anything useful. The Government's conclusion is that it would not.

Indeed, after listening to Hon. John Caldwell and Hon. Phillip Pendal, I am still left without any indication as to what harm would be done to a minor by looking at the cover of a video package. That is what is involved in this amendment—whether the covers of those containers are to be kept out of sight to some extent or not. Nothing else hangs on it. There is nothing in this provision that would make the supervision of the sale or hire of those videos to minors any more effective. As I have tried to indicate before, it is the sale or hire that constitutes the important issue here and not the mere display.

Hon. P. G. PENDAL: Under the Indecent Publications and Articles Act the open display of indecent publications is prohibited in a shop. The parallel in this case is the same. One could ask what the harm is, but presumably the Government of the day which asked Parliament to restrict the display of indecent publications so that they were not within the viewing reach of minors dealt with this matter.

Hon. John Caldwell is seeking to extend that situation of the printed material being restricted to videos as well. Therefore whatever arguments were proposed by Parliament at the time the Indecent Publications and Articles Act was amended in the first place are prompting Hon. John Caldwell to move this amendment in the second place, and me to support him.

There is a second string to that bow; that is, what is a display if it is not an inducement to people to go further and hire or buy a video? If we are talking about adults, that is a different kettle of fish; but that is not what Hon. John Caldwell is worried about. Therefore for the Leader of the House to say that he cannot see what possible harm there is in the cover, is curious. Let me tell him that the covers of some of these videos contain enough information to make a wharfie blush.

Hon. D. K. Dans: It was the same with the books.

Hon. P. G. PENDAL: I agree. Indeed, the member who interjected was probably one of the Ministers of the time who was involved in the question of display of printed material. However, the Leader of the House should not argue that there is no harm in the displays of the front cover of the videos if, at the same time, the law, which was amended several years ago, says that one cannot display the front covers of restricted publications of another kind, albeit the printed word.

Hon. John Halden interjected.

Hon. P. G. PENDAL: The member's argument is a little convoluted, but if I followed the point he made, it simply confirms the suspicions that I have. I would remind the member that less than four years ago the Burke Government intended that a similar amendment should be a part of the legislation. Of course we now have a Bill before us from which that provision has been taken even after the Burke Cabinet decided that it should go in. I respectfully suggest that none of the arguments put by the Government side really holds a great deal of water. The fact remains that this is a good amendment. Newsagents, for example, are not under great difficulty in having to keep their restricted publications away from the reach of children. I repeat: What an adult seeks, if it is within our own censorship laws, is up to that adult, but this will do nothing more than provide a buffer for videos in the same way that there was a buffer zone in relation to children and their access to printed material.

Hon. J. M. BERINSON: Not much hangs on it, so I will be brief. The fact is that there are at least two important differences between restricted magazines and "R"-rated videos. In the first place, restricted magazines can have quite explicit covers in a way which videos do not.

Hon. P. G. Pendal: I invite you to have a look at them.

Hon. J. M. BERINSON: The honourable member may have a lot of time in which to indulge himself in a review of this material.

Hon. P. G. Pendal: I would have thought that if one wanted to get to the facts of this matter, one would have to investigate all aspects of it. To say that the covers of those videos are not explicit is to indicate that one is blind.

Hon. J. M. BERINSON: The situation is that the advertising of videos, including what appears on their covers, is open to control under clause 10 of this Bill and to the other procedures which operate.

That, however, is not the main point I was making. If a magazine is on open display, it is available to minors and others to actually open the magazine and to view its contents. That cannot be done with videos; and it is in that difference that I believe it is possible to draw a realistic and valid distinction between the two.

Hon. J. N. CALDWELL: I beg to differ with the Leader of the House that the illustrations on the covers of videos would not have a detrimental affect on children. It must have an effect on young people to see illustrations of

women with their throats cut and with blood streaming down the front of them, and scenes of naked ladies and men. The National Party is of the opinion that is is imperative that this amendment be accepted.

Amendment put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before appointing the tellers I give my vote with the Ayes.

Division resulted as follows—

Ayes 12

Hon. C J. Bell	Hon. N. F. Moore
Hon. J. N. Caldwell	Hon. Neil Oliver
Hon. E. J. Charlton	Hon. P. G. Pendal
Hon. Max Evans	Hon. John Williams
Hon. A. A. Lewis	Hon. D. J. Wordsworth
Hon. G. E. Masters	Hon. V. J. Ferry *(Teller)*

Noes 11

Hon. J. M. Berinson	Hon. Kay Hallahan
Hon. T. G. Butler	Hon. Robert Hetherington
Hon. D. K. Dans	Hon. B. L. Jones
Hon. Graham Edwards	Hon. Garry Kelly
	Hon. Doug Wenn
Hon. John Halden	Hon. Fred McKenzie *(Teller)*

Pairs

Ayes	Noes
Hon. Margaret McAleer	Hon. Tom Stephens
	Hon. Mark Nevill
Hon. P. H. Lockyer	Hon. J. M. Brown
Hon. W. N. Stretch	Hon. S. M. Piantadosi
Hon. Tom McNeil	Hon. Tom Helm
Hon. H. W. Gayfer	

Amendment thus passed.

Clause, as amended, put and passed.

Clause 4: Report of Committee—

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

> Page 4, line 20—To insert after "may" the words ", and on the application of any adult person shall,".

There has been a fair bit of debate in this country, not only in this State, but across Australia, about the right of the ordinary citizen to lodge an appeal against the classification of a censor. The passage of this amendment would give individual citizens the right to take up with the Minister for The Arts any matters arising out of the administration of this Act.

Members will be aware that clause 4, as it stands, reads that the Minister may refer to a committee appointed under the Indecent Publications and Articles Act any matters arising out of the administration of this Act. It has been argued that in fact it gives people the right of appeal anyway in the sense that they can make some sort of approach to the Minister. However, the word "may" means that the Minister decides whether the complaint will be passed on to the indecent publications committee.

My amendment retains the Minister's right of discretion and, therefore, I am not seeking to interfere with the Government's intentions because the Minister will continue to have that discretion. However, it will, on the application of any adult person, be mandatory for the Minister to refer the matter to the indecent publications committee. I would have thought that this attitude is the fundamental right of any citizen in this country in his or her dealings with the law or with the Civil Service.

I became interested in this matter last year when, as Opposition spokesman for the arts, I made some comments about the controversy surrounding the release of a film titled *Hail Mary*. This film was the subject of a lot of controversy on the part of many Australians who believed it was blasphemous. Whether it was or was not, I do not know because I did not view it and did not have the opportunity to judge it. It is a lesson to members of the Chamber to ensure that we do not deny ordinary citizens the right to object against the classification of films and videos. In this case we are dealing only with videos.

At that time a Roman Catholic priest and an Anglican minister jointly took an action to the Federal Court on the grounds that the film was blasphemous and therefore offended against the ordinary decencies of the community and should not be distributed. On 4 August last year the Federal Court ruled that the application of those ministers of religion could not be heard on the grounds that they had no legal standing—they appeared to be the key words—to challenge a ruling by the Federal censorship board.

I subsequently took that matter up with the Minister for The Arts by asking him whether the Federal law which was being applied in that instance was a reflection of the State law. In other words, was the ordinary citizen of Western Australia also denied this legal standing to take such a challenge?

Without going through the detail of the correspondence between Mr Parker and me, the long and short of it was that ordinary citizens had no such right under that law. We were talking about the provisions of the Censorship of Films Act. This is a film which could be displayed in a public theatre. It seemed to me, when this Bill relating to videos came before the Parliament, we were, in effect, going to cre-

ate some deficiency in the State law to do with videos which currently existed under the Federal law. We would deny the ordinary people the opportunity to make that objection.

I can well understand the reluctance of the Minister and the censorship authorities to give what they see as an open cheque to people who want to object. How one overcomes that I am not quite sure. Someone may make mischievous use of that right of appeal, but I put it to the Government that that is not my problem to sort out. There are presumably many other Statutes which give citizens the right of appeal against X, Y, or Z matters in which it is possible to inject a safeguard against frivolous use. The Minister for The Arts replied to me by saying it could have severe repercussions if we were to make that an open cheque.

I am prepared to accept that, but I am not sure how to get around it. Laws are designed to do the best they can today, and in the event that those laws are found to be deficient in a year or so, let us do something about that deficiency at that time. If we find people using this clause in a mischievous or frivolous way, let us look at it in the light of those circumstances. That is an argument that we hear from the Leader of the House a dozen times a week in relation to fears that we have about legislation. The message is, "Let us see what happens six months or 12 months down the track. If those fears come to fruition we will look at it then."

I cannot think of a more fundamental right which an individual citizen has than to have his voice heard on matters of this kind. Notwithstanding the difficulties it might pose, I ask the Committee to support it. It is not a gargantuan step we are asking people to take, but something which is fairly tentative at this stage to see what good it might do. If it does good, so be it. If difficulties arise, let us correct them at the time.

Hon. J. M. BERINSON: In reply to Hon. Phillip Pendal's amendment, the existing provision in clause 4 requires the Minister to refer matters to the committee as he thinks necessary or appropriate. This provision is modelled on the Indecent Publications and Articles Act and a similar practice affecting the Censorship of Films Act.

These provisions and arrangements have worked well over a number of years, and individual or community concerns raised with the Minister of the day have frequently been dealt with under this system. Recent examples include the film Mr Pendal mentioned, *Hail Mary*, and the videotape *Silent Night Deadly Night*. Concerns about many other so-called adult publications have also been dealt with.

To make it compulsory for the Minister to refer any matter which may be raised by any person about videotape classifications, advertisements supplied for exhibition, or the use of other associated products would create an unwieldy situation which could affect the efficient administration of a scheme based on national uniformity. Mr Pendal acknowledged that there could well be difficulties of an administrative kind, but he did not acknowledge just how great these difficulties might be. Given the strength of views of various members of the community, it is not going too far to say that either the Minister or the committee, or both, could well be reduced to having little else to do than pursue the complaints about a single production.

It is acknowledged from time to time that videotapes may be released which offend individuals or sectional groups. However, it has been shown over the years and under successive Governments that the established system of discretionary review by the Minister responsible for the administration of the Act has been effective. If the amendment was adopted, a statutory system of review which could be initiated by any person at any time, requiring separate investigation and report by a committee, followed by the need for individual decision by a Minister, would be impractical.

Finally, Commonwealth and State Ministers and officials responsible for censorship matters meet regularly to discuss classification guidelines, the administration of censorship legislation, maintenance of the uniform scheme and matters of public concern. Procedures are frequently reviewed in the light of representations made by the public. Persons unhappy with a decision of the censor or concerned about any other matters arising from the Act can continue to raise such matters with the responsible department or the responsible Minister, and the view of the Government is that the Minister should continue to have the discretion which is now reposed in him to deal with the matter in the most appropriate way. For obvious reasons, the Government opposes this amendment.

Hon. J. N. CALDWELL: The National Party is inclined to support this amendment, with some possible reservations. This is basically because the amendment says that any person may refer to the committee any matters arising out

of the administration of this Act. We were inclined to think that that was rather broad. Possibly people would appeal to the Minister or to the committee only on indecent publications because of censorship, or if they disagreed with that censorship.

The National Party has proposed an amendment to clause 13 which is similar to this. It refers only to the classification of videos. We feel this would possibly be a better area to amend, and a person could appeal with the proviso that he pays the fee.

Before I came to this place I believe Hon. Des Dans was the Minister for The Arts. I have it on authority that some 50-odd videos were given to him to look into with a view to reclassification.

I do not know whether anything was done about these videos. The people concerned were not told of the outcome. Also, I do not know whether it was because of the extra workload of Hon. Des Dans or perhaps because of overseas holidays that he was not able to do it, but maybe the Leader of the House could comment on the two amendments—the one from the Liberal Party and the one from the National Party concerning clause 13.

Hon. P. G. PENDAL: I agree with Hon. John Caldwell that the amendment I have moved is broad and that indeed it covers everything beyond classification, and it is intended to be broad. There were several parts in the Bill where one could seek to inject some form of appeal of the type I envisage and it seems to me still that clause 4 is the best place to do that. I make no apology for the fact that it is broad in its definition. Secondly, on the question of whether or not individuals ought to have that right I suggest that it is something that will perhaps have a salutary effect on those responsible for the classifications themselves, because really, up until this point, they did not need to reflect community opinion. I have no doubt that conscientiously they sought to reflect what they believe the community opinion is, but if they did not happen to do that the community would have very little recourse to alter that decision.

As both the Leader of the House and Hon. John Caldwell have said, it is true that the clause currently proposed by the Government gives people the right to raise a matter with the Minister; but I repeat that if the Minister decides there is no merit in it he can tear the letter up, put it in the bin, and say no more about it. Certainly most responsible Ministers would not do that but there are plenty of people in the community who think that those who have been responsible for censorship matters have not been very responsible, either, in the sort of stuff they have unleashed. Therefore I do not resile in any way from the amendment I have moved, and I ask members to support it.

Hon. J. M. BERINSON: I do not want to anticipate the debate on clause 13 although Mr Caldwell has really invited that with his question. Two separate issues are raised: One as to whether we should open the way to any person taking the suggested action at any time on any aspect of this legislation, or whether that very broad power in members of the public should be restricted to classification questions. If I am to be given a choice I would say at least we want it restricted to the classification question, but I do not want to mislead the honourable member. The truth is that I think there are very serious objections to taking that course as well.

For current purposes, however, we can only apply ourselves to Mr Pendal's amendment and I believe that this, if adopted, really would open the way to a situation where the effectiveness of the Bill could be negated by a relatively small number of people with very strong views being not prepared ever to take no for an answer. We have had the experience in many areas of Government that in the last resort where we are dealing with questions of judgment we do have to have an end point to the process. We will have no such end point while the avenues are open for any person to make any complaint at any time on any aspect in this quite contentious area and to have that process repeated by other persons if the answer is not acceptable. By the adoption of this amendment, we would really put difficulties in the way of the proper administration of the censorship of videos that could quickly reduce its effectiveness altogether.

Sitting suspended from 3.45 to 4.00 pm

Progress

Progress reported and leave given to sit again, on motion by Hon. J. M. Berinson (Leader of the House).

OCCUPATIONAL HEALTH, SAFETY AND WELFARE AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to amendments Nos 1 to 9 and Nos 11 to 16 made by the Council, and had disagreed to No. 10.

In Committee

The Deputy Chairman of Committees (Hon. John Williams) in the Chair; Hon. J. M. Berinson (Attorney General) in charge of the Bill.

Amendment No 10 made by the Council, to which amendment the Assembly has disagreed, was as follows—

No 10.

Page 15, lines 9 to 25 — To delete the lines and substitute the following—

30. (1) Where an employer is given notice under section 29 requiring the election of a health and safety representative, he shall, within 21 days of being given the notice—

(a) inform any trade union which has, or any trade unions which have, members amongst the employees who work at that workplace of the notice;

(b) invite the employees to appoint a delegate or delegates from amongst their number to represent them; and

(c) consult with the delegate or delegates appointed under paragraph (b) as to the matters requiring to be determined under this section.

The Assembly's reasons for disagreeing to the Council's amendment were as follows—

The Occupational Health, Safety and Welfare Bill and in particular Clause 30(1) was the subject of extensive debate within the tripartite Occupational Health, Safety and Welfare Commission and Legislative Working Group established by that Commission.

The position contained and agreed upon reflected the nature and intent of those discussions within those two groups.

Additional to the TLC and CWAI agreeing to that position, the Chamber of Commerce also agreed to the clauses as presented to the Legislative Council.

The original clause was constructed in such a way, by practitioners in the industrial relations area, to avoid the possibility of demarcation disputes. The amendment proposed by the Legislative Council removes that safeguard and the possibility of demarcation disputes becomes a real issue.

The Legislative Council amendment introduces the likelihood that hazards peculiar to minority type occupations will not be clearly presented or be missed entirely in the consultation phase.

The above is also a possibility in respect to shift and migrant workers.

Fails to recognise that unions do have a role in the formulation of health, safety and welfare issues in the workplace.

Hon. J. M. BERINSON: I move—

That amendment No 10 made by the Council be not insisted on.

Members will gather from the message from the Legislative Assembly that by far the majority of amendments carried in this Council have been accepted by the other place and that includes, in particular, the amendment to proposed section 25 which can fairly be described as the most contentious of the issues from the Council's point of view.

I have nothing to add to the Assembly's reasons why we should not insist on amendment No 10. We canvassed that area very thoroughly in the course of debate and the relevant issues have again been summarised by the Assembly's committee of reasons.

I urge the Chamber, having reached the current stage of our consideration in both Houses, not to insist on this amendment. It is not a useful or practical amendment and carries with it the potential for the difficulty which we want to avoid.

Hon. G. E. MASTERS: The Liberal Party does insist on the amendment and will oppose the Leader's motion to not insist on it. Clause 30 was debated at some length and it would be better not to go over those arguments again. Nevertheless, I am forced to make strong reference to past debate and the reasons for the amendment.

This amendment is a very important part of the legislation and does not, in any way, detract from the Bill. I cannot accept the reasons put forward by the Legislative Assembly. The Bill is a result of tripartite negotiations with the peak counsels of the union and employer groups of the Government. Nevertheless there are some aspects of the legislation that need to be recanvassed.

Members of Parliament have a responsibility not just to take account of the peak groups but also other smaller and less recognised groups in the community. The small business groups have expressed some concern. We cannot brush those people aside.

Hon. Garry Kelly interjected.

Hon. G. E. MASTERS: I am sure the member would not suggest that their views should not be reflected in this place. It is the right of every member to represent the views of those people, whether members in this place support him or not. If Hon. Garry Kelly made similar representations I would respect him for it. It is his right and duty to do that in this Parliament.

I am doing that now. No doubt Mr Kelly will make his speech in a few moments. I am saying that other people and groups have a strong interest and a deep concern about what is proposed in this legislation. I have serious reservations, and I understand from discussions with the Chamber of Commerce in the past hour that it has strong reservations about some parts of proposed section 30. I heard that in another place claims were made that the Chamber of Commerce fully supported this clause as it stands. That is just not true, and I hope Hon. Eric Charlton had the opportunity to talk to the chamber in the last few minutes as it was trying to contact him. The chamber is concerned about new section 30, and I will reflect that concern.

Let us go through this carefully: What the Government is proposing is that an employer be given notice requiring the election of a health and safety representative in his workplace. Within 21 days he must invite delegates in accordance with proposed new section 30(2) and (3) and must consult them on certain matters which are set out in new subsection (4). New subsection (2) says that where any of the employees who work at a workplace is not a member of a trade union, those employees may, upon being invited under subsection (1) to do so, appoint a delegate from amongst their number to represent them. Subsection (3) is the important part, and it says that where any of the employees is a member of a trade union that trade union, or where there are two or more such trade unions, each of those trade unions—not the employees—may upon being invited under subsection (1) to do so, appoint a delegate from amongst the members who work at the workplace to represent them.

So the employer is advised of the requirement for a health and safety inspector and if he has a work force of 20, of whom six are unionists, he invites the non-union members—14 of them—to elect a delegate from among their number. At the same time he invites the six trade unionists to do the same. There may be three from one union, the Transport Workers Union, for example, and three from another such as the Electrical Trades Union. Those workers do not nominate a delegate; their trade union does. So if there are three TWU workers that union will nominate a delegate. That seems wrong to me. We say the work force—the people in the workplace—should be able to elect their own delegates.

A non-unionist is not a second-class citizen. He has as much right to make a decision and express a point of view as a union member, and vice versa. There is no argument about that at all. The amendment pursued in this Chamber said that where an employer is required to initiate proceedings to appoint a health and safety representative the first step is to get a delegate. We say where there is a member or members of a union in the workplace the union will be advised by the employer so that if he has three TWU members he will advise that union of a requirement for a health and safety representative. He will initiate the process, and the union, having been advised, will talk to its members in the workplace.

The employer then invites the union and non-union employees to elect a delegate or delegates. He will say, "Look, I have been asked to initiate proceedings to establish a health and safety representative in the workplace. I invite you to name a delegate or delegates." That seems reasonable to me. The employer must then consult the delegates on the matters to be determined under subsection (4).

What is wrong with that? Surely there can be no argument that the work force should be entitled to make the decision. At present, if there are any union members in the workplace the trade unions, not the workers, will nominate a delegate. That is completely wrong.

Hon. T. G. Butler: Why is it wrong?

Hon. G. E. MASTERS: We are talking about democracy and people having the right to vote. Hon. Tom Butler has said over a long time that he supports one-vote-one-value, and that people who are voting ought to have equal representation and an equal vote. This Bill does not allow that to happen. There may be 20 workers in a workplace and only a small num-

ber of them are union members. Why is it fair for 14 or 15 workers to have one delegate and for two unions represented by six people to have one delegate each? That is quite wrong.

Hon. T. G. Butler: Why is it wrong?

Hon. G. E. MASTERS: Surely there can be no argument that the work force should make its own decisions. Why should the non-union members have less representation than union members? I refer members to subsection (2). In country areas there may be a minority of members in the workplace who are union members. If union members have a majority I have no argument; the union members will outnumber the non-union members, and will have the balance of power, and they will nominate the people they seek to promote as delegates. I am not saying a union and its members should not have a fair say in the appointment of health and safety representatives. If a work force votes in all union members as delegates, that is fine. I do not mind that at all. But it is an unfair proposition that the non-union section of the work force should be rated as second-class and not have the voting power of union members. It is all lopsided.

I accept that in many workplaces there will be strong union representation, and in many cases closed shops, so there can be no argument about who will be delegates and who will not be. However, there are a large number of smaller workplaces, and I do not think the tripartite group has given enough consideration to small employers, particularly in country areas.

We must bear in mind that proposed section 30 will affect not only large and small businesses in the metropolitan area, but every small country town—Narrogin, Northam, and Albany; and some of the much smaller towns like Dowerin, for example, and bigger northern towns like Geraldton. Every business in every town, big or small, will be affected by this proposition. It is perfectly reasonable for the Liberal Party to persist with the amendment it has put forward. It says that where there is a requirement for a health and safety representative to be appointed in a workplace a simple direction is given to the employer. First and foremost he must notify the union, if there are union members in the workplace, that certain proceedings will take place.

He then invites all the employees, regardless of their nationality, the union to which they belong, or the position they hold in the workplace, to appoint a delegate or a number of delegates, whether unionists or non-unionists. It is a democratic process—a free vote—and having done that the employer consults with those delegates.

Hon. T. G. Butler: Have a look at subsection (4).

Hon. G. E. MASTERS: I am coming to that. Members must bear in mind that we are discussing the reality of proposed new sections 31, 32 and 33. Having gone through that process the Government says that preference will be given to union members in the workplace regardless of whether they are a small or large number.

Once the delegates have been appointed it is up to them to consider how the safety representative will be appointed. The matters required to be determined by the delegates are, first, the number of health and safety representatives to be elected; and I agree with that. I also agree that the delegates will determine what training would be adequate.

Hon. T. G. Butler: What is wrong with the trade union movement appointing someone to do that?

Hon. G. E. MASTERS: Nothing.

Hon. T. G. Butler: Why are you opposing the amendment?

The DEPUTY CHAIRMAN (Hon. John Williams): I remind honourable members that we can conclude the debate more quickly without continual interjections. This is not a conversation, it is a proper Committee debate.

Hon. G. E. MASTERS: The most crucial point to the whole debate is that where none of the employees who work at the workplace is a member of a trade union the employees can elect a health and safety representative. They will also determine now many representatives will be elected. For example, if there were 20 employees in a workplace and not one of them was a member of the trade union the delegates could decide who would conduct the ballot. However, if one of the employees was a member of the trade union the delegates do not have any choice. In that case, the trade union will conduct the ballot regardless of what the employees or the delegates want. It is stated quite clearly that when none of the employees is a member of the trade union then, and only then, can delegates decide how the election of a health and safety representative will be conducted. It is wrong, and I tried to make that point during the debate on this Bill in this Chamber.

The delegates can decide how the ballot will be conducted. In the larger workplaces most of the delegates will be members of the trade union and obviously they will move for the trade union to conduct the ballot. I agree with that. It is their choice.

It could easily happen in a workplace comprising between 12 and 20 employees, especially in the country areas, that they will want the ballot conducted in a different way. Perhaps 19 out of the 20 employees will not want the trade union to conduct the ballot. They may want someone else to conduct the ballot such as the employer or the commission. Hon. Tom Butler is shaking his head and obviously he disagrees with me.

Hon. T. G. Butler: I disagree with what you say.

Hon. G. E. MASTERS: That is how I interpret the provision and perhaps the Leader of the House will advise me if I am wrong.

The provision states that in the case of a union member being an employee of the workplace the trade union is entitled to conduct the ballot. However, where there are no unionists in the workplace, the employees can decide who they want to conduct the ballot. The employees in the workplace should be able to decide for themselves. I do not care whether the trade union, the commission or anyone else conducts the ballot, but the employees should be able to decide for themselves.

I have a fear about what will happen with this legislation. The legislation not only applies to the metropolitan area or to big business, it also applies to small business whether it be in the city or in the country. I ask members to think about the proposition of a workplace in a country town which has a stable work force and a small proportion of the employees belong to a trade union. The last thing that the employer in that country business would want is to be forced to invite the trade union to conduct the ballot when the employees did not want it.

I seriously urge members to consider the amendment the Liberal Party has put forward. It is perfectly reasonable. I point out that there is no intention whatsoever on the part of the Liberal Party to prevent the trade union movement being involved. In most cases, it will be involved. At the end of the day the people affected, the men and women in the workplace, should be able to make their own decision. It is a simple matter of whether the work force can vote for its own delegate. Having done that, it can decide how the ballot shall be conducted. For the reasons I have given I can see no reason for the Government to persist with this amendment.

Hon. E. J. CHARLTON: As members are obviously aware, Hon. H. W. Gayfer handled the previous debate on this Bill on behalf of the National Party. As he is unable to be present today, he has given me his thoughts on this matter.

The situation is that the host of amendments moved in this place have been accepted by the Government in another place except for Council's amendment No. 10. It is important that members are aware that the debate on this Bill was not only on one particular clause, but also on a number of clauses that were directly related to other proposals in the Bill.

The Leader of the Opposition made some comments regarding the number of employees in small business. As I mentioned earlier, we must take into consideration that the National Party has included an amendment whereby a minimum of 10 employees must be involved before other parts of this Bill can apply.

Another point is the fact that secret ballots are involved and that is an important aspect that all members must take on board. The National Party did not look at this clause in isolation when the Bill was debated in this Chamber. Proposed new section 25 was the most important part of the debate and the National Party made its position clear. It said that it would not agree with proposed new section remaining in the Bill.

The National Party is now of the opinion that the safeguards that have been introduced into the Bill are satisfactory. We must bear in mind that the Committee debated this point long and hard.

I say to the Leader of the Opposition that I did not receive any communication from the Chamber of Commerce, although I was given to understand earlier in the day that employer groups such as the Confederation of Western Australian Industry, the Chamber of Commerce, and others, had agreed that while they may not have been happy in total with the content of the Bill, they would rather have the Bill proceed in the present form, with the other amendments having been accepted by the Government and amendment No 10 being replaced by the original clause, than to carrying on having the Bill debated at length and not getting any of the safeguards that they believe are so important.

The National Party has come to the conclusion that, with all the other amendments that have been put in place, particularly regarding new section 25, 10 or more employees are required before a health and safety committee comes into being. Regarding secret ballots, our decision has been based in the final analysis on the comments that have been put to us by those respective employer groups.

Members of Parliament have the responsibility of making decisions that will be binding on the community, and in this case on employers and employees, and when employer groups say they are not 100 per cent happy with our proposals but believe they are the best way to go under the circumstances, then I do not see why members of Parliament should say they are going to make a decision here because they think employers and employees are incapable of looking after themselves. This attitude has gone right through society in many ways over the last couple of years; it is always someone else's fault that something is put into place. If employers or employees are going to sit back and accept something that we have implemented, and then come back and grizzle afterwards and say that it is not working, I will be the first one to say to them that they came to us on more than one occasion and said that this was what they wanted.

So with those comments, the National Party will not insist on the amendment that was moved in this Chamber earlier.

Hon. G. E. MASTERS: The amendment that the Liberal Party put forward—and I would urge Hon. Eric Charlton to consider this matter—makes absolutely no difference to the operation of the legislation and does not affect in any way at all its health and safety aspects. What the amendment does is address a particular problem that has been voiced by a number of employer groups. It is no good to say, as Hon. Eric Charlton did, that the employer groups have said that this is what they want, and they cannot come back later and grizzle and say they do not like it. If significant numbers of people in the community have strong reservations about this provision, then surely it is our responsibility to try to adjust it in a way that will be acceptable, reasonable and fair, but at the same time will not endanger the legislation. This amendment certainly will not do that.

Hon. V. J. Ferry: It is a matter of principle.

Hon. G. E. MASTERS: That is right. A number of people have been very critical of this provision, and there will be many people who will have no understanding whatsoever of it at the moment. Many country businesses, in particular, will not have the first idea of what this legislation is about until it suddenly hits them.

I would not argue at all about the fact that health and safety matters are very important and that the position of unions in the workplace is also important. All I am saying is that we have to be fair, and our main concern should be the improvement of health and safety in the workplace and the rights of employees to decide the best way to protect their own health and safety. It should not be a case of someone from outside the workplace, such as from Trades Hall, seeking under this provision to have a privileged position and outnumber the non-union workers. The employees themselves should decide who their representatives will be.

Hon. Eric Charlton would know some of the small businesses in the country that will be affected. It would not satisfy an employer in a country town who has a small number of employees in his workplace if one of his employees, who just happened to be a union member, said that there should be a health and safety representative and then invited the union into the workplace to decide who should be the union delegate and how the ballot would be conducted. If only one member of the work force is a union member, then the other employees will have absolutely no right to say who should conduct the ballot.

Hon. T. G. Butler: Are you reading the same Bill as I am?

Hon. G. E. MASTERS: Yes, I am. The member must understand that is exactly what proposed section 30(4)(c) says. It deals with the matters required to be determined in relation to the election of a health and safety representative, and says that where none of the employees who work at the workplace is a member of a trade union, then those delegates can decide the person by whom, and the manner in which, the election will be conducted. So where there is one union member, the other employees cannot make that decision.

Hon. T. G. Butler: You are a modern day Lewis Carroll. That is absolute rubbish.

Hon. J. M. Berinson: Section 30(1) is not under discussion.

Hon. G. E. MASTERS: No. We are dealing with section 30(4)(c).

Paragraph (c) refers to the conducting of ballots and says that if a member of a workplace is a member of a union, the rest of the employees cannot decide on the manner of the ballot.

Hon. T. G. Butler: It doesn't.

Hon. G. E. MASTERS: Then what is the point of having in there the words "where none of the employees who work at a workplace is a member of a trade union"? Let us just say the employees can decide on the person and on the manner in which the election is to be conducted.

Hon. T. G. Butler: What about reading the preamble?

The DEPUTY CHAIRMAN (Hon. John Williams): Perhaps this Butler-Masters conversation has gone a little too far. I think Hon. Gordon Masters is provoking Hon. Tom Butler and vice versa. We will get through this debate much more quickly and efficiently if members stop interjecting and wait for the call to rebut any comments with which they disagree.

Hon. G. E. MASTERS: I stand by what I have said: Where there is a single member of a trade union in the workplace, the employer and the delegates who meet will have no choice but to accept that that one person's trade union will conduct the ballot and decide on the manner of electing the health and safety representative. That is the legal opinion we received just before lunch and that is the view conveyed to me just an hour ago of the chamber of commerce.

Hon. J. M. Berinson: But that is under proposed section 31.

Hon. G. E. MASTERS: Under proposed section 30(4)(c). The Leader of the House should tell me what it means because it is very important that we get this right. Does it mean that where no employee in a workplace is a member of a trade union, the employer and the delegates will decide who will conduct the election for a health and safety representative?

Hon. J. M. Berinson: Yes.

Hon. G. E. MASTERS: If one or two members of a workplace are members of a union, can the employees still decide who will conduct the ballot?

Hon. J. M. Berinson: That has been determined under proposed section 31, and that is not under discussion.

Hon. G. E. MASTERS: Proposed section 31 says that, in that case, the union will conduct the ballot.

Hon. J. M. Berinson: That's right.

Hon. G. E. MASTERS: Then I have a simple amendment I can move, and I am glad I happen to have one ready.

The Leader of the House has confirmed for me that where a single employee in a workplace is a member of a union, his trade union will conduct the ballot whether or not his employer and the other employees want that to happen. That is quite improper. The Liberal Party's amendment is fair and reasonable and in no way disadvantages the trade union movement, but in fact brings democracy back into the workplace by allowing the employees, the workers, to make their own decision.

Hon. J. M. BERINSON: Despite the length of the Leader of the Opposition's contribution, I will be brief. The fact is that proposed section 30(4)(c) and proposed section 31 have previously been decided by this Committee and are not under discussion. All that is under discussion is whether employees as a single group will appoint a delegate or delegates or whether some recognition should be given to the role of trade unions in the workplace. All these references to proposed sections 30(4)(c) and 31 are, with due respect to the Leader of the Opposition, irrelevant. I limit my comments to that point because I believe that all else that has been said in this debate has been amply covered in earlier debates, and nothing new has been added.

Points of Order

Hon. G. E. MASTERS: Mr Deputy Chairman, as a matter of clarification, if the Liberal Party's amendment is not insisted upon I take it proposed section 30 will stand as printed, which will mean that it will be in the hands of the Committee, if it wants, to take some further action on it.

The DEPUTY CHAIRMAN: That is correct.

Hon. J. M. BERINSON: Mr Deputy Chairman, I ask you to rule on that point because that, frankly, is not my understanding of the position. I believe that we can accept or reject this amendment. It may even be possible—though I do not want to be bound to it—to say something further about amendment No 10. In my view it is not open to us now to enter into further amendments on unrelated parts of proposed sections 30 and 31.

The DEPUTY CHAIRMAN (Hon. John Williams): I will read out the appropriate Standing Order—

294. In the case where the Assembly—

(a) disagrees to amendments made by the Council; or

(b) agrees to amendments made by the Council with further amendments thereon,

the Council may, in case (a):—

(i) insist or not insist on its amendments;

(ii) make further amendments to the Bill consequent on the rejection of its own amendment;

(iii) propose new amendments as alternative to its own amendments to which the Assembly has disagreed;

Paragraph (iii) is the relevant part.

Hon. J. M. BERINSON: Mr Deputy Chairman, are you saying that it is open to the Committee, on the basis of an Assembly disagreement to an amendment to proposed section 30, to now move to amend proposed section 31?

The DEPUTY CHAIRMAN: It is possible to move an amendment to proposed section 30 but not proposed section 31.

Hon. G. E. MASTERS: I asked you whether proposed section 30 could be amended if we so desired.

The DEPUTY CHAIRMAN: Yes. Does that qualify the situation for the Leader of the House?

Hon. J. M. BERINSON: I would prefer not to take the discussion on the Standing Orders further at this stage. We would be better off disposing of the substantive question.

Committee Resumed

The DEPUTY CHAIRMAN: The question is that the amendment be not insisted upon.

Question put and a division called for.

Bells rung and the Committee divided.

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

Ayes 13

Hon. J. M. Berinson	Hon. John Halden
Hon. J. M. Brown	Hon. Kay Hallahan
Hon. T. G. Butler	Hon. B. L. Jones
Hon. J. N. Caldwell	Hon. Garry Kelly
Hon. E. J. Charlton	Hon. Doug Wenn
Hon. D. K. Dans	Hon. Fred McKenzie *(Teller)*
Hon. Graham Edwards	

Noes 10

Hon. C. J. Bell	Hon. Neil Oliver
Hon. Max Evans	Hon. P. G. Pendal
Hon. A. A. Lewis	Hon. John Williams
Hon. G. E. Masters	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. V. J. Ferry *(Teller)*

Pairs

Ayes	Noes
Hon. Tom Stephens	Hon. Margaret McAleer
Hon. Mark Nevill	Hon. P. H. Lockyer
Hon. S. M. Piantadosi	Hon. W. N. Stretch
Hon. Tom Helm	Hon. Tom McNeil
Hon. Robert Hetherington	Hon. H. W. Gayfer

Question thus passed; the Council's amendment not insisted on.

Point of Order

Hon. G. E. MASTERS: At what stage can I further discuss proposed new section 30 and possibly an amendment to it? Is it at this stage?

The DEPUTY CHAIRMAN: No, the Committee has agreed that the amendment be not insisted on. If Hon. G. E. Masters had wanted to do as he has suggested, he should have done so before the division was taken.

Hon. G. E. MASTERS: My understanding was that if the Chamber decided not to insist on the Liberal Party's amendment, the decision would be made in that respect and that after the decision had been made new section 30 would then be in the hands of the Chamber to further consider. If it did further consider it, new section 30 could be further amended. That is my understanding of your ruling, Mr Deputy Chairman, and of the Standing Orders. I would suggest that in the light of what you have said, I am entitled to further discuss new section 30.

The DEPUTY CHAIRMAN: Yes, the member may do so but he must be very careful that it must be alternative to what is presently before the Committee.

Hon. J. M. BERINSON: Mr Deputy Chairman, could you again refer me to the number of this Standing Order?

The DEPUTY CHAIRMAN: It is No 294.

Hon. J. M. BERINSON: I believe we are dealing with a different question than the question raised earlier by the Leader of the Opposition. The provisions of Standing Order No 294 are that when the Assembly disagrees to amendments made by the Council, the Council may firstly insist or not insist on its amendments or its proposed new amendments. Standing Order No 294 does not provide that having insisted or not insisted, the Council may still

propose new amendments. As you, Mr Deputy Chairman, have already ruled, the time for that has passed.

The DEPUTY CHAIRMAN: To clarify the situation and make it absolutely crystal clear to everyone, I will adjourn the sitting to 5.00 pm when questions will be taken. I will then give reasons for the Standing Order.

(continued this page)

Sitting suspended from 4.57 to 5.03 pm

[Questions taken.]

ACTS AMENDMENT (OCCUPATIONAL HEALTH, SAFETY AND WELFARE) BILL

Assembly's Message

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

OCCUPATIONAL HEALTH, SAFETY AND WELFARE AMENDMENT BILL

Assembly's Message: In Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Hon. John Williams) in the Chair; Hon. J. M. Berinson (Leader of the House) in charge of the Bill.

Deputy Chairman's Ruling

The DEPUTY CHAIRMAN (Hon. John Williams): I was asked to clarify the situation in regard to the Bill under discussion and the message from the Legislative Assembly. The Bill has been read a third time in both Houses, and the purpose of the exercise is to try to eliminate differences between the Council and the Assembly. Standing Order No 294 must be read in this context accordingly. Standing Order No 294 permits a number of procedures to be invoked and it must be given the ordinary and natural meaning of the words used; that is—

> In the case where the Assembly—
>
> (a) disagrees to amendments made by the Council;

That is the relevant part with which we are dealing. To continue—

> the Council may,—
>
> (i) insist or not insist on its amendments;
>
> (ii) make further amendments to the Bill consequent on the rejection of its own amendments;
>
> (iii) propose new amendments as alternative to its own amendments to which the Assembly has disagreed;
>
> (iv) request a Conference; or
>
> (v) order the Bill to be laid aside,

Odgers *Senate Practice* states on page 332—

> Expounding this standing order, President Baker stated that it must be construed with the theory in mind that it is a well understood law of every Parliament that any clause, or part thereof, which has not been agreed to by both Houses, is open for discussion. Dealing with the standing order itself, President Baker held that if the Senate is to make further amendments to a Bill, consequent on the rejection of its amendments by the other House, it has first of all not to insist on its amendment, otherwise it would not be consequent upon the rejection of the amendment. The words 'consequent upon the rejection' he interpreted as meaning a further amendment pari materia, that is, any relative amendment which will flow from the rejection of the Senate's amendment. As to the power of the Senate to propose new amendments as alternative to the amendments to which the House of Representatives might have disagreed, President Baker held that, if the Senate is to propose an alternative amendment, it must dispose in some way of its original amendment. Thus the Senate cannot say it adheres to the original amendment and at the same time propose an alternative amendment.

Consequently, now that the Council has not insisted upon its amendment, it can go to alternatives (ii) to (v) in the Standing Order. It is not alternative to, it is consequential upon.

Hon. J. M. BERINSON: Mr Deputy Chairman, you will appreciate the difficulty of absorbing that ruling as well as its implications on a first hearing. Could I ask you to distribute copies of it in writing and to leave the Chair for a few moments to enable consideration of it?

Sitting suspended from 5.18 to 5.35 pm

Objection to Deputy Chairman's Ruling

Hon. J. M. BERINSON: Mr Deputy Chairman, with due respect to your previous ruling and pursuant to Standing Order No 324, I take objection to your ruling on the effect of Standing Order No 294.

The DEPUTY CHAIRMAN (Hon. John Williams): For the benefit of members I will read out Standing Order No 324—

> If any objection is taken to a decision of the Chairman of Committees, the objection must be stated at once in writing. The Chairman shall thereupon leave the Chair and the Council shall resume. The matter having been reported to the President, and Members having addressed themselves thereto, the President shall give his ruling or decision, and, if the President's ruling or decision be not challenged, the proceedings in Committee shall be resumed where they were interrupted.

[*The President resumed the Chair.*]

The DEPUTY CHAIRMAN: Mr President, I have to report that the Committee has met and the Leader of the House has objected to a ruling I made on the basis of Standing Order No 324. The objection is in writing and signed by the Leader of the House.

Hon. J. M. BERINSON: The Deputy Chairman's ruling raises an interesting point and it is in no sense disrespectful to him to ask that his ruling be tested. The Deputy Chairman relied on Senate practice as outlined in Odgers, 5th Edition.

I concede at once two matters: Firstly, that for all practical purposes the terms of our own Standing Orders are in line with the Senate Standing Orders to which the precedent, by Mr President Baker, related. Secondly, the Deputy Chairman's ruling is in line with the ruling by Mr President Baker.

From the outset I therefore appreciate that I have a not inconsiderable hurdle to overcome in that the argument which I seriously put to the House is that the Senate ruling referred to is incorrect or, alternatively, that whether or not it is acceptable for the Senate, we should not follow it. In my view this follows from a plain reading of our own Standing Order No 294 and, omitting irrelevant words, I will quote it at length as follows—

> In the case where the Assembly—
>
> (a) disagrees to amendments made by the Council—

To state the obvious, that is our present position. To continue—

> the Council may,—
>
> (i) insist or not insist on its amendments;
>
> (ii) make further amendments to the Bill consequent on the rejection of its own amendments;
>
> (iii) propose new amendments as alternative to its own amendments to which the Assembly has disagreed;
>
> (iv) request a Conference; or
>
> (v) order the Bill to be laid aside,

All of those five possible actions are to be considered in the alternative; that is the clear effect of the word "or". The position this leads us to in considering the first and third alternatives then is this: That in the case where the Assembly disagrees to amendments made by the Council, the Council may—

> (i) insist or not insist on its amendments;

Or, and I emphasise this "or" it may—

> (iii) propose new amendments as alternative to its own amendments to which the Assembly has disagreed;

What the Leader of the Opposition is seeking to do is to change the "or" to "and" and to argue that the Council, having not insisted on its amendments may, as well as having taken that decision, move on to proposed new amendments. I submit to you, Mr President, that an effect of that kind is to so completely change the natural meaning of the words of Standing Order No 294 that we should not follow it, no matter what the Senate has previously decided for itself.

I will just add to that some brief consideration of the reasons provided by President Baker. Again, for the record I refer to these rather fully. President Baker said that it must be construed—that is, the equivalent of our Standing Order No 294—with the theory in mind—

> . . . that it is a well understood law of every Parliament that any clause, or part thereof, which has not been agreed to by both Houses, is open for discussion. Dealing with the standing order itself, President Baker held that if the Senate is to make further amendments to a Bill, consequent on the rejection of its amendments by the other House, it has first of all not to insist on its amendment, otherwise it would not be consequent upon the rejection of the amendment.

There are two parts of President Baker's statement which require further consideration. I will deal with each of them in turn. In the first place his ruling states that the Standing Order—

> ... must be construed with the theory in mind that it is a well understood law of every Parliament that any clause, or part thereof, which has not been agreed to by both Houses, is open for discussion.

I put it to you, Mr President, that where the Assembly has rejected an amendment and we have determined in this House not to insist on that amendment, we no longer have a clause which is not agreed to by the House. We have a clause which has indeed been agreed to by the House. There is a very simple test of that. In order to test the position I ask the House to consider what would have happened had Mr Masters not wished to propose anything further following our decision not to insist on the amendment.

If, as President Baker would have it, we were left with a clause on which there was no agreement, we would need a motion to adopt the clause. The clause would be there and the amendment would be out of the way but we never adopted it. It was a clause disagreed with. That is not the position at all. As you well know, Mr President, the clearly understood position is that if we send an amendment to the other House and the Assembly says it disagrees with it and we determine that we should not insist on the amendment, all that happens is that a motion is taken in Committee to report the decision to the House and the report is adopted. At no point of that process does a question ever arise as to whether we have a clause not agreed with which requires a determination in order to become agreed. That is not the position; it has never been the position. For the life of me I cannot see why President Baker's views should be imposed on this House in order to create a situation which has never been understood to be the case in other respects.

At a later point of his ruling President Baker held that—

> ... if the Senate is to make further amendments to a Bill, consequent on the rejection of its amendments by the other House, it has first of all not to insist on its amendment, otherwise it would not be consequent upon the rejection of the amendment.

That requires us to accept that not insisting is the equivalent of rejecting. That simply would not stand the simplest approach to the ordinary construction of the English language.

This House has never rejected its own amendment. All this House has done is to say that it does not insist on its own amendment. I put it to you, Mr President, that that is quite a different proposition from saying that we reject the amendment. There has only been one rejection of our amendment and that was by the Assembly. Anyone who wanted to change the situation could turn to Standing Order No 294 (iii), which reads—

> propose new amendments as alternatives to its own amendments to which the Assembly has disagreed;

That is what Standing Order No 294 provides.

We have moved an amendment and the Assembly has said it rejects it. We say, "Okay, if the Assembly rejects it here is another one for the Assembly to consider in its place." President Baker says that first of all requires the Council not to insist on its amendment. What I put to you, Mr President, is that there is nothing in the Standing Order which requires the Council, first of all, to come to that point. Instead, the way is open for the Legislative Council, without insisting on its amendment, to move straight to an alternative position to that which it originally took. I think I can add very little to what I have said. I do not want to repeat myself and I will simply summarise as follows.

President Baker's ruling in terms of the Legislative Council's practice is incorrect because it requires the Council to accept that at the point where it has said it does not insist upon its amendment, it has a clause on which there is no agreement. This Council's practice is quite contrary to that. Our practice has always been that the simple act of not insisting on our amendment has the effect that the clause is agreed to. If that was not our position we would always have required a substantive motion to debate the clause without its amendment and as you, Mr President, would be aware, that is not the case.

It is perhaps just putting that first argument another way to say that the second part of President Baker's ruling should not be followed, but the argument against that can be put in a second way as well; namely, that this Council's Standing Orders contemplate that an alternative amendment can be moved in circumstances where its amendment has been

rejected by the Assembly. It can be moved under Standing Order No 294(3) and there is nothing in this Standing Order to suggest that that must be anticipated by our insisting or not insisting. On the contrary, the fact that five possible further actions are listed in Standing Order No 294 gives the Legislative Council the clearest guidance that it should take one or the other.

The PRESIDENT: Order! Just so the House understands where we are, the position is that the Deputy Chairman of Committees gave a ruling in regard to his interpretation of Standing Order No 294, to which the Leader of the House has objected. The Chairman of Committees has reported that situation to me. I am currently hearing argument on the Leader of the House's objection, subsequent to which I will be required to give a ruling. It is therefore in order for any honourable member to comment on this situation, as has the Leader of the House.

Hon. G. E. MASTERS: I find the whole performance of the Leader of the House quite astounding. We are now becoming more and more used to the fact that when a Presiding Officer gives a ruling the Leader of the House challenges that ruling, and we reach the stage where the House is required to adjourn for a time to sort out the matter.

It has always been my practice and the practice of previous leaders in this House to accept the ruling of the Chair and to get on with the business of the day. It is extraordinary that the Government and the Leader of the House should be so paranoid as to fear one or two new amendments which may come before the House and be determined by the House.

Hon. J. M. Berinson: When have I challenged a ruling before?

Hon. G. E. MASTERS: It seems to me that it is the practice of the House to mark time or stop work while the Leader of the House obtains advice from the myriad advisers who hide in the corridors of this place. I do not have the benefit of learned opinions as has the Leader of the House.

Several members interjected.

The PRESIDENT: Order! If honourable members do not want to listen to this debate, I suggest that they do something else with their time. In the meantime, it is reasonably important that at least I hear what is being said.

It may well be that the honourable members who are not listening to the debate will be called upon to cast a vote in regard to the decision that I ultimately will make. I would venture to say that if members are not listening to what is being said, they surely would not be able to claim that they are in a position to make a judgment, which I have to do because I am in this position. I plead with honourable members to please let me listen to what is being said.

Hon. G. E. MASTERS: I am not going to play with words. Since I have been in this House I have heard lawyers argue about the meaning of words and phrases until they have been black in the face.

The intent of Standing Order No 294 must be crystal clear. I have gained the advice of officers in this House as to the correct procedure to follow. I certainly will not argue, in any shape or form, with the decision of the Chairman or the President. Once they have made their decisions that is the end of it as far as I am concerned.

How on earth can the Legislative Council consider and debate other amendments to proposed new section 30 when it is considering the amendments that had already been passed through this House, returned to the Assembly which refused them, and debated in this place again?

I cannot see how it is possible to misunderstand the intent of the Standing Order. Having had put before this House a series of amendments which were refused by the Legislative Assembly, this House was in a position to move other amendments. They were different amendments, and they must be different amendments to those already considered. I could not move the same amendments again or the same variation of amendments. I find it quite extraordinary that the Leader of the House could suggest that I had.

The clear intent is that the amendments that were rejected by the Legislative Assembly would be considered in this House once again. If these amendments were adhered to and insisted upon that would have been the end of the matter.

I put it to you, Mr President, that having considered those amendments and the House, by a majority—I accept that decision—deciding it would not insist on the amendments, there was an opportunity, as there surely must be, for this House to further consider clause 30, otherwise it would be locked into a position where the matter would be ended if one set of amendments were defeated.

I thought this House was about considering legislation and the effects of it on the community. The importance of this legislation has been emphasised time and time again by members in this House. I have a different view from the Leader of the House and the Leader of the National Party. It is the right of all members in this place to have their point of view, but at the end of the day we have to consider the appropriate course of action to take. Legislation that goes through this place should be thoroughly considered and subject to scrutiny and members should be given the opportunity to express their points of view.

I am not going to go into the technical and legal argument of the intent of the Standing Order with respect to this House properly considering matters. Having dealt with one set of amendments there must be an opportunity for further changes to clause 13, proposed new section 30. I accept that no other clause can be considered. I am certain that this clause should be thoroughly debated. If further amendments are proposed, surely to goodness the decision must be made that those amendments be considered. I am now requesting that they be considered otherwise debate will be completely shut off. That is not the intention of the Standing Orders.

The PRESIDENT: Earlier, when the Deputy Chairman of Committees gave his ruling which consisted of about two or three paragraphs plus the reading of the Standing Order, the Leader of the House asked quite properly that he be given an opportunity to have it in writing in order that he could examine and absorb accurately what the ruling was.

I suggest that honourable members would not think it unreasonable under the circumstances, and bearing in mind that the Leader of the House's explanation was considerably longer than a couple of paragraphs, that I seek an opportunity to call for the *Hansard* report so I can study in some detail what the Leader of the House said.

Before I do that, the decision that I am asked to make has a very important significance as far as this House is concerned. As honourable members are aware I have been here a long time and have seen the application of most of the Standing Orders in various circumstances. On most occasions questions have not been raised in regard to the interpretation that has been placed on them. It would therefore be quite irresponsible of me if I did not give very deep and considered consideration to what the Leader of the House has pointed out to us in his comments on what President Baker said in the Senate all those years ago.

I do not profess to be a legal expert. I keep reminding honourable members that I come from Fremantle Boys' School and I read the words as they are written and endeavour to interpret them in the way in which I believe they ought to be interpreted. I am not unsympathetic to what the Leader of the House has said. I do not wish to make a decision which will be binding on this House and which may be wrong. Therefore, I find myself in an invidious position because I am conscious of the fact that time is elapsing but I want, on the other hand, to be sure that when I make the decision it is the proper decision.

I am not influenced necessarily by the argument put forward by the Leader of the Opposition not because I do not sympathise with his cause, but I must point out to him that the argument he put forward was not an argument that necessarily dealt with the meaning of the words in the Standing Order. But, he may well be right in what he did say. The long and the short of it is that it is time for the House to suspend for dinner. Therefore, I am going to ask the House to be patient while I ask for the Hansard department to bring to me the record of what the Leader of the House said. During the dinner break I will endeavour to come to a conclusion which will hopefully be acceptable to the House and will do what the Standing Order intended the House do.

Sitting suspended from 6.06 to 7.30 pm

President's Ruling

THE PRESIDENT (Hon. Clive Griffiths): Honourable members, prior to the tea suspension, I was asked to rule on an objection that the Leader of the House took to a ruling given by the Deputy Chairman of Committees with regard to the interpretation of Standing Order No 294 of the Legislative Council's Standing Orders. I make the following ruling.

The Council, in Committee, has agreed on the motion of the Leader of the House not to insist on an amendment it made to clause 13 of the Occupational Health, Safety and Welfare Amendment Bill, following the Assembly's rejection of that amendment.

The Leader of the Opposition sought to move an additional amendment, as he believed he was entitled to under the provisions of Standing Order No 294(a)(ii). The Leader of the House took exception to this procedure, but

his objection was overruled by the Deputy Chairman (Hon. John Williams) acting on the basis of precedent adopted in the Senate, described on page 332 of Odgers' *Australian Senate Practice*. I am now asked to rule on the meaning and application of the Standing Order.

In terms of precedent, the Deputy Chairman was quite entitled to follow that of the Senate, particularly in cases such as this where the Standing Orders of both Houses are identical for all practical purposes. However, the Leader of the House has made some interesting points and there is, therefore, reason for me to take this opportunity to clarify the meaning and application of the Standing Order so far as this House is concerned.

President Baker is correct when he states that every clause not agreed to by both Houses is open for discussion, but the real question here is whether, as the President held, the House must not insist on the amendments rejected by the other House before proceeding to make further amendments as provided for in our Standing Order No 294.

The Leader of the House argued that the House, having agreed not to insist on its amendments, had in fact agreed to the clause as it stood before those amendments were made. That, indeed, is the effect of not insisting, as was recently demonstrated when the Council took that course. It was taken for granted that an additional motion to the effect that the clause as originally printed be agreed to was unnecessary, and that has been the practice of this House.

In my opinion President Baker erred in holding that the House must first not insist on its amendments before making further amendments, "otherwise it would not be consequent upon the rejection of the amendment". The rejection is that of the other House and not of the Council of its own amendment.

The purpose of the Standing Orders governing disagreement between the two Houses is to narrow the debate to resolving those disagreements; nothing else is in issue. Viewed in that light, I agree with the Leader of the House that paragraphs (i) to (iv) should be read as though the word "or" were inserted between the paragraphs. The best illustration is to take the situation in which the Committee defeated the motion that the Council not insist on its amendment. The result would be that the Council does insist but, if it does insist, could it then be argued that further amendments or proposed new amendments could be made to the clause? To argue that such is the case is to make a nonsense of resolving that the Council insist. How can the Council insist on something that it then tries to amend?

I am forced to the conclusion that the Leader of the House is correct and that paragraphs (i) to (iv) provide mutally exclusive procedures. Having said that, I warn the House that the time-honoured practice whereby the first call in Committee is given to the Leader of the House as a courtesy may well need to be revised. If the Leader moved a motion under the provisions of paragraph (i), the effect would be to lock out other members from moving any other motion under the subsequent paragraphs of the Standing Order.

I therefore rule that the Committee, having agreed not to insist on the amendments made by the Council, is prevented from proceeding further on the Bill.

Point of Order

Hon. G. E. MASTERS: Mr President, I accept your ruling without hesitation, but may I ask the Leader of the House, in view of the misunderstanding and confusion, that he agree to further consider proposed new section 30 with a view to introducing an amendment that I gave him prior to this evening?

The PRESIDENT: I have just ruled that it is improper for the House to consider any further amendments.

Hon. G. E. MASTERS: I know that.

The PRESIDENT: It is not within the power of the Leader of the House to rule differently, unless the House resolves to disagree with my ruling. My ruling is that the Bill cannot be further dealt with. In the absence of a motion to disagree with my ruling the matter rests there.

Hon. G. E. MASTERS: There is no desire or intention on my part to argue with your ruling, Mr President. I am asking if there is any way that the Bill, either at this stage or at some later stage, can be recommitted. I understand what you have just said. I wonder whether the Leader of the House would be charitable enough, in view of the confusion, to allow that to happen. If you say it cannot be permitted, that is the end of it, but if the Leader of the House were able to, he would. I am sure accommodate me.

The PRESIDENT: There is no way that the Bill can be recommitted. If there were, my ruling would have been different from what I have just given.

[*The Deputy Chairman of Committees (Hon. John Williams) resumed the Chair.*]

Report

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

LOCAL GOVERNMENT AMENDMENT BILL

Assembly's Message

Message from the Assembly received and read notifying that it had agreed to amendment Nos 3, 4, 5, and 8 made by the Council, and had agreed to amendment Nos 1, 2, 6, and 7 subject to further amendments.

Assembly's Further Amendments: In Committee

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

The amendments made by the Council were as follows—

No 1.

Clause 5

Page 2, line 31—To delete the expression "(hc) or (hd)".

No 2.

Clause 11

Page 4, line 13—To insert at the end of the subclause the words—

and the same published within that time in a newspaper circulating in the district.

No 6.

Clause 21

To delete the clause.

No 7.

Clause 22

Page 9, lines 3 to 31—To delete the lines and substitute the following—

(hb) pay to a member, including the mayor, president, deputy mayor or deputy president, by way of reimbursement such expenses of an actual or reasonable nature incurred in the course of performing a member's duties, as the council may determine from time to time;

The further amendments made by the Assembly were as follows—

No 1.

To delete "the expression "(hc) or (hd)" " and substitute the following—

, (hb), (hc) or (hd)" and substitute the following—

"or (hb)"

No. 2.

To delete "the same" and substitute the following—

notice of the fee or charge has been

No 6.

To delete the words "the clause" and substitute the following—

"(iv) such other welfare services as the council thinks desirable." where appearing in page 8, lines 17 and 18 of the Bill.

No 7.

To delete the proposed paragraph (hb) and substitute the following paragraph—

(hb) pay to a member such reasonable expenses as are actually incurred by him in carrying out his duties or performing his functions as a member;

Hon. GRAHAM EDWARDS: I move—

That the further amendment made by the Assembly to Council's amendment No 1 be agreed to.

In moving that the Council agree to the further amendments made by the Assembly, there is probably only one area of real contention with which the Committee may have difficulty, and that is the amendment dealing with welfare. The other amendments are largely consequential upon amendments made here when this Committee considered the Bill and are largely of a tidying up or redrafting nature.

The DEPUTY CHAIRMAN (Hon. John Williams): Honourable members know that sitting here is not the easiest job, especially with a complicated Bill like this. There is too much audible conversation, and it is not in the Chamber, it comes from behind the Chair. I ask the people behind the Chair either to con-

tinue their conversations outside, or perhaps I shall have to take steps to ensure that they do continue outside.

Hon. N. F. MOORE: The Opposition has no complaints about the first amendment of the Assembly, for which it now seeks the concurrence of the Council. The amendment simply is to replace the word "or", as I understand it—and if I am wrong, I would appreciate the Minister telling me—as I believe the amendment we made in fact left a grammatical difficulty as the word "or" was not in the right place. Having been through the question of the word "or" for some hours this afternoon, it is very important that we put it where it belongs, so we would go along with that proposition.

Hon. Graham Edwards: That is correct.

Question put and passed; the Assembly's further amendment to the amendment made by the Council agreed to.

Hon. GRAHAM EDWARDS: I move—

> That the amendment made by the Assembly to Council's amendment No. 2 be agreed to.

Hon. N. F. MOORE: The Opposition also agrees with this amendment. It relates to an amendment I moved in respect to notices being contained not only in the *Government Gazette* but also in the local newspaper in reference to an increase or new fees and charges being announced by the Council. The amendment takes away the two words "the same", which in effect means the fees and the charges, so it is a clarification of the amendment we moved successfully.

Question put and passed; the Assembly's further amendment to the amendment made by the Council agreed to.

Hon. GRAHAM EDWARDS: I move—

> That the amendment made by the Assembly to Council's amendment No. 6 be agreed to.

Hon. N. F. MOORE: This amendment is quite significant in the context of the legislation and the Opposition is opposed to accepting the further amendment of the Legislative Assembly. What it will mean in effect is that we will be leaving in that whole section relating to the involvement of local authorities in welfare, with the exception of the last clause, which says—

> Such other welfare services as the council thinks desirable.

The Assembly has agreed to delete this, but none of the other aspects in relation to welfare. If we agree to the Assembly's proposition, it will mean that local authorities will be able to do the following things: They will be able to build buildings for the provision of welfare services, using ratepayers' money—or I should say some of the ratepayers' money—through the municipal fund.

Hon. B. L. Jones: They already do that anyway.

Hon. N. F. MOORE: If they are already doing it, why are we passing legislation to say that they can?

Hon. B. L. Jones: Why are you objecting to it?

Hon. N. F. MOORE: I do not believe they are entitled to do it, and if they do it, they are doing it illegally and should not be allowed to continue.

The DEPUTY CHAIRMAN (Hon. John Williams): I mentioned earlier this afternoon that this is not the place for a conversation between members. Perhaps I am getting old and tetchy, and I do not intend to be old and tetchy, but I am following the rules of debate in this Chamber. If the honourable member has something to say, she has plenty of time to say it, and I will give her the call, but I will not allow members to have a cross-conversation between each other.

Hon. N. F. MOORE: I make the point again that if the construction of buildings for welfare services is being carried out now, I would suggest that the councils are probably acting illegally, and maybe this is a validating clause in a sense; and if it is, I do not accept it as such. I do not believe, and neither does the Opposition, that local governments should be involved in welfare. The provision of welfare is the prerogative and constitutional responsibility of the States. If this Government wants to give away its constitutional responsibility to some other tier of government because it cannot handle that responsibility, then it should admit it and say that is what this amendment is for. However, the Government has not done that.

What this amendment also does is say that municipal funds may be used for the implementation and coordination of State and Commonwealth welfare programmes within a district, and that a local authority which is requested by the Commonwealth or the States to carry out a welfare programme on its behalf may in fact use funds from a municipal account

on that particular programme. I argue that if the Commonwealth or the States decide that the local authority is the best vehicle for the implementation of the welfare programme, then they should provide the funds to carry out that programme. There is no problem with that.

If an administrative charge is attached, if it means it is going to cost a few dollars to put the programme into effect, why cannot the Commonweatlh or the State which has initiated the programme pay the total cost? Why should ratepayers' money be used to carry out programmes which are already being funded by the taxpayers? Ratepayers are being asked to pay twice for welfare, whereas non-ratepayers only pay once. Some people in our society who collect welfare do not pay at all. That is the real bottom line of what the Government is saying.

The Government is asking us to allow local authorities to use their municipal funds, which include rates, to pay for welfare services and for the implementation of Commonwealth and State programmes, which should rightfully be paid for by them as it is their responsibility. They receive taxpayers' money, and they should pay for it.

The Government goes on to say that the ratepayers' fund, through the municipal fund, can be used for the provision of counselling and information services, refuge and shelter services, child and youth care services. They are the sorts of activities which in my view are the responsibility of the other two spheres of Government. They are not an area in which local authorities ought to be involved.

We have been told by the local government associations that they want to get involved in welfare. I say, "So what?" If they came to me or to the Federal Minister for Defence and said they wanted to get involved in defence, or if they wanted to get involved in foreign affairs or in agriculture, then I would say, "Go jump in the lake. It is not your business. It is our responsibility. You stick within the areas in which you have responsibility, and we will stick to ours." By doing that, we will avoid the duplication and triplication which is inevitable if we go down the path of this legislation.

There are two essential reasons why the Opposition is opposed to this amendment. Firstly, local authorities do not have the constitutional responsibility to be involved in welfare. That is the responsibility of the Commonwealth and the States through the payment of pensions and things of that nature. Local Governments should do the things which are their responsibility. There is enough to be done on roads and a variety of other things that local authorities are involved in, without their going off into another field of welfare which supposedly is being looked after by the States. This Bill is an indictment of the State Government, because it is seeking to give the responsibility to local governments of carrying out what it should be doing itself.

The second reason is that it will impose an additional demand on the funds of ratepayers in local authorities to provide for welfare. I again ask, why should ratepayers have to pay twice for welfare and non-ratepayers only have to pay once?

I do not believe that is a fair situation to have, especially in view of the first argument; that is, that welfare is not the business of local government anyway.

We are adamantly opposed to this and will be dividing, if necessary, on the proposal to agree with the amendments made by the Assembly to the Council's amendments. We do not believe that this should be agreed to. We believe the decision that has already been made by this place—that is, to delete all of the provision in respect of welfare—should be reconfirmed and I certainly hope that the Council will do that and again toss out any suggestion that local government should be involved directly in welfare services.

Hon. E. J. CHARLTON: I agree almost 100 per cent with what Hon. Norman Moore has said about the involvement of local government in welfare. I said the other night, as I did in relation to the Bill with which we have just dealt, that I did not agree with the involvement of local government in the welfare area.

The word "welfare" has all sorts of connotations and can mean different things to different people. My interpretation of "welfare" differs from that of a great many other people around this State. I have been involved in a local community and I believe that if there is no other way possible for that community to help itself then the local authority should act to do something for the community from whatever resources it has at its disposal.

So far as this amendment is concerned, I am of the opinion that local government should not become involved in the day-to-day, do-gooding aspects that seem to be overwhelming our society. I have said at every gathering in which I have been involved of late when

discussing this point that in every piece of legislation that comes into this place there seem to be extra bits added on which give an option or an encouragement for people not to be responsible for their own actions but for someone else to be responsible for them.

I say that as a prelude to the whole question of local government responsibilities. Before I move off the subject I want to repeat the question: Where does local government draw the line in relation to the responsibilities it has to the community it represents? Having said that, we then get down to what the role of local government has been until now in dealing with the requirements of the people it represents as it sees fit.

As has been stated, when this Bill was debated here previously this whole clause was not agreed to. That having happened, the Assembly now has moved for the re-inclusion of a great deal of this clause, except for the line which refers to "such other welfare services as the Council thinks desirable". That has been brought to my attention by local government members from country areas, and by documentation that has been delivered to me and to the National Party, saying, "We want to have this clause in total in the Bill."

Where does this leave me, or any other member? As I said in debate on the previous Bill, all these responsible organisations that have democratically elected executives made up of various delegates from around the State are saying that this is what they want. With their coming to their member of Parliament saying, "We want you now to enact this", and their member of Parliament, as an individual, disagreeing with it, where does that leave the member? A local authority should have the option to be involved in those things that are for the good of the community and are positive things it wants to do within its own locality for the benefit of the people who live there. As I mentioned earlier, I have been involved in promoting the building of certain establishments, both sporting and social, that will be utilised by the great majority of the people in the community at a given time. If this is what the role of local government is accepted to be, and if local authorities have been acting illegally by doing that, or if it has been questionable and therefore they should not have been involved in any of those sorts of things, I would be disappointed that local authorities should not expend their funds, which are made up of a whole host of things, remembering that in this day and age rates are a minor part of those funds. Although they are significant they are not a majority of the available funds.

That brings me to the point of examining clause 21(c) in detail. I have no argument with "the implementation and co-ordination of State and Commonwealth welfare programmes within its district"—I think we should see more of it. As to "the provision of counselling and information services", I have been very close to seeing the setting up with the assistance of shires in the country of those counselling and information services by voluntary groups that have been put in place because of the rural crisis that is concerning so many people, and the local authority is the body best placed to assist with the implementation of that type of operation.

I can see that the word "activity" in proposed subparagraph 446(f)(ii) has a pretty broad interpretation and from my information it covers a very broad spectrum of operation. I certainly have a problem with the words "refuge, and shelter services"—I do not think local government should be involved in that. As to "child and youth care," I know that local authorities have been involved in providing kindergartens and those sorts of buildings and operations and assisting in that area for a long time so I can understand the reasons why we do not want to deny local government's having an opportunity to make some input in those areas.

Members have probably all guessed that so far as proposed subparagraph (iv) is concerned—"such other welfare services as the council thinks desirable"—that is where I have made my point, both here and in the previous debate, and in my comments to other members of the National Party in another place, that I am not prepared as an individual to support anything that gives local government an open book to encourage it to get involved in an unending list of welfare operations. As I said earlier, the word "welfare" is just too open-ended and seems to be becoming part and parcel of a great number of people's thinking in our society today. The sooner we get away from that and start encouraging people to be responsible for themselves, and placing them in a position where they are encouraged to be responsible for their own actions and well-being, the better off we will all be.

For that reason, therefore, on behalf of the National Party I support the amendment which deletes that part of the clause.

When making my comments in the second reading debate and in the subsequent Committee stage in this place, I said I was not in favour of having a whole host of open-ended welfare aspects as part of this Bill.

Provided that open-ended clause relating to welfare is removed and the specific areas covered by the definitions remain as they are, I can accept the amendment. Although I am not totally happy with it, I am prepared to accept it because the local authorities which have contacted us since the original debate on this matter have requested that we implement this provision in total. I do not agree with that proposal entirely, but I am prepared to accept all those definitions except the open-ended one relating to welfare, as is intended in the amendment before us.

Finally, local authorities do not have to spend money on any of these things; it is entirely up to them whether they do so. I will certainly be encouraging them not to get involved in areas which do not benefit their community as a whole. There are parameters in which local authorities have responsibility for providing benefits for their communities; other areas are better left alone, and I am thinking particularly of this open-ended reference to welfare services that a council may think desirable. That concept is abhorrent to me, and for that reason I agree with the amendment.

Hon. GRAHAM EDWARDS: The compromise that was reached in the other place meets the concerns expressed by Hon. E. J. Charlton. It spells out the areas in which local authorities can continue to be involved and it validates their involvement in some areas of welfare—but not in any unending way. However, the amendment does not and cannot do anything to persuade Hon. Norman Moore to drop the philosophical block that he has to granting local authorities the right to make a decision on the areas of service in which they wish to be involved for the benefit of their residents, electors, and ratepayers.

I will read out to the Committee from the Local Government Act some areas in which local authorities can provide such sum or sums from their municipal funds as the councils think proper. The Act says that a council can, from its municipal funds, allocate such sums for the provision, maintenance and improvement of museums, public halls, agricultural halls, civic centres, theatres, public libraries, reading rooms, lifesaving clubrooms, youth clubrooms, rooms for educational and cultural activities, children's playgrounds, women's grounds, kindergarten schools, and infant health centres within its district.

As local authorities can make autonomous decisions about the range of activities I have just read out, I cannot for the life of me understand why this Committee would wish to take a step in the direction of preventing a local authority from setting up or establishing a counselling service for some of its residents, ratepayers, or electors.

No attempt is being made to say that local authorities must be involved in these areas. As I said earlier, we are simply validating their ability to continue to be involved in these areas if they so desire. I doubt that any local authority would say to any Government of the day that it wanted to accept responsibility for, say, foreign affairs. Any Government of the day would deny such a request, and knowing local authorities as I do, I would not expect one to make such a request. But the issues to be decided are those before the Committee and not those which are the figment of Hon. Norman Moore's imagination.

A spirit of cooperation exists between the State Government, the Federal Government, and local government. I give members as an example the opening I attended last Sunday of extensions to the Scarborough Surf Lifesaving Club building. This Government contributed in the vicinity of $375 000 towards those extensions; it did not have to do that but in a spirit of cooperation and in order to help the local authority meet a great need, it provided that money, although the council had the ability and the opportunity to provide money from its municipal fund. The State Government and most local authorities do not share a common philosophical base, but local authorities recognise and respond to the needs of their ratepayers, residents, and electors.

I still cannot understand why this Committee would wish to prevent any local authority from doing that which it saw as something it would like to do. I strongly support that concept and I urge the Committee to support the amendment.

Hon. N. F. MOORE: Before I respond in detail to the Minister's comments, I would like him to explain what is meant by counselling and information services; activity, refuge and shelter services; and child and youth care. What powers is it intended to give to local government that will allow local authorities to spend ratepayers' money on these activities?

Hon. GRAHAM EDWARDS: I have already explained to the Committee that some local authorities are involved in financial counselling.

Hon. N. F. Moore: I want to know what you are asking us to pass. Does it involve marriage guidance counselling?

Hon. GRAHAM EDWARDS: What we are seeking to pass is an amendment which spells out the areas in which local authorities may become involved.

Hon. N. F. Moore: What does "counselling" mean?

Hon. GRAHAM EDWARDS: If the member does not understand what counselling means I am simply not in a position to help him out.

Hon. N. F. Moore: I do, but I want to know its meaning in the context of this Bill.

Hon. GRAHAM EDWARDS: Certainly the member should understand what is written in the Bill and what is in front of him. I certainly will not attempt to dictate to any local authority in the same terms that the member opposite would seek to dictate. I see no difficulty with any local authority providing financial counselling to its constituents. I see no difficulty with local authorities becoming involved with women's refuges. We have one in the City of Stirling. I had the opportunity to look through that magnificent facility and I assure the member opposite that it is used by a wide range of women in the community. That includes the wives of doctors and lawyers, who are certainly people who make a big contribution to local authorities.

A number of local authorities are already involved in child and youth care facilities. That is something that some of us seem to have difficulty accepting. We are not dictating to local authorities; we are not saying, "You must get involved in these areas." We are simply saying that if local authorities do become involved, we will validate their involvement in those areas if that is what the local authorities choose to become involved in.

Hon. N. F. MOORE: In the past I have been complimentary of this Minister because of his diligence, the way in which he has tackled his job and the thoroughness with which he has prepared his answers. However, now he is starting to tell me that I should not ask questions because they are not relevant. When I ask the Minister to tell me what is in the Bill and ask for an explanation of what "counselling" means it is because counselling can mean anything to anybody.

Counselling can involve an enormous range of activities, yet when I asked the Minister what it means in the context of this Bill he told me that I should not ask such silly questions. Does it mean financial counselling for people who have superannuation problems? Does it mean financial counselling in respect of the purchase of shares? Does it mean marriage guidance counselling? Does it mean counselling for deserted wives? Does it mean counselling because one's child has run away? Does it mean counselling for someone who has a problem with their child at school? What does it mean? Does it mean all the things with which the State and Federal Governments are involved? Does it mean every aspect of counselling one could imagine?

What is an information service? Information about what—the price of eggs in Afghanistan? Information about world markets? Information about any sort of things? There are so many things about whch one can provide information that I just wonder what is meant by that term in the context of the Bill. Is it information which simply relates to those areas in which local government is involved or does it mean any information service they wish? I know people who can provide information services on the price of shares. Are local authorities now going to go into the business of providing shares advice? Those two words in the context of this Bill are so broad and so all-embracing as to be ridiculous and yet the Minister sits there and tells me that I should not ask questions about them. I am sorry to say this but the Minister's performance is starting to slip; perhaps he has been getting it too easy.

The legislation talks about "activity services". What is an activity service? The word "activity" relates to any sort of action that someone can be involved in. There are thousands of sorts of activities that people can become involved in, most of them totally unrelated to local authorities. However we are being asked to allow the ratepayers' funds to be used for the provision of activity services. What are activity services? The Minister has not tried to explain that. He latched on to one word—refuge—in the legislation because he has heard of a refuge and knows that one was built in the City of Stirling. I know what a refuge is, but I sure do not know what an activity service is.

What are shelter services? Are they shelters for wayward children? Are they shelters for people in disadvantaged circumstances? Is it an umbrella or is it a shed under which one can

stand to get out of the sun or rain? Is the Government now going to allow local authorities to go into schools and build shelters for the morning assembly? I am trying to pick the most absurd and ridiculous examples that I can to illustrate to Government members—because most of them probably have not even read the legislation—what the Government is seeking to get this Chamber to agree to. I am entitled, as are members of the Government, to know what I am putting my vote to. What responsibilities is the Government giving local authorities by virtue of the wording in this Bill? Child and youth care: I can understand certain aspects about child care that can go to all sorts of extremes. Local authorities could take over the whole involvement of the State Government in the field of child care. In respect of youth care, is the Government going to get rid of the Federal Department of Youth? Does the Government have it in mind that local authorities will get heavily involved in the provision of youth services? Are they going to run discotheques? Are they going to take over the Police Department's activities?

It is my view—and I believe this very strongly—that we are being asked to give carte blanche to this Government in respect of the sorts of facilities and responsibilities that it will give local government. I think the Bill goes far too far. It is nowhere near specific enough and it is not helpful of the Minister to say, "Just read it and you will know what it means" because it is not possible to do that. In view of the comments I have just made, maybe the Minister could explain whether there are any parameters in relation to the sorts of counselling, information, activities, refuges and shelter services that will be provided under this Bill and to what extent local authorities will be able to become involved in child and youth care. Will they be allowed to move into those fields which are traditionally the responsibilities of Federal and State Governments? Perhaps the Minister might like to answer some of those comments before we proceed much further.

Hon. GRAHAM EDWARDS: It does not surprise me that the member wants to get into personal degradation. The Opposition seems to do so whenever it is confronted with a problem it cannot deal with. That sort of thing does not worry me too much but it really does a disservice to those councillors in this State who have put a lot of time into their jobs and into making responsible and reasonable decisions that in no way could ever be stretched to meet the absurdities put forward by the member opposite.

There are a wide range of counselling services that local authorities can become involved with. I have mentioned financial counselling. I draw the member's attention to a counselling service at Mt Marshall, which assists farmers in difficulty because of the rural decline. I could also point to the counselling that is provided to women and children who from time to time have need of women's refuges or shelter. I feel that I cannot bridge the gap to provide all the knowledge that the member seeks. It is unfortunate that he does not have a working knowledge of what a number of local authorities are involved in. I suggest that perhaps he should take a bit of time; I would be happy to take him to, for instance, my own local authority, the City of Stirling, and spend a day showing him the tremendous services that that local authority has chosen, of its own volition, to become involved in.

I draw to his attention a particular service which is called "Contact S", which attempts to draw together and compile a list of all the voluntary services in the local authority. That includes such things as Apex, Rotary, and businessmen's associations, so that from time to time when people contact the local authority seeking that sort of information it can be provided.

I reiterate that this amendment seeks to give local authorities the ability to make those sorts of decisions for themselves. Quite clearly, it spells out the areas in which those local authorities can get involved. It comes under the heading of "educational, cultural, welfare, and recreational facilities and services".

Are we to conclude from the Liberal Party's opposition to this clause that the provision of such things as meals on wheels would be under threat if it is ever returned to Government because that is considered by many to be an area of welfare? I urge the Committee to accept this amendment; it is a reasonable amendment, and it has been put forward in a spirit of compromise in another place. I simply cannot believe that there exists such a gap between the two Chambers.

We have a difficulty here at the moment with the mental block of the member handling the Bill for the Opposition when it comes to provision of welfare services and allowing local

authorities to exhibit a certain amount of autonomy in making those decisions for themselves and for their communities.

Hon. NEIL OLIVER: One thing that concerns me is the likelihood of duplication of these services. In one of my local authority areas the organisations actually do not want any assistance from the local authority. In fact they go to the extent that I am unable to convince them to use the local authority's coat of arms. I have had to explain to them that the coat of arms is not just that of the local authority—it embraces the entire area. Those people are actually opposed to using the coat of arms and they want nothing to do with the local authority.

Mr Deputy Chairman (Hon. John Williams), you understand the role of local government in the United Kingdom, particularly in England. It takes a major role in education, for example; but the United Kingdom is not a federation as we are. It seems this Government is intent on what I would call duplication. It is eradicating that which is foreign to this Government. It is all very well for the Minister to talk about a local authority providing a directory of groups in the community. If that is what this amendment encompasses, fair enough.

Basically it is wiping out organisations such as the Country Women's Association, which have given tremendous service to this country. They are being replaced by what are called "servants of the people" who are paid for by ratepayers. There will be a continual attack on voluntary organisations which are able to deliver these services on an economical basis where they are needed. We see that in Rotary, Legacy, the churches, and the Police Force; I could go on indefinitely naming voluntary organisations. One has only to think of Truby King in the field of child care; it was a totally independent organisation which came from New Zealand and spread throughout Australia. This was taken over by big brother at the expense of the ratepayers. All I can see is expensive duplication.

There are organisations in my electorate which do not want local authority imposed on them. To give a further example of how good the voluntary services are, I point out that in one there is a telephone which belongs to the State Department for Community Services. The department has not removed it, and when it has a problem it rings up and the organisation in my electorate acts for the department, and the people do it voluntarily. Under this Government, because of the increased charges and the cost of fuel and vehicles, the provision of voluntary services is becoming more difficult. I presume that is what the Government has set out to do. It is building up an empire of trained social welfare people whom we do not need at this level in the numbers the Government intends to force upon the people.

The problem is basically with the Government's philosophy. The Labor Party cannot understand that there are people in the community who are prepared to give freely of their time without any reward because they are interested in individuals. All the Government can think of is huge amounts of counselling.

Let us consider what happens in the United Kingdom in regard to counselling. I understand there is now marriage counselling into the home, and the counsellor comes and lives in the home to reconcile the husband and wife. The only way to get rid of the counsellor under that bureaucratic system is for the husband and wife to leave home. It takes three months to get rid of the marriage guidance counsellor!

The Labor Party will never understand that individuals in this community are prepared to give up their time for others and that there are people in the community who care for individuals. The Government always has to bring in a great group of paid officials to run these things. Frankly, all they do is upset the services. The Government will go on attacking bodies like the country fire brigades and people who work voluntarily to make Australia the country that it is.

Hon. B. L. JONES: I have no wish to prolong the agony of this session, and I apologise to members of the Assembly who are held up waiting for us to finish these Bills, but I have never heard such arrant nonsense in my life. I am particularly angry at some of the assertions I have heard—some of the things the honourable gentleman opposite came out with, asking what we mean by shelters and facilities. Until now I thought Hon. Norman Moore was intelligent, but those sorts of questions are quite ridiculous.

Hon. N. F. Moore: This is a piece of legislation.

Hon. B. L. JONES: Mr Deputy Chairman, I was not allowed to interject.

The DEPUTY CHAIRMAN: Order! I will afford you the same protection.

Hon. B. L. JONES: The Bill seeks to give councils the option to provide the facilities and expertise that they can provide if they have the resources. It is not suggesting that, once the Bill

is passed, people will run around duplicating services that are not required. Honourable members' talking about councils in England has nothing to do with this matter as they operate in an entirely different way. All this Bill does is allow councils to provide services to the community as they are required, and when they are able. Shelters and facilities which could be provided—in fact, which are already—by some councils are in such areas as youth support projects, drop-in centres, women's refuges, holiday programmes for school children, art and craft and occupational activities for the handicapped. These are some of the services which could be made available but which seem to horrify the Opposition. Allowing councils to spend ratepayers money on needy projects does not mean they are obligatory, a fact that the Opposition does not seem to understand.

Hon. N. F. MOORE: This Bill is a part of a change to the powers of local government in Australia. There was a time when there were States and no Commonwealth. The States set up the Commonwealth Government and since 1901 the Commonwealth has taken more and more powers from the States. At one time local authorities were called roads boards. They only had the power to build roads. Local government is now involved in the provision of all sorts of services. We are now suggesting that we give them the authority to deliver welfare services.

The level of Government missing out all the time is the State level. The Commonwealth is taking our powers on the one hand, and the remainder of our powers are being given to local authorities. This is part of Labor's plan for Australia. State Governments will become irrelevant and ultimately be abolished. Maybe the States should get together and form a State Governments association to lobby the Commonwealth to give us back some of our powers. We could suggest that if the Commonwealth got out of education and health we would look after those fields. State Governments are headed towards oblivion if we continue down this path.

I have not been convinced that local government should be empowered to spend taxpayers' money on welfare services. However, that is not to say that it should not be involved in them. It should be involved as agents for the Commonwealth or the State.

This is not an argument about whether a council can provide welfare services. It is an argument about whether it can spend the taxpayers' money. If the State Government believes that councils are better placed to provide those services, why does it not give them the money to do it? The State Government is abrogating its responsibility to provide those services because it will not provide the funds. It is passing the buck to the ratepayers. We are expecting them to pay twice. Local communities which request child-care facilities will be told to approach the local authorities for those facilities because the State Government will have nothing to do with them. Those authorities will be under enormous pressure.

I hope the National Party sticks with the decision it made on this matter previously and rejects the clause. I recall Hon. Eric Charlton's excellent speech about people getting out and doing things for themselves. I therefore suggest the National Party supports us in our opposition to this clause.

Hon. GARRY KELLY: Hon. Norman Moore said that perhaps the States should form a States' association to lobby the Commonwealth to get back some of their powers. I interjected and said that the Opposition opposed the interchange of powers referendum in 1984. That was one of the four referendums rejected at that election. With the possible exception of Joh's Nationals, the four proposals were agreed to at the Adelaide convention. That group opposed all of the proposals.

The Federal Liberal Party agreed to the interchange of powers referendum, but before the constitutional alteration was voted on at the ballot box, the Liberal Party campaigned against it. That would have allowed for a rational interchange of powers between the States and the Commonwealth.

For the honourable member to talk about the move of policy which will lead to the elimination of States, one has to read the Constitution to find out that will be impossible. It prevents the removal of the States as an effective tier of Government. They will remain there until the people of Australia vote to remove them. If the members of the Liberal Party were more consistent they would support rational reform to the Federal Constitution. Until they do, they should keep quiet.

Hon. E. J. CHARLTON: I remember my comments in the previous debate very well. On almost every piece of legislation, whether they be Bills or motions, the Government attempts to allow or dictate the operations of the State, taking away the responsibilities of individual people.

Everyone is aware that it is no coincidence that there happens to be an amendment before us which takes away the open-endedness of what the original clause set out to do. I would not want to be a part of taking away from local government the opportunity to be involved with many things mentioned in the principal Act. I refer to such things as swimming pools and the various facilities we have canvassed. There are pages of them.

I have seen a number of areas where people of a particular locality—I am obviously referring to people in non-metropolitan areas—can only achieve a number of facilities of benefit to that district or organisation by coming together through their local government authority and putting those things in place. The National Party's view is totally consistent with what we have practised and what we have tried to see implemented over a long period as far as our association with local government is concerned.

We do not wish to open up Pandora's box, particularly in the form of adult franchise. The connotations should not allow the open-endedness to take place where welfare is the responsibility of local government in a whole host of areas. I am opposed to that and I will always be opposed to it while the present operations continue.

Hon. Norman Moore referred to the States having more responsibilities. I hope the Government elected after Saturday week will be positive and put in place the opportunity for the States to turn back the clock where they will be able to control their own destiny and have jurisdiction over their own responsibilities as they did when the federation was formed. We strongly believe in the economy of the State.

Members should put the pressure on our Federal counterparts because they have been in Government longer than this present Labor Government. The Federal Government has eroded our situation and has been a party to taking away the role and responsibilities of State Governments. In the next couple of weeks we should say that we should get rid of some of the Federal Government departments because they are duplicating.

I believe in the amendment before the Chamber. It is achieving what we set out to do in the first place. There may be some question marks but there is no doubt, after looking at the Local Government Act, that what has been implemented has taken a number of years. We should support the amendment.

Question put and a division called for.

Bells rung and the Committee divided.

The DEPUTY CHAIRMAN (Hon. John Williams): Before the tellers tell I cast my vote with the Noes.

Ayes 12

Hon. J. M. Berinson	Hon. Kay Hallahan
Hon. J. M. Brown	Hon. Robert Hetherington
Hon. J. N. Caldwell	Hon. B. L. Jones
Hon. E. J. Charlton	Hon. Garry Kelly
Hon. D. K. Dans	Hon. Doug Wenn
Hon. Graham Edwards	Hon. Fred McKenzie *(Teller)*

Noes 9

Hon. C. J. Bell	Hon. P. G. Pendal
Hon. Max Evans	Hon. John Williams
Hon. G. E. Masters	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. V. J. Ferry
Hon. Neil Oliver	*(Teller)*

Pairs

Ayes	Noes
Hon. Tom Stephens	Hon. Margaret McAleer
Hon. Mark Nevill	Hon. P. H. Lockyer
Hon. John Halden	Hon. W. N. Stretch
Hon. S. M. Piantadosi	Hon. Tom McNeil
Hon. T. G. Butler	Hon. A. A. Lewis

Question thus passed; the Assembly's further amendment to the amendment made by the Council agreed to.

Hon. GRAHAM EDWARDS: I move—

> That the amendment made by the Assembly to Council's amendment No 7 be agreed to.

The Parliamentary Counsel, in his redrafting of the amendment made in this place, has retained the meaning of that amendment, but has improved the drafting.

Hon. N. F. MOORE: Parliamentary Counsel may have improved the drafting of the amendment and I accept that as a reasonable argument. However, I make the point that the reason the amendment passed by this Chamber was drafted in such a manner was my intention to ensure that there could be no argument about what local councils can or cannot do.

We are often told that Parliamentary Counsel has improved the drafting of amendments, but how often do we find that it does not really mean what was intended? We would not have to make decisions about law if the drafting of legislation were easy to understand.

I want some assurances from the Minister in respect of certain aspects of the changes envisaged in the amendment before I am prepared to indicate my support for the change to the wording.

The amendment was put forward by the Opposition to ensure that the words "mayor, president, deputy mayor or deputy president" would be included in the clause. The reason we included those words in the clause was to make it absolutely crystal clear that the mayor, president, deputy mayor and deputy president were entitled to expenses and that these expenses were payable to them in addition to any funding they may receive under the three per cent provision.

As members are aware the three per cent provision allows a council to make available to the mayor or president certain funds for entertainment expenses. The Opposition wants to make sure that there is no argument that in some way they will be restricted from being reimbursed under this clause.

The first assurance I want from the Minister is that the amended clause will allow the people I have mentioned to be reimbursed under this clause and that they will not be disadvantaged by the fact that they already receive an entertainment allowance.

The second point is that the Opposition wrote into its amendment the words "as the council may determine from time to time". The reason for including those words was to ensure that councils were entitled to make decisions where they were deemed necessary, about the amount of expenses its members would be entitled to receive. The Opposition wrote those words into the legislation specifically to ensure that there was no argument about who could make decisions about who received expenses and the amount they received.

If the Minister is able to give me an assurance that the redrafting of the amendment does not affect the allowances payable to the mayor, deputy mayor, president or deputy president, and does not in any way prohibit the council from making decisions, I will be prepared to accept the amendment.

Hon. GRAHAM EDWARDS: I can give the member an assurance on both accounts.

The amendment has been redrafted to improve the wording of "reasonable" and "actual" which can be confusing from time to time. The meaning of the word "member" is defined in section 6 of the Local Government Act and it means a mayor, president or councillor of a municipal council.

Section 513 covers the member's second concern and the clause begins with the words "A council in accordance with the provisions of this Act may". That clearly covers the second point the member raised.

Hon. N. F. MOORE: I thank the Minister for his explanation and I also thank him for his assurances. I suggest that if, in the future, he were to answer questions in the same reasonable way we may have less reason to argue the point with him.

Question put and passed; the Assembly's further amendment to the amendment made by the Council agreed to.

Report

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

SHEEP LICE ERADICATION FUND BILL

Assembly's Message

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

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 a date to be fixed by the President.

ADJOURNMENT OF THE HOUSE: ORDINARY

HON. J. M. BERINSON (North Central Metropolitan—Leader of the House) [9.06 pm]: I move—

That the House do now adjourn.

Staff: Retirement

HON. FRED McKENZIE (North East Metropolitan) [9.07 pm]: I will be brief because I realise that a number of members want to speak on the matter I will raise. It is an important matter: One of the longstanding staff members of this Parliament will retire prior to the next part of the session resuming. If we had known of this person's imminent retirement, comments would have been made about him when members in this House spoke last week about Alan Harding's retirement.

The person to whom I am referring is George Hargadon who is the security officer at the south entrance. He has been working for this Parliament for as long as I can remember. He is one of the most longstanding staff members of this Parliament to depart the parliamentary scene.

George was first employed by the Joint House Committee in 1969. I cannot give the specific month of his employment. He commenced his service with this Parliament in the dining room as a steward and from there he was promoted to the position of assistant barman and then to the position of barman.

He later became an attendant with the Legislative Assembly and for a number of years has been employed as a security officer by the Joint House Committee.

George is an ex-merchant seaman and served with the navy during the Second World War. He is married and his wife's name is Vida, and they have one daughter named Marguirite. As part of his retirement programme it is George's intention to travel to the Eastern States to visit his relatives.

He has told me that one of the things he is looking forward to during his retirement is to take it easy from the problems of politics. In some ways he becomes involved in politics, but in a different way from members of Parliament.

George Hargadon has been very obliging and he is the first person to whom we speak when we enter this building. He often greets us with a message to contact the switchboard or he advises that our visitors are waiting for us. He is very alert in looking after the members in this place, and he is fondly regarded by all members.

I understand that all members in this House cannot make their comments about George at this time, but I realise that a number of members will want to jump to their feet and record their comments.

On behalf of my colleagues who will not have the opportunity to speak, I take this opportunity to wish George and his wife a long, happy and healthy retirement and may all their wishes be granted.

HON. G. E. MASTERS (West—Leader of the Opposition) [9.10 pm]: I support the remarks of Hon. Fred McKenzie in wishing George Hargadon the very best when he retires on 4 September. George has been on the staff of Parliament House since I became a member in 1974 and for me and most other members he is very much part of the parliamentary scene.

We all know that George takes a great deal of pride in the way he carries out his duties. He and a number of other people in this Parliament regard themselves as part and parcel of this institution and the parliamentary scene. It is fair to say that Parliament House runs as smoothly as it does because of the efforts, interest and dedication of people like George. He is always at the door in the morning with a cheery smile and, because he knows and watches the members so well, he always knows which members are in the building and so on.

I was interested one day to see that he had installed what I thought was a television set. I learned that it was security equipment which allowed him to view everyone walking around the corridors. It was a great improvement and helped George to maintain the security of the Parliament. That is becoming increasingly important.

I wish George, his wife, Vida, and his daughter, Marguirite, the very best. I am sure that in his travels to the Eastern States he will be spared the traumas of politics and will enjoy his retirement as he deserves.

HON. E. J. CHARLTON (Central) [9.12 pm]: On behalf of my colleagues in the National Party I also congratulate George on his efforts in this place over many years. As Hon. Fred McKenzie said, he has been here a long time and has played a significant part in serving the members of this Parliament in various ways during that time.

It goes without saying that George's approach to life and his dedication to his job are an example for all, members and staff alike. He is always ready to assist whenever needed and is always in place when one walks through the door in the morning. I would describe him as a real good bloke.

I wish him the best of health; I hope that he will not smoke so many cigarettes in the future while he is enjoying the rest of his life with his family. I hope his future is filled with contentment and interest, and that he has many long and rewarding days and years ahead with his family.

HON. D. K. DANS (South Metropolitan) [9.13 pm]: I will add my comments to those of Hon. Fred McKenzie. I have known George for many years; he served on a merchant ship at the same time as I did and I recollect the wily chief steward he served under, Jim Green,

otherwise known as Jungle Jim. It was nothing for that chief steward to sack 20 or 30 stewards from the ship every time it completed a round trip, so the stewards who remained were the best in the business. George remained for some years.

I remember George mostly for his good humour. Hon. Mick Gayfer is not here at the moment but some 15 or 16 years ago he and I used to give George a rough time in the bar. Parliament would finish at perhaps 2.00 am and the bar was supposed to remain open for one hour after that. Mick and I, and a few others, would sometimes stay for two or three hours after Parliament finished. I never heard George complain a great deal apart from the fact that every time I walk through the side door he says, "One for the road".

I wish George a very happy, long and useful retirement. Parliament is a funny place, it is like a passing parade, a panorama of people who grow old before one's eyes. Before I stood to speak I noticed a member from the Liberal Party at the back of the Chamber with whom I am very friendly and I suddenly realised that his hair has gone grey. People float past, time passes, and one suddenly realises that age is catching up.

All members will be aware that George has been one of the most patient, best humoured and certainly one of the most appreciated staff members in Parliament. This place cannot operate without the staff; they are here all the time but some of us are only here temporarily. To echo Hon. Eric Charlton's words, George is a good bloke.

HON. D. J. WORDSWORTH (South) [9.16 pm]: I support the previous speakers in their comments about George. He has certainly been a great character in this place, as Alan Harding has been on the front door. I guess it depends on which door members use as to which attendant one sees the most of. It is no reflection on the younger members of staff taking their place that we are bestowing such accolades on the men who are retiring. However, they have become part of this institution.

It is a little worrying to hear George say that he intends to travel to the Eastern States when he retires and take it easy after the traumas of politics. We thought we had the traumas but the poor bloke on the door has them also. I wish both men the very best in their retirement.

I did not have the opportunity the other night to wish our father of the House, Hon. Vic Ferry, a very happy retirement. He has given a lot to this House and this Parliament. I represent the Denmark area and at one time the South West Province extended into that area. I know from the number of people who mention Hon. Vic Ferry to me many years after he ceased representing them that he was well respected in that district. That is an indication of the regard in which Hon. Vic Ferry was held.

I wish him and his wife, Doris, all the very best in their retirement. I hope we shall see him about the place and that he will attend the parliamentary bowling tournaments as a veteran. He is a very good bowler and has played well as a member of the team. I should mention also that Hon. Vic Ferry was Chairman of Committees in this House for a long time.

HON. V. J. FERRY (South West) [9.19 pm]: I have pleasure in joining in the good wishes for George Hargadon on his impending retirement and my remarks include also Alan Harding. I am looking forward to those two men joining me in retirement in the near future. It is not bad to have a trio going out at roughly the same time.

I wish these fellows and their families a very rewarding retirement. I must record my deep appreciation to both for their many courtesies and their kindness, not only to members of Parliament but also to everyone who came into contact with them in their various positions. Of course, Alan Harding served this Chamber for a number of years and George Hargadon served in other capacities in this House. No matter where they were working, they gave the people in the Parliament top rate service and they were thorough gentlemen at all times.

HON. ROBERT HETHERINGTON (South East Metropolitan) [9.20 pm]: I would like to join with other members in wishing George Hargadon well, and I must say that during the confusion of my early days in Parliament, George's was the first name that emerged out of those people who look after members, and I have known him as George ever since. I only found out tonight what his surname is. I do not know whether that is a commentary on him or on me, but having been born in the era of George V and having lived through two monarchs by the name of George, I just accept that name as representing quiet authority.

Since I have been in this place, we have been well served by the guardians of our gates. It is important in a place like a Parliament that the

people who greet visitors at the door make them feel welcome so that they know they will be looked after. I think all our guardians at the door have been like that, and George has been one of the best.

I am one of those people who comes in on wet days and leaves the car lights on, and if it had not been for George I would have had more flat batteries than I have had. George always takes care that messages are delivered, as Hon. Fred McKenzie said, and always told us where people were. He found out things for us and looked after our interests as far as the car park was concerned. I suppose it is a sign of my psychology that I need a security blanket, but I had hoped that at least one of our guardians at the door would remain for the next couple of years while I was still here, and I had been under the impression that George was going to do that, but apparently he has only just made his decision to retire.

So we will have to get used to young people at the door, and we will not be worse off for that because the ones that have emerged so far are quite delightful, but it will not be the same. It never is quite the same when people leave who have served in a position of trust, as George has. I hope George does enjoy a full life, because he is yet younger than I am, which means he could be quite old, but it means he should have another 20 or 30 years to live, and I hope he enjoys those years. I will miss George because I enjoy talking about the things we talked about at the door as I came in every day, and I suppose it will take a while to feel that my property and I are quite as secure as we have been up to date. I therefore wish George and his wife a thoroughly enjoyable and long retirement.

HON. JOHN WILLIAMS (Metropolitan) [9.24 pm]: As Hon. Des Dans mentioned, it is a passing parade in this place. I can remember that I associated with George Hargadon because he was in the dining room when I first came here and actually served at my table. In those days one was made to sit at a table and had no choice. Charlie Davis was the chief steward, and he was referred to as "mother". Dave Carrick and Jim Green were on the front door, and George Hargadon promoted himself through the ranks, and now we see him retiring. It makes us wonder what we are doing in this place and how much longer we have to go.

Hon. D. K. Dans: That is a rather gloomy statement.

Hon. JOHN WILLIAMS: I will have something else to say later which will be more depressing, but my initial message is to Alan Harding, who I did not have the chance to speak about the other evening, and also to George, and I wish them and their families a long and happy retirement.

It does not seem very long ago when George first came in here. Little Margie used to run in as a four-year-old, and she is now a young lady of some 21 years of age, or fast approaching it. George's wife used to come in and collect George, because in those days he was not too keen on driving. His wife used to come and collect him, and he would tell us at the witching hour that Ma'am had arrived and we had to go from where we were. Those were the days when there was not so much polarisation amongst members of Parliament and when there was a great deal of bonhomie and comradeship here. I wish the Hargadon family the very best. I will miss George's sense of humour, which comes from the same area as Hon. Tom Helm's, and seems to be inherited by anyone who hails from Liverpool; they seem to have an enormous capacity and great sense of humour.

Sittings of the House

Having passed my felicitations to those gentlemen, there is one thing I would like to touch on. I am sad that the Leader of the House has been called away, because I wanted to inquire of him how many shirts he has purchased in the last three weeks. I speak in this way about once every three years on an adjournment debate, and ask the leader of the time, whether it be on my side or the other side, to do something about it. I see members looking a bit doubtful about the shirts business, but I would like to quote from page 3850 of *Hansard*. This happened in 1982, on a very auspicious day, 14 October, and that is why I remember it so well. I am pleased now that I can ask the Leader of the House whether he has bought many shirts lately.

The particular reference in *Hansard* was at 4.49 pm, and Hon. I. G. Medcalf moved that the House do now adjourn. I can quote the same words, with the same questions behind them—

> **THE HON. J. M. BERINSON** (North-East Metropolitan) [4.50 p.m.]: Before the lunacy of our last two days' proceedings fades from our minds I think it is worth spending a moment to try to learn some lessons from it.

> We sat until 3.30 Wednesday morning and we sat until 6.30 this morning. I do not want to reflect on the capacity of any other member to function adequately under those circumstances, but speaking for myself I am quite happy to confess that in the condition to which I was reduced normally I would not trust myself to buy a shirt. What we did in fact, was make a decision on a very far-reaching and important piece of legislation.

The leader went on with no rancour, in the same way that I am going on, and my comments are not directed to any leader but to the whole system that this Chamber runs under. A member remarked that I made a gloomy remark. The last remark unfortunately became correct, and I do not want this one to be correct, but I believe that before the end of 1989, someone in this Parliament will die prematurely because of the excessive pressures that are put on members of Parliament and staff in this place. I echo what Hon. Joe Berinson said in his speech, on page 3851 of *Hansard*—

> The very least we ought to do is look towards a 2.00 p.m. or a 2.15 p.m. starting time on every day of the week, and preferably a morning starting time on one or two days. Apart from any other consideration, though this is not the main point I want to stress, there is a capacity for substantial economy. If a sitting of this House was from 2.15 p.m. to 6.15 p.m., we would have the capacity to do as much work as would now be done in a sitting extending to about 10.00 p.m. The existing procedure does not make sense to me and I have not found anyone with whom I have discussed this question privately who disagrees with that.
>
> In drawing to the attention of the House the absurdity of the proceedings this week, I have taken this opportunity to suggest that consideration be given to the more general question of our sitting hours, because it is time to look to a sensible variation of the present arrangements to enable our work to be done better and more efficiently.

I do not want to embellish those remarks, even though I could go on, because I have a whole page of quotes from Hon. Robert Hetherington, who used to take us to task every time, and also from Hon. D. K. Dans, who talked from time to time about the hours of the House. When members consider that we sat on 9 June from 3.30 pm to 3.40 am, we sat on Thursday 11 June from 11.00 am until 5.47 am, we sat on Tuesday 16 June from 3.30 pm till 10.10 pm, on Wednesday 17 June from 2.30 pm till 12.40 am, on Thursday 18 June from 11.00 am till 4.00 am, on Tuesday of last week from 11.30 am to 12.23 am, and on Wednesday from 11.00 am till 2.11 am, I do not think we have to be mathematicians to find out that in those last three weeks we sat a total of 82 hours and 13 minutes.

Hon. E. J. Charlton: Someone told me this morning that we would be here for only an hour today.

Hon. JOHN WILLIAMS: The Leader of the House is a compassionate man and so I put this suggestion to him: Why not form an informal all-party committee of the House to consider altering our sitting hours? At present they are just ridiculous. It has been the same no matter what Government has been in power in my 17 years here; they have all failed to tackle the problem.

I notice that at times Hon. Joe Berinson looks as though he would not trust himself to buy a shirt. He carries a very heavy workload but, despite his previous protests and pleas, nothing has been done about this problem.

I implore members to talk to people whom they think could influence the situation to finally arrive at a solution. We must do something, not only for ourselves but also for members of the staff, because the whole of Parliament House is affected. Surely with word processors and the rest of the technological advances that are taking place, something can be done.

THE PRESIDENT (Hon. Clive Griffiths): I join with other speakers in wishing a happy retirement to George Hargadon, but before expanding on that I feel I should comment on what Hon. John Williams had to say about our sitting hours. One of the things I have discovered over the years that contributes heavily to the long hours we sit is the time members take when speaking to the adjournment!

Staff: Retirement

I add my best wishes to those already extended to George Hargadon and his family on the occasion of his retirement. Hon. Des Dans mentioned George's good humour, and I agree that he is quite a humorous bloke. I had occasion to see an example of that just in the last couple of days when George sent me his resignation in writing—unsigned. It occurred to me

that George was up to his usual humorous tricks and so I sent it back to him and suggested we might take more notice of his resignation were he to sign it, which he did—in the wrong place. It seems that right up to the last George has been prepared to play his jokes.

He has been a very dedicated member of the Parliament House staff. As was outlined by Hon. Fred McKenzie, he worked in seven or eight different sections of the building and in each position he held he carried out his duties very competently. I have pleasure in wishing him and his family a long and happy retirement and I hope that from time to time he comes back and says hello.

Sittings of the House

HON. J. M. BERINSON (North Central Metropolitan—Leader of the House) [9.34 pm]: I respond briefly to the comments made by Hon. John Williams. The honourable member addressed a serious question in a very responsible and appropriate way and we should not ignore what he had to say. Among the admirable features of his address was an impeccable choice of quotation, and I was impressed not only with what he had to say but also with what some other people have had to say whom he thought appropriate to quote!

The truth is that the experience of successive Leaders of the House over many years has been that the problem of sitting hours is intractable. For the most part all of us cooperate to do our best to limit that problem, and certainly the new sitting hours are of some assistance. Still, other measures might be taken with our Standing Orders to improve the position further.

I am happy to take up his suggestion that some of us should have an informal discussion with a view to seeing whether it is possible to limit these very early morning sittings. I do not retract anything I said on earlier occasions which the honourable member quoted, but in the last resort the legislative programme has to be finished within some sort of planned time scale. I will be happy to exchange views with the Leader of the Opposition and a spokesman from the National Party, and if we can get a group of us together for some informal discussions, as suggested by Mr Williams, I will be happy to participate.

Question put and passed.

House adjourned at 9.37 pm

QUESTIONS ON NOTICE

OLD COAST ROAD

Dawesville: Dual Carriageway

286. Hon. C. J. BELL, to the Minister for Sport and Recreation representing the Minister for Transport:

When is it anticipated that the dual carriageway on the Old Coast Road will be constructed in the Dawesville area?

Hon. GRAHAM EDWARDS replied:

The upgrading of the Old Coast Road—H2 Highway—is a long-term project which is being implemented in stages. So far, a four-lane facility has been achieved between Perth and just south of Mandurah with the opening of the Mandurah Estuary Bridge last October.

Improvements in the form of passing opportunities have been provided immediately south of Mandurah near Dawesville and in the vicinity of Mt John. Some intersection improvements have already been made for the Falcon area.

The timetable for final completion through the Dawesville area is currently under review as part of the annual consideration made with budgetary consideration.

WILDLIFE

Yellow Flowered Menzies Banksia: Status

287. Hon. MAX EVANS, to the Minister for Community Services representing the Minister for Conservation and Land Management:

(1) Is the yellow-flowered Menzies banksia a rare and endangered plant, as reported in the *Subiaco Post* on 5 May, 1987?

(2) Is the Minister aware that this plant grows only in Bold Park?

(3) Will Bold Park, and if so, what part of it, be brought under such statutory reserve status which would ensure adequate protection of this flower?

(4) If so, what reserve status will be proposed?

(5) If no, why not?

Hon. KAY HALLAHAN replied:

(1) The yellow-flowered Menzies banksia is only a colour variant of the widespread and common Menzies banksia. It is not a rare and endangered plant.

(2) The form occurs, albeit uncommonly, throughout the natural range of Menzies banksia.

(3) to (5) Not applicable.

MOTOR VEHICLE DRIVERS

Licence Checks: Information

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

(1) When a driver is stopped as part of a licence check operation by police, what details and information are taken from the driver?

(2) What is the purpose of obtaining that information?

Hon. GRAHAM EDWARDS replied:

(1) Full name and address, vehicle registration number, date of birth, and motor driver's licence number.

(2) Check validity of driver's licence.

QUESTIONS WITHOUT NOTICE

ROTTNEST ISLAND

Tenders

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

I refer to the tenders for the Rottnest Island restaurant and the marine service business in Thomson Bay.

(1) Were all tenderers or prospective tenderers informed that their submissions had to comply with the System 6 report?

(2) Has the tender been decided for one or both businesses?

(3) Is that tender or those tenders in conformity with all Government requirements, including the System 6 report?

Hon. GRAHAM EDWARDS replied:

(1) No. All tenderers were notified that they had to comply with the Rottnest Island management plan.

(2) No. The Rottnest Island Board will make a decision in due course.

(3) See (1) above.

LAND

Manning: Ownership

106. Hon. P. G. PENDAL, to the Minister for Community Services representing the Minister for Lands:

I have given notice of this question.

(1) Who owns the vacant land on the corner of Ley Street and Cloister Avenue, Manning, adjacent to the Manning Primary School?

(2) Is there any possibility of this land, or part of it, being made available to the local Catholic school for a playground or sports area?

Hon. KAY HALLAHAN replied:

(1) Reserve No 25744 is set aside for the purpose of a school site and extends to the corner of Cloister Avenue and Ley Street, Manning.

(2) I apologise for the oversight on this part of the question. I will obtain more information from the Minister and give it to the member in writing.

GOVERNOR

Car: Tyres

107. Hon. D. J. WORDSWORTH, to the Minister for Budget Management:

(1) Can the Minister say whether the Governor's Rolls Royce was fitted with two new tyres last year as requested by the Government Garage?

(2) Will the Minister inform the House why the same order was rejected this year?

(3) Does this decision have any relationship to the fact that Alan Bond has proved he can run a Rolls Royce on bald tyres?

(4) Is the upholstery of the car in need of stitching?

(5) What is the Government's policy on the future of the vehicle?

Hon. J. M. BERINSON replied:

As best as I could grasp the question—

(1) No.

(2) No.

(3) No.

(4) No.

(5) This matter does not come within my ministerial authority.

WA SOCCER FEDERATION

Affiliated Bodies

108. Hon. JOHN WILLIAMS, to the Minister for Sport and Recreation:

The Minister will be aware that an impasse has been reached between the Western Australian Soccer Federation Executive and some of its affiliated bodies.

(1) Is the Minister in a position to say whether this impasse has been broken?

(2) If not, will the Minister offer to the bodies concerned officers of his department to act as some form of arbitrators for the good of the sport?

Hon. GRAHAM EDWARDS replied:

(1) and (2) It appears that the internal divisions between different factions within the soccer community are continuing. That is a matter of concern not only to the Government, but also to the soccer community of this State. The matter will be the subject of discussions and of a letter which I am about to send to the Soccer Federation. I feel the matter is possibly best left there at this stage. I will be happy to pursue the matter with the member on a more personal basis.

EDUCATION

School Cleaning: Contractors

109. Hon. NEIL OLIVER, to the Minister for Community Services representing the Minister for Education:

(1) What schools in the electorate of West Province which comprises the Legislative Assembly electorates of Mundaring, Kalamunda, and Darling Range are being maintained and cleaned by Government employees rather than contractors?

(2) Are there any fixed times in which the general cleaning of schools is undertaken?

(3) Is there any time budgeted for the time of the daily cleaning?

(4) What economies have been achieved from reverting from contract cleaning to direct cleaning by employees of the department?

Hon. KAY HALLAHAN replied:

(1) Bullsbrook District High; Carmel Primary; Chidlow Primary; Darlington Primary; Eastern Hills Senior High; Glen Forrest Primary; Gooseberry Hill Primary; Herne Hill Primary; Kalamunda Primary; Karragullen Primary; Lesmurdie Primary; Mt Helena Primary; Mundaring Primary; Parkerville Primary; Pickering Brook Primary; Roleystone District High; Roleystone Primary; Sawyers Valley Primary; Upper Swan Primary; Walliston Primary; Wooroloo Primary.

(2) Schools which are cleaned by Government employees use the following times for general cleaning—

(a) Schools on straight shifts—

Part-time cleaners work between 6.00 am and 9.00 am; full-time cleaners work between 6.00 am and 10.00 am and between 2.00 pm and 6.00 pm.

(b) Schools on split shifts—

Part-time cleaners work between 6.30 am and 8.30 am and between 3.30 pm and 5.15 pm; full-time cleaners work between 6.30 am and 10.30 am and between 2.30 pm and 6.30 pm.

(3) Schools which have been converted to the new cleaning system have had cleaning time reduced as a staff vacancy occurs.

(4) The extension of cleaning by day labour is part of a package being negotiated with the relevant union. This will enable substantial savings to be made while maintaining the high standards which have been the hallmark of the cleaning of our schools.

GOVERNMENT EMPLOYEE

Select Committee Evidence: Perjury

110. Hon. NEIL OLIVER, to the Attorney General:

(1) Is the Attorney aware that a legal opinion tabled in this House last week implied that a member of the Government staff committed an act of perjury when giving evidence to a committee of this Parliament?

(2) If he is aware, will he permit an independent inquiry to be authorised to determine whether or not that staff member committed an act of perjury?

Hon. J. M. BERINSON replied:

(1) and (2) I am not aware of that matter. I have not been able to address myself to all the papers and comments made in relation to that question last week, and to that extent I am unable to respond substantively to the member's question.

GOVERNMENT EMPLOYEE

Select Committee Evidence: Perjury

111. Hon. NEIL OLIVER, to the Attorney General:

In relation to the last question, will the Minister agree to provide an answer to that question in writing while Parliament is in recess?

Hon. J. M. BERINSON replied:

I would prefer to see the material that is being referred to before I respond. It may well be more appropriate to answer that question in the context of further discussion on the motion introduced by Mr Oliver.

MIDLAND SALEYARD

Land Transfers: Availability

112. Hon. NEIL OLIVER, to the Leader of the House:

Why are land transfers applicable to Reserve No 23917, on which the Midland saleyard is situated, not available at the public counter of the Office of Titles?

Hon. J. M. BERINSON replied:

My ministerial portfolios do not include responsibility for the Office of Titles.