Legislative Council

Thursday, 11 June 1987

THE PRESIDENT (Hon. Clive Griffiths) took the Chair at 11.00 am, and read prayers.

SUPERANNUATION BOARD: QUESTIONS

Statement by President

THE PRESIDENT: Yesterday the Leader of the Opposition asked me to rule on the situation in regard to the answers to some questions on notice that he had placed before the Minister for Budget Management concerning the position with regard to the State Superannuation Board and certain other matters.

I have given it a great deal of thought and I want to make this general comment to the House in regard to the application of the sub judice rule.

During the last recess, allegations were made against Mr L. Brush and, to a lesser extent, against Mrs Brush. Those allegations relate to certain commercial dealings of Mr and Mrs Brush and the possibility of there being a conflict of interest between Mr Brush's position as Chairman of the State Superannuation Board and his private commercial dealings. As a result of those allegations, Mr Brush resigned from the State Superannuation Board and Mrs Brush resigned from the personal staff of the Premier.

In the course of public discussion about this matter the Leader of the Opposition made statements during a television interview with the result that the Premier issued a writ for libel on 20 March 1987 against the Leader of the Opposition and the television station that broadcast the interview. Subsequently, criminal proceedings were taken against Mr Brush and Mr Martin stemming from their prior business relationship. The question is whether members are now prevented, in general terms, from debating any or all aspects of this matter and specifically barred from asking questions, because of pending civil and criminal proceedings.

The sub judice rule has its origin in Parliament's reluctance to be seen to interfere with the judicial process by publicly commenting on matters pending adjudication in courts of record. In terms of parliamentary history, the rule is of fairly recent origin and its development parallels the constitutional understandings best described as the "separation of powers" doctrine. The rule operates, not as a gag, but as a self-imposed restraint on Parliament's right of free speech. As such, it is an acknowledgment that the courts must be free from improper or undue influences in their adjudications.

The rule, which in this House is a matter of custom and usage because there is no Standing Order, does not prevent Parliament from legislating on a matter which is also being litigated; the right of Parliament to legislate on any matter at any time is paramount. Similarly the rule will not be applied where it is clear that the proceedings were initiated simply as a means of stifling debate. I must also add that even where there is a possibility that a court might be influenced by what is said in this place, the matter may be of such public importance that it would be wrong to rule out debate.

The rule is applied in some Parliaments from the time when proceedings are commenced whether by the issuing of a summons or a writ. In others, application comes from the time that the proceedings are set down for trial. The latter procedure overcomes difficulties associated with gagging writs; if the plaintiff is genuine, the matter will come to trial and it is then, and only then, that the protection of the rule will be given. It seems clear that the usage in both Houses of this Parliament is to apply the rule, in appropriate cases, when a matter is set down for trial.

The Leader of the Opposition in this House has asked a series of questions Nos. 199 to 209 that relate or refer to State Superannuation Board procedure or dealings. The Minister's reply to each question is that a reply would be improper, "as these matters would appear to be sub judice". I have now been asked to rule whether, in fact, the content of the questions is caught by the rule.

The first point I make is that there is absolutely no obligation placed on any Minister to give a reply that satisfies the member asking the question. It is not hard to envisage situations where providing a reply could be prejudicial to private or public interests and the Government, rightly, declines to be drawn at a particular stage.

On that basis I cannot say that the Minister's reply in this case is wrong. The Minister has formed his opinion on evidence available to him. All that I can do is explain the meaning and application of the rule in this House and

invite him, in light of that, to reconsider his opinion. It is not for me to doubt his reasons or require him to answer any question or answer it in a particular way.

ACTS AMENDMENT (ELECTORAL REFORM) BILL

Third Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [11.12 am]: I move—

That the Bill be now read a third time.

As to Recommittal

HON. N. F. MOORE (Lower North) [11.13 am]: Pursuant to Standing Order No. 204, I move—

That the Bill be recommitted to consider amendments to clauses 8 and 94 and to make such further consequential amendments as may be necessary in the event that clauses 8 and 94 are amended.

The Standing Orders of the Council provide that during the third reading stage of a Bill a member may seek to have the Bill recommitted to the Committee for further consideration of certain aspects of the legislation. The Standing Orders also require that notice of any proposed amendments to be considered in a recommittal must have been given. Members will have noticed that during notices of motion this morning I gave notice of proposed amendments in the event that this motion is accepted.

The reason I am seeking to have clauses 8 and 94 reconsidered is because of a rather important situation which arose during the Committee stage of this Bill. Unbeknown to the Opposition the Government accepted certain amendments which, bearing in mind the previous decisions the Committee had taken, were somewhat of a surprise to the Opposition. In other words, the fact that the Government was prepared to accept the National Party's proposition for 17-17 and six regions came as a surprise because the Government had previously rejected that proposition during the same debate.

Bearing in mind the time at which that debate was taking place, I have to confess that I had not given consideration, and at the time did not give consideration, to whether the National Party's proposal could be amended. In the light of consideration of this matter since the Council took the decision it did, I have come to the view that we ought to consider amendments to the National Party's proposition which would provide a much fairer system in this Council.

Looked at in the light of day, it is my view that the decision with respect to the metropolitan area in the proposition the House agreed to will create a most unfair electoral system and one we should seek to resist. I am asking the House to recommit the Bill so we can look at that unfairness which has crept in.

If I can give an example of why I think the House has agreed to an unfair system, perhaps unwittingly, I point out the following facts. With the way the metropolitan region has been divided into three regions we could have a system which allows a party, not necessarily the ALP or the Liberal Party, to get 59 per cent of the seats with 50 per cent of the metropolitan vote. We have heard for years about the need for a system in which the number of seats truly reflects the number of votes. In the North Metropolitan Region under the proposal we agreed to a party getting 50 per cent of the vote could get 57 per cent of the seats; in South Metropolitan and East Metropolitan it could get 60 per cent of the seats with 50 per cent of the vote. Over the total metropolitan region, 50 per cent of the vote could get a party 59 per cent of the seats. That is not a system which fits in with what the Labor Party has told us it seeks to achieve. I would have thought that both the Government and the National Party would support my proposal because it makes the system fairer.

While I am not at liberty to debate the amendments of which I have given notice, if we put our minds to it we can get a better system which would mean that if the whole metropolitan region went out at the same time a party getting 50 per cent of the vote would get 52.9 per cent of the seats. That is a much fairer system than the one to which I have just referred. If that happened it would mean smaller parties—I am referring to the National Party and the Democrats—would possibly win a seat in the metropolitan area with a quota of 5.2 per cent instead of quotas of 12 per cent and 16 per cent under the Bill as we have agreed to it.

We know the Government wooed the Democrats last time on the basis that it would bring forward electoral legislation which would somehow allow the Democrats to gain representation in State Parliament. Clearly they know the proposal agreed to will not allow that to happen. I would expect the Government to support what I am proposing because it will do the things the Government promised the

Democrats it would do before the last election. We know the Democrats were responsible for the Government's winning a couple of seats in this House as a result of that proposition.

My strongly held view is that the decision the House has taken during the Committee stage of this Bill should be reconsidered in the light of the fact that the decisions we have taken with respect to the metropolitan area will create an unfair electoral system.

It is all right for members on the other side of the House to say that the Liberal Party has supported an unfair system in the past. Now that we have made decisions in this House, not necessarily unanimously, to change that system it is incumbent upon us to ensure that the system that replaces the old one is, in the terms used by the Australian Labor Party, as fair as possible. The term used by the Leader of the House consistently during the Committee stage of the debate was that the party that received the most votes should gain the most seats and that the number of seats a party gets should, as close as possible, approximate the number of votes the party receives.

If we accept that argument we really must reconsider what we have done in respect of the metropolitan area under the decisions we took during the Committee stage.

A Government member interjected.

Hon. N. F. MOORE: I am trying to be pragmatic. We have already argued that there should be two regions. I have to accept that the decision of the House to accept Hon. E. J. Charlton's proposition for the country regions will stand. I would have a great deal of difficulty in persuading him with a view to having three regions in the country, but I may not have so much difficulty in persuading him to go down the path of one region for the metropolitan area. In that sense, I am being pragmatic hoping that I may be able to achieve something and bearing in mind that the House has rejected the Liberal Party's proposition for two regions.

The proposition I am proposing would take away the unfairness of a party which receives 50 per cent of the vote obtaining 59 per cent of the seats. That does not just mean the Labor Party, it could also mean the Liberal Party. In fact, if we go back to the 1975 Federal election, the Liberal Party received about 90 per cent of the seats with 57 per cent of the vote. That can happen at times.

We should not accept the system which would give a party getting 50 per cent of the vote 59 per cent of the seats. It is clearly unfair. I am proposing, if the House agrees to recommit the Bill, a system which will give a party getting 50 per cent of the vote in the metropolitan area 52.9 per cent of the seats. It is not strictly fair, but it has been brought about by the fact that there is an uneven number of members in the metropolitan area. By having 17 members we have a built-in factor and—

Hon. T. G. Butler: What would happen in the country?

Hon. N. F. MOORE: I have already explained it, but the member was out of the House. I explained that I was trying to be pragmatic.

Several members interjected.

The PRESIDENT: Order! I want order in the House. It is difficult enough in my position to keep track of what members are doing from time to time without trying to keep track of what is happening and at the same time being inundated with all sorts of private conversations.

I want to say to the mover of the motion, before I go any further, that all he can talk about at the moment is whether this Bill should be recommitted. He cannot traverse the arguments in support of some subsequent proposition that he may put forward. It is a very delicate line as to where the beginning and end of that is, but the point I am making is that the argument now is not on the merits of any accepted proposal, or the merits of any proposed proposal; it is simply on the merits of whether or not the Bill should be recommitted for the reasons the member has outlined.

I would like the member on his feet and any other subsequent speaker to bear that in mind. When an incredible amount of racket is going on, I find it difficult to hear what the member is saying and whether or not he is breaching the rules. In the interests of everyone, I ask members to keep quiet.

Hon. N. F. MOORE: Thank you, Mr President. I accept your comments and you do highlight one of the difficulties that one experiences in seeking to recommit a Bill. It is necessary to explain the reason one wants to recommit the Bill in order to convince the House that it should go down that path.

I believe the House made a wrong decision during the Committee stage of the Bill and it will be reflected in an electoral system that is not fair.

If members were to read my notice of motion they would see that I am proposing an alternative system that is fairer and one which the House should give consideration to. As a matter of procedure, because notice has to be given of proposed amendments, if the House agrees to accept my motion to recommit the Bill for further consideration we would need to wait another day so the notice which I have given takes the effect of having been given as notice—I hope that makes some sense.

I ask the House to seriously consider what I am putting forward. It is a sensible approach and it will result in a Bill which is much fairer and one that is perhaps more acceptable to people who consider these things in some detail.

I have moved the motion that we recommit clauses 8 and 94 because they are the most important clauses in the Bill. I have taken the trouble to ensure that any consequential amendments which might result in the House amending clauses 8 and 94 are also considered. It would be silly not to go down that path if that did not happen.

I strongly urge members to support my motion for the recommittal of this Bill.

HON. D. J. WORDSWORTH (South) [11.28 am]: I formally second the motion. I believe there is good reason to recommit this Bill.

Hon. Norman Moore pointed out that when finally the Government decided to back the National Party's package, it was time for this Parliament to sit back and look at the consequences of that decision and to try to make that system as workable and as acceptable as it could. Having spent literally months on a Bill to reform the electoral system, we then raced ahead, not into the early hours of the morning, but into the late hours of the morning, to debate it. At that time of the morning very few members were really aware of what was occurring and at least half of them were asleep. There is no denying that.

This is one of the most contentious Bills that has ever come before the Parliament and it was passed under the conditions I have outlined. I am surprised that the Press did not draw the attention of the public to the fact that the Committee stage of this vital Bill was completed at four o'clock in the morning.

We have argued in this House about the Standing Orders and the fact that the House should cease operation at 11.00 pm. The Attorney General has been one of the people who has strongly recommended that. Despite that, we pushed on with debating the Acts Amendment (Electoral Reform) Bill. While I know that you, Mr President, would not want me to go too far in this direction, I will repeat what I said at about 2.00 am during the Committee stage of the Bill. I said that with 47.2 per cent of the total State vote a party could gain 18 out of the 34 seats. I did ask the Attorney General—

The PRESIDENT: Order! I did say that members cannot traverse that ground.

Hon. D. J. WORDSWORTH: I am sorry, but I was trying to say that members on this side of the House did ask questions of the Government during the early hours of the morning and we did not receive any answer.

It would be very wise of this Parliament to obtain an independent view from an expert in politics at the university, or someone like that, to ascertain how far we have gone, having emerged at four o'clock in the morning with more than a handful of amendments.

We raised amendment after amendment. Very few members were able to follow what was taking place. I could see that when I took the position of Chairman of Committees myself at one stage during the night. Perhaps it would not be a bad idea to draw breath at this time and examine exactly what has happened. I do not think we have heard any comments from any person outside the Parliament. That illustrates that this issue was never a great one with the public anyway. There is good reason for this Bill to be recommitted and not passed at this moment.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [11.31 am]: Hon. Norman Moore deserves a place in the *Guinness Book of Records* as the member for last gasp inspirations.

Hon. N. F. Moore: I do not get much inspiration at 4.00 am.

Hon. J. M. BERINSON: I doubt if his performance in this Bill marks him as deserving of anything much else. In the first place he plucks from the air the notion of constitutionally entrenching a Bill of some 106 clauses.

Hon. N. F. Moore: I agreed to your amendment and you did not even speak on it.

Hon. J. M. BERINSON: In the consideration of this highly important Bill, he now brings something entirely new to the debate, although it is not new in terms of the lengthy deliberation which preceded the Bill's presentation in this House.

The Bill we are now dealing with has been the subject of the most exhaustive examination. That examination has taken place in this Chamber at greater length than on any other electoral Bill that I can recall. More important than that, though, it has followed a process of seven or eight months' negotiations between the Government, the Liberal Party, and the National Party in which all relevant issues have been considered and discussed down to the finest detail.

Hon. N. F. Moore: That is not so.

Hon. J. M. BERINSON: The resources of the Electoral Department and the analyses of figures have been made freely available. There has been no attempt at ambush or—

Hon. N. F. Moore: We were ambushed at the Committee stage.

Hon. J. M. BERINSON: The likely effects of a large range of actions were considered over that seven-month period.

Hon. N. F. Moore: Why didn't you tell us you had tossed your own option out of the door?

Several members interjected.

The PRESIDENT: Order!

Hon. J. M. BERINSON: It was only at the end of that lengthy and most unusual process that the Bill came to the Parliament and to this House. Mr Moore complains that he was surprised when I indicated, on behalf of the Government, that we would not resist further the proposal advanced by the National Party—

Hon. N. F. Moore: Mr Tonkin resigned—

Several members interjected.

Hon. J. M. BERINSON: When I indicated that was the last position left to us—

Hon. N. F. Moore: Mr Tonkin resigned over this.

Several members interjected.

The PRESIDENT: Order!

Hon. J. M. BERINSON —members on Mr Moore's side of the House said "Yes, just as we expected all along." Not content with recording that in *Hansard*, the Leader of the Opposition in this House was ready yesterday to say on radio that members on his side knew that the Government would accept the National Party's proposition as soon as clause 8 was reinstated in the Bill, and that was two weeks ago. So two weeks ago the Leader of the Opposition and everyone else on that side of the House except Mr Moore, presumably—

Hon. N. F. Moore: Maybe I am a slow learner.

Hon. J. M. BERINSON: Mr Moore only found that out yesterday. We can take Mr Moore's expressions of surprise no more seriously than we can take his other propositions.

Hon. N. F. Moore: I would have thought you would go down Mr Tonkin's path.

Several members interjected.

The PRESIDENT: Order!

Hon. J. M. BERINSON: Mr Moore has attempted to advance an analysis of the six-region system which suggests that it could have an unfair effect in the metropolitan area. Of course it would not have an unfair effect in the metropolitan area. In any event, his analysis is fatally flawed because he attempts to deal with one part only of the package which now appears in the Bill. The only way to try to decide whether the package is fair is to look at the effect over the whole State and over the six regions. One cannot just pluck out some parts of the package and amend them, and say that that part of the consideration should be taken in isolation from anything else that goes along with it.

I was not personally involved in the inter-party discussions which preceded the final draft of the Bill. I understand, however, that the very combination which Mr Moore is now proposing by way of advance advice was indeed considered in those negotiations and discarded as unfair. It was discarded as unfair in the same way as a suggestion that there should be one region covering the whole non-metropolitan area, with three regions in the city. Both were regarded as equally unfair and likely to lead to unbalanced results.

Hon. N. F. Moore: Turn it up!

Hon. J. M. BERINSON: Following that consideration it was agreed, at least as the basis of the general shape of the new system, that there should be six regions with three each in the metropolitan and non-metropolitan areas. I can understand Mr Moore's paranoia on this. He gave his position away yesterday. I am glad it is recorded in *Hansard*. Mr Moore's biased

position is displayed when he says there should be permitted a position where the Labor Party could have a majority in this House.

Hon. N. F. Moore: If I had my way you would not be in Government at all.

Hon. J. M. BERINSON: His position is that the Labor Party should not have a capacity for a majority in this House.

Several members interjected.

The PRESIDENT: Order!

Hon. J. M. BERINSON: The member is not denying it today; he said it yesterday.

Hon. N. F. Moore: You can read it in *Hansard*. I said I did not want to see you controlling this House.

Hon. J. M. BERINSON: Not only does the honourable member not want to see us controlling this House—

Hon. N. F. Moore: Or the other House, for that matter.

Hon. J. M. BERINSON: —but he is not prepared to allow for an electoral system which will have even a remote possibility of that happening.

Much to my regret, Mr Moore's paranoia is in large part misplaced. The Government was perfectly serious in its objections to the National Party package throughout the debate on this Bill. We said at the time that the weakness of the National Party package was that even on the record voting majorities received by the Labor Party in 1983 and 1986, under this package we could not look to achieve better than half the members of this House; that is, 17 out of 34.

The PRESIDENT: Order! With respect to the Attorney General, I do not want this to become a debate on the merits of this Bill. I can understand the position, because the mover of the motion, due to the prevalance of all sorts of audible conversation, went further than I should have permitted.

I have already said that at this stage we cannot debate any of those things, otherwise we will take another 28½ hours to decide whether the Bill will be recommitted. I ask the Leader of the House to help me to contain this debate within the very fine parameters of determining whether or not to recommit the Bill, and not to debate the merits of what we have already done.

Hon. J. M. BERINSON: I accept that, and will say no more on that point other than that the analysis by the Government of the likely effect of the National Party package was in line with the National Party's own analysis.

The basic question is whether or not adequate consideration has been given to the provisions of this Bill to allow the House to continue to its final determination. The fundamental point is that that question ought to be answered yes; not only that, but it should be understood that the very package now being produced at this very last moment by Mr Moore is not new but has itself previously been considered and rejected.

Hon. N. F. Moore: Not by Mr Moore, it hasn't.

Hon. J. M. BERINSON: On that basis I urge the House to reject this proposal for recommittal and to proceed with the third reading forthwith.

HON. A. A. LEWIS (Lower Central) [11.43 am]: The proposal is new, and whatever the Attorney General says there surely must be some doubt in his mind that this House has debated this proposal. I am certain it has not, and so is the Attorney General.

Hon. J. M. Berinson: I did not say it had.

Hon. A. A. LEWIS: The Attorney General said enough debate had been held on the subject.

Hon. J. M. Berinson: That is right.

Hon. A. A. LEWIS: Lord help us! This is a new proposal. There has been no debate on the proposal that Mr Moore has brought to the House. Furthermore, the fascinating thing about this matter is that we saw in the Press this morning in relation to "this most important Bill" as the Attorney General called it, that the Premier—the Attorney General's leader—is talking about bringing in another Bill when the Government gets the numbers. That is, another Bill based on falsified numbers, as Mr Moore has pointed out. The Premier says he will bring in a new Bill.

Hon. G. E. Masters: As soon as he can.

Hon. A. A. LEWIS: Personally I believe that that is in contempt of this House. We have heard so much nonsense from the Government about this Bill. It has thrown its ideals out the

door at every opportunity. Let us look at the things it has thrown out the door: One-vote-one-value—

The PRESIDENT: Order! Order! I despair at times about how often I must say something before members in this place comprehend what I am saying. I do not know whether the words that come out of my mouth are understandable, but they appear to me to be very clear. I repeat that the motion we are talking about is the motion I read out a minute ago; that is, as to whether or not this Bill should be recommitted for the purpose of further debating a couple of clauses. It has absolutely nothing to do with any of the arguments that prevail in support of or in opposition to the merits of the original Bill. If the House agrees to this motion there will be an opportunity for members to talk about the contents of clauses 8 and 94 at some subsequent time, but until the House decides that it wants to do that, let us talk about whether or not we will recommit the Bill.

Hon. A. A. LEWIS: My abject apologies, Sir; I was only dealing with the matters that had previously been dealt with.

The PRESIDENT: Order! Let us just get that straight. I do not know whether I am getting old and impatient, but I have already pointed out to the previous speakers that just because a couple of them went a bit further than I ought perhaps to have allowed them to go is no reason for somebody else to say, "Well, he said it so I am allowed to." I am saying now that nobody can go outside the scope of determining the reasons why we ought or ought not recommit the Bill.

I ask Hon. A. A. Lewis, who does understand what I am saying, to demonstrate that to the rest of the House.

Hon. A. A. LEWIS: Thank you, Mr President. I do not know whether I like being set up as a guinea pig, but I will attempt to do as you order.

The proposals are new; they have not been debated in this House. The Attorney General has agreed that this is a most important Bill, though obviously he is at odds with his Premier who has decided that another Bill should come forward. The Attorney General talks about the analysis being fatally flawed, but how do we know that unless this Bill is recommitted? How do we know whether the results will be unbalanced if we do not recommit the Bill?

I have followed the debate fairly closely and have even taken part in it, but to the best of my knowledge there has been no analysis of or answers to these new proposals. I therefore believe that Mr Moore is dead right and that the Bill should be recommitted. It appears to me that the Government is scared to recommit the Bill because something may come out of that process that it does not want to be revealed. The Government does not want the true figures to come out, and that is why it does not want the Bill to be recommitted.

My final point is that the Attorney General says this is a most important Bill, while the Premier this morning said a new Bill would be put forward. It is a bad thing and a shocking thing to see the leaders of the two Houses at odds with each other.

Let us recommit and discuss this Bill. If the Premier is so keen on a new Bill, let us discuss that within the confines of this Bill. I think the Attorney General's argument demands that this House recommit the Bill.

HON. G. E. MASTERS (West—Leader of the Opposition) [11.49 am]: I support the motion. Mention was made of the word "ambush" and I suggest that an ambush was laid in dealing with clause 8 of the legislation when Hon. Joe Berinson moved for the clause's reinstatement. It ambushed a few, but Hon. Joe Berinson could not achieve success.

A comment was also made during the debate that there should be sufficient time to draw breath after what the Attorney General in an earlier comment stated was a debate of 16 or 17 hours' duration. I have not added up the hours but it seemed at least that length of time. I agree there should be time to draw breath, and that clause 8 should be discussed again. I emphasise to the House that that clause was defeated early in the Committee debate and then reinstated on an arrangement not supported by my party, on the ground that it would enable the remainder of the Bill to be debated so that the Attorney General could gauge the thoughts and opinions of members of the House.

That was the purpose of reinstating clause 8. What then happened turned out as most of us guessed; it was a device to handle the Bill in a way which is completely foreign to our usual practice in the Legislative Council. I hope it is never allowed to happen again, no matter which party is in control of the House.

The clauses ought to be reinstated and what we are proposing contains some advantages. I am not allowed to talk about these advantages or debate what is possibly going to happen if the Bill is recommitted. The Minister in his comments said that his party's figures were freely available. That was not the case towards the end of the debate because my research officer inquired after some figures and they were not available. That made proper debate on clause 8 more difficult. The Liberal Party laid its papers and computer figures on the Table and gave them to the Minister, and they were there for everyone to examine.

The Attorney General said that the proposition put forward was "fatally flawed". He did not say the present arrangement will allow the Labor Party to win half of the seats in this House with only 46 per cent of the vote. He did not say that, but he knows it. He said that having one metropolitan region was unfair, and I suppose he meant fatally flawed. That is not the case, and he knows it only too well.

Hon. J. M. Berinson: That is all quite wrong.

Hon. G. E. MASTERS: The Minister will not be able to deny this. He has a strong resistance to smaller parties having a part to play in this Council. He said, and his words are recorded in *Hansard*, that it was quite improper for a party or individual with a small number of votes to hold the balance of power in this House. Having one metropolitan region gives every party an opportunity to gain a seat with 5.5 per cent of the votes.

The PRESIDENT: Order! The Leader of the Opposition is now doing what I have said four times is not permitted. I do not make the rules for this place—they are laid down. You people ask me to interpret them and to insist they are complied with, and when I ask you to do that members seem to take it on themselves to disregard it. I am happy if we change the rules, but for goodness' sake change them before you start putting the change into practice. In the meantime stick to the old rules.

Hon. G. E. MASTERS: Mr President, I would not want you to change the rules, and as long as I got that comment on record, I did not mean it that way. Obviously members have traversed the whole of the legislation, and I guess I got carried away with my notes on the other people's speeches. I will not do it again. Suffice it to say that if the Bill were recommitted it would enable us to discuss the opportunities which clause 8 offers to smaller parties.

Hansard has recorded the Attorney General's statement in which he expressed strong opposition to that opportunity being offered to those parties. In view of those comments the House ought to very seriously consider the advantages of an opportunity for further discussion on clause 8, because it is the key to the legislation. It is no good the Attorney General saying we have discussed and examined all the options which are available. That is not true, and Hon. Mick Gayfer demonstrated there are many other options which ought to be considered. I will have a deal more to say on the third reading stage when I believe I will have more flexibility to discuss the areas I cannot mention now. I urge the House to seriously consider supporting the proposition put forward by Hon. Norman Moore.

HON. E. J. CHARLTON (Central) [11.55 am]: I will do my very best to keep my comments within the Standing Orders. I want to state the National Party's position at the outset both in relation to the debate that has gone on and any suggested further debate. I have continually stressed one aspect in my contributions to the debate in this place, and in that respect I was very disappointed with the headline in *The West Australian* yesterday. The National Party's position has been consistent all the way through even if it is not agreed to by a majority in this place. We have never departed in any way, shape, or form from what we have publicly stated. That is the basis for my comments now.

I do not wish to deny anyone the opportunity to put forward something which could contribute to a very important and serious piece of legislation. Speaking personally as an individual member, I will not be party to any change to the position I outlined previously. I have said it so many times in this place that it got to the point where people were getting sick of my saying it. We took a position, and that is it.

The proposal put forward by Hon. Norman Moore is obviously very relevant to the Bill. Hon. Norman Moore wants this clause recommitted to put forward a proposition he has outlined. I do not think we should do that because we seem to be getting away from the most important aspect of the Bill which is that it puts into place, if left in its present form, a mechanism that everyone understands. Any move to reopen these clauses and make changes seems to me not to be based on the

positive reality of what is fair or best. It is based on a fear that certain things may or may not happen at some time in the future. That is up to the parties, the candidates, and the people.

Hon. Norman Moore said in his reasons for recommitting the Bill that if we did not have the opportunity to debate it further we could be putting in place something the people of Western Australia may be sorry for. He did not use those exact words, and he can correct me if I am wrong.

Hon. N. F. Moore: I meant that.

Hon. E. J. CHARLTON: I agree with him totally, but the best way out of that is for members on this side of the House to see if we can perform to the expectations of the people to whom we give the democratic right to vote.

I have not had time to discuss this motion with my colleagues and therefore everything I am saying here today is my personal view. I do not support it. I believe that the National Party has taken a stand on this legislation since the first day it was discussed and we have not been prepared to move one way or the other from that stand, no matter what anyone might say about our having discussions with anyone else. I was part of the group that held the discussions and negotiations on this legislation. Once our position was worked out, whether it was right or wrong, I felt it was my duty to take on the chin any criticism for our stand. At least I could say that I stood for what I believed was right. The only reason I can support the motion would be to give Hon. Norman Moore the opportunity to debate the clauses again.

Hon. N. F. Moore: You can only debate the clauses about which I have given notice, nothing else.

Hon. E. J. CHARLTON: I agree. Perhaps one of the shames of this is that Hon. Norman Moore was not involved in the earlier discussions when we were given the opportunity to talk about a whole range of matters.

Hon. N. F. Moore: The problem is that the House made the decision ultimately, not the parties. I am responding to the decision of the House.

Hon. E. J. CHARLTON: I know, and I understand the duress that every member was placed under while the Bill was being debated.

This matter has gone on for months. As I said, the National Party worked out its position and decided that it would not move from it. We decided also that we would live with whatever arrangement was decided by the House. Obviously, it would not be sensible or logical for me to agree to a recommittal of the Bill when, for nearly two years, we have taken a position on this legislation which has now been agreed to.

Hon. N. F. Moore: Couldn't you accept another four days to make sure that we get it absolutely right?

Hon. E. J. CHARLTON: That is a valid point. I wish Hon. Norman Moore had introduced these matters at an earlier time.

Hon. N. F. Moore: So do I.

Question put and a division taken with the following result—

Ayes 13

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

Noes 20

Hon. J. M. Berinson	Hon. Tom Helm
Hon. J. M. Brown	Hon. Robert Hetherington
Hon. T. G. Butler	Hon. B. L. Jones
Hon. J. N. Caldwell	Hon. Garry Kelly
Hon. E. J. Charlton	Hon. Tom McNeil
Hon. D. K. Dans	Hon. Mark Nevill
Hon. Graham Edwards	Hon. S. M. Piantadosi
	Hon. Tom Stephens
Hon. H. W. Gayfer	Hon. Doug Wenn
Hon. John Halden	Hon. Fred McKenzie
Hon. Kay Hallahan	*(Teller)*

Question thus negatived.

Third Reading Resumed

HON. H. W. GAYFER (Central) [12.11 pm]: I rise to move a motion in accordance with Standing Order No. 277 on page 75 which states—

> Amendments may be moved to such question by deleting the word "now" and adding "this day six months".

Amendment to Motion

I move—

> Delete the word "now" and add the words "this day six months".

My purpose is clear and it covers one of the reasons why I did not vote for Hon. Norman Moore's proposal a short while ago. That proposal covered clauses 8 and 94 but not clause 9.

In an interview on television last night the Deputy Premier was asked whether the Bill had gone far enough. He asserted that the road to reform is slow and tortuous. Also, this morning

the Premier said that he did not believe the Bill goes quite far enough and that certain things will happen given certain information and reform support.

I believed Hon. Joe Berinson when he said that the purpose of the Bill was clearly to establish what was in the minds of the various people in this Chamber. I depart again from political parties. We have only heard about what the political parties think; I am saying that the individual thoughts and opinions expressed in this House—whatever they may be, even those circulated in the amendments to be moved by Hon. Norman Moore—are good reason why this Bill should be deferred and a completed Bill presented.

If we are to adopt this Bill as it stands—it was only intended to be a talking point and is, therefore, a mishmash of all the points raised—it should be consolidated; clause 8 should be reappraised; and we should vote on the final Bill. The present legislation is full of flaws, problems, and many things that will not be acceptable to the electorate as a whole. Even the Australian Broadcasting Corporation cannot get it right; last night an announcement was made in its news service that the State will be divided into six regions in the metropolitan area and six in the country. The people at the ABC do not understand it. We shall move from preferential to proportional representation voting and that is a terrific undertaking.

The Bill should not be considered at the third reading stage at least until the end of the year or until another Bill is properly prepared, incorporating all the amendments. That final Bill should be circulated to members so that they understand precisely what is included in the legislation. I know that this is a difficult motion and indirectly a rejection motion. However, it is not important if we reject it because we have the basis on which to bring another Bill into this House which we can consider clause by clause and tidy up generally. We shall then have legislation with which to go to the election. The delay would also mean that newspapers and the media generally would have time to fully understand the provisions and present the implications of them to the people. That is important.

Hon. Joe Berinson said that it is an entirely different Bill: and the Bill is of great moment. Members do not realise what it means to this House. It completely alters everything that has taken place in this House since 1890. Good or bad, we must have reform; but when that reform takes place in this House, it should not be followed two hours later by the Premier and the Deputy Premier saying there is need for further reform.

Let us ask the Attorney General to bring back a properly printed Bill and let us talk about it for a couple of months—any other sensible Bill would be reframed—and let the people understand exactly what it means so that we can get some feedback. I guarantee that none of the parties beyond their lay members understand one thing about this Bill, and I doubt very much whether the lay committees fully understand it. I am aware of that because of a number of telephone calls I received yesterday following a Press statement that I did not vote on one particular clause. It is funny that the Press should have highlighted that one occasion on which I did not vote because I voted on everything else in the Bill, although not always on the same side. It is almost amusing that it made an exceptional item for the paper; but the implication was that I had not voted on any clauses.

I have every good reason for moving this motion because I believe the Bill needs to be reprinted. It would be a much tidier and easier Bill if it were complete in every detail in accordance with the amendments. If the Bill were in front of us in one document we would be able to make a decision on whether it was the correct line to follow. That is the only way to proceed. It must also be rememebered that the Bill only survived because of a motion that needed your support as to whether a clause should be deleted or inserted—I am sorry, I meant to say the Chairman of Committees' support.

The PRESIDENT: Order! It did not need the support of the President, it needed an interpretation by the President as to whether or not the particular action was lawful in accordance with the Standing Orders. The President did not give a personal opinion on it.

Hon. H. W. GAYFER: I apologise. In the Committee stage at one point three amendments were moved to a particular clause. I am sure a mistake was made and that it was quite wrong to move one of those amendments before another. However, that was ruled correct. I know I should have stood at the time and asked what was going on but I did not. The action was wrong and that one decision made by the Chair in Committee falsely directed the whole line of this Bill. I honestly believe a different course would have been adopted and I will go so far as to say that the Bill would not be here now if the proper course—I will check this

when I have time—had been followed and the rules of this House had been observed. An amendment was jumped, another amendment was taken, and the Committee then went back to the previous amendment. I recognise all these things—the peculiar way in which the Bill survived a defeat at one stage and came forward again, and that the people in the community do not really understand and that they have not had time to understand what will happen to this House; they have not had time to give us some feedback. The Bill will, in fact, be looked at in a different form.

The PRESIDENT: Order! The honourable member is trying to move a motion, and there is so much audible conversation going on that notwithstanding he is speaking in more than a whisper, I am having difficulty hearing him.

Hon. H. W. GAYFER: I said that for these reasons it is absolutely necessary I move this amendment.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [12.22 pm]: Hon. H. W. Gayfer has been very fair in suggesting that no matter what form his current amendment takes, it really would have the effect of rejecting the Bill. The Government opposes that move and also the grounds on which Hon. H. W. Gayfer supported it.

With respect to the constant reference in this Chamber to the need for time to consider, I again repeat I cannot recall a Bill which has been considered in greater detail or at greater length. This Bill has been before the Parliament since July 1986. It has been subject to detailed inter-party discussions since last December. If in spite of all that the ABC misunderstood the effect of the Bill, that is the ABC's problem, not ours. I do not believe there is a single member of this Chamber who misunderstands the nature and effect of the Bill as we now have it, if only because in almost all essentials it has been encompassed in the National Party package from the outset. We know particularly that the Bill we now have reflects the position of the National Party, which has been in place for many months, much more than it does the Government's own position. The question of equal metropolitan and non-metropolitan representation in this Council, and the spread of Assembly seats between the metropolitan and non-metropolitan areas, has appeared in the National Party package from the outset of serious negotiations. So there were no surprises, and there was no need for a six-month delay, or any delay at all.

Hon. N. F. Moore: You had six months' delay from when it was first put in.

Hon. J. M. BERINSON: Rather than repeat my comments on Hon. N. F. Moore's earlier motion, I leave my statement at that. We have come too far down the road to be diverted by suggestions of surprise. There are no surprises left in this measure, if ever there were, and we should proceed to make our decision on the essential question, which is that the third reading be carried.

HON. N. F. MOORE (Lower North) [12.25 pm]: I want to briefly support the amendment of Hon. H. W. Gayfer. When members in this Chamber debate a Bill, there is a degree of certainty in our mind that when that Bill is passed, it will be around for some time—that it is what the law of the land is going to be for some reasonable period of time—in most cases for ten, twenty, fifty years.

However, in *The West Australian* this morning, the Premier is quoted as follows—

> He said that the ALP would press on till the WA Parliament was elected by one vote, one value.

Members all know that this is just a step in that direction, based on the figures in this Bill; if this Government gets control of this Chamber next time, what we are going to get is one-vote-one-value, because that is what the Government is about. The Premier said—

> We have not and will never abandon our long-standing objective of giving every Western Australian an equal vote in deciding the composition of this Parliament.

That is what the next step is. This Bill the House is seeking to pass does not give the people of Western Australia any certainty as to what their electoral system is going to be. The Premier has added a degree of total uncertainty, and if members pass this Bill, we will contribute to that uncertainty. Therefore, we should follow the amendment moved by Hon. H. W. Gayfer and toss this Bill out now, and start all over again.

HON. W. N. STRETCH (Lower Central) [12.27 pm]: I regret coming into the debate this late in the day, but I think we have heard it all now from the Attorney General's own mouth. We have come too far down the road to be diverted now. Honourable members will notice, and particularly those from the National Party, that the Attorney did not say "to the end of the road", but just "too far down the road".

Hon. J. M. Berinson: I am talking about this Bill.

Hon. W. N. STRETCH: Hon. H. W. Gayfer understands very well what the Attorney means. He knows that we are on the slippery slide, not the end of the road. We know that this House, in its accepted form that has stood for so many years, is doomed under this proposition. The honourable member's lay party organisations, the ones which have spoken to us, know what it means. They know the whole structure of this House is being threatened. Out there, beyond the Attorney's metropolitan area, this Chamber is held in very high regard. It is held as the bastion of the wealth-producing areas of the State of Western Australia. People there know it is under its most serious threat ever.

Hon. J. M. Berinson: How can you be under threat with a guaranteed half of the membership of this House?

Hon. W. N. STRETCH: The Attorney knows more about how this State is run than that. How can he say that after he has turned his back on the very principles that he has espoused ever since I came into this House in 1983, and for long beforehand? He now stands up and says these things, and has the hypocrisy—

Several members interjected.

The PRESIDENT: I do not want these interjections and yelling out across the Chamber to occur. Let us proceed with this debate on a basis whereby everyone gets a fair go.

Hon. W. N. STRETCH: The Labor Party cannot come in now and go on with this hypocrisy that it has been turning on for the last few days. It is absolutely absurd. It knows that it stands accused after what it has said for so many years. In saying, "We are too far down the road to be diverted", it can see the ultimate goal being achieved of getting rid of this Chamber altogether.

Hon. Garry Kelly: There will have to be a referendum, and you know it.

Hon. W. N. STRETCH: The Attorney General went on a gigantic fishing trip with the whole of this Bill. He started off saying, "This is only an exploratory Bill. We know clause 8 has been rejected, and we will go on and see what sort of agreement we can get on these other bits."

The Government said, "We are not really interested in the Bill; we are only interested in seeing how you feel. We would like to know how the National Party and the Liberal Party feel about these things. We will see what we can get here and then we will come back later with a whole package and we will know where we stand." That is rubbish. The Liberal Party knew it at the time but the Attorney General has done a little bit of fishing here and there and has put together a vicious package, which will see this House ultimately destroyed.

People in the country have been telephoning me and saying, "Staggered elections have been good enough for 150 years and they have been good enough for local government; why aren't they good enough now?" People believe that staggered elections give this State stability both at the local government level and in terms of the Legislative Council. Other people from the bush have said on many occasions, "Thank God for the Legislative Council", and behind their hands many Labor Party members have said the same. They did so because they felt that this Council made decisions that Caucus did not have the guts to make for itself, and they quietly said, "Thank God for the Legislative Council."

Members like Hons. J. N. Caldwell, Tom McNeil, and Eric Charlton need to take heed of what their local people are saying—

Hon. Tom McNeil: We are taking notice of it. The ratio of 16-18 sounds better than 17-17—

The PRESIDENT: Order! I want members to stop their conversations.

Hon. W. N. STRETCH: I accept Hon. Tom McNeil's mathematics but the National Party did not follow this matter far enough because some of those 17 seats would be constructed in such a way that they would become Labor Party seats in the country.

Hon. Tom McNeil: It's all right if it is 16-18 but not if it's 17-17.

Hon. W. N. STRETCH: The issue is that this House would no longer exist. Those 17 country seats would automatically—

Hon. Tom McNeil: What do you mean?

Hon. W. N. STRETCH: I believe that under this proposal as soon as the Labor Party has reached its cherished—

Hon. Mark Nevill: You're wrong.

Hon. W. N. STRETCH: I sincerely hope so but it is my belief that when the Labor Party achieves its long-cherished ambition of having control of both Houses of Parliament, this Chamber will either be demolished or will be

rendered useless. It will not be left as a House of Review but it will be an extension of the Labor Party Caucus and its 36 faceless men.

Several members interjected.

Hon. W. N. STRETCH: I might be out of date with the Labor Party's constitution; it could be 136, I do not care, but that will be the ultimate result of what is happening here today.

Hon. H. W. Gayfer is quite right. He has been in both Houses of Parliament long enough to know exactly what is happening. He can see this institution being destroyed. The other night he said he was so overcome that he could not bring himself to speak and he was absolutely genuine. Hon. Mick Gayfer knows what is happening and he is very distressed by it. I have not been here as long as Hon. Mick Gayfer and I probably will not be here much longer if the Labor Party has its way.

However we know that Hon. Mick Gayfer is right and I urge members to treat the Attorney General's assurance with the scorn it deserves. He has now come into line with what the Premier and the Deputy Premier said the other day—that this is only the start. The Attorney General has now said that we are too far down the road to be diverted. I hope we are not at the end of the Government's road because it will be the end of the road for this House.

Hon. Sam Piantadosi can play his imaginary violin, but I suggest he is playing at the funeral of the Legislative Council and the legislative setup of Western Australia. I hope he enjoys his violin playing, and may God have mercy on him and on the members of this House who do not support Hon. Mick Gayfer's amendment. Members are dealing with the fate of the Legislative Council of Western Australia. I know the Government does not give a damn about that. I can see Hon. Kay Hallahan laughing her head off. She thinks it is a great joke. I hope the people in her electorate and in the bush regard it in the same light. My constituents do not regard it as a joke and I believe the people in the metropolitan area who think about this House and who have been protected by its actions regard this matter very seriously and hope that the members who represent them do not treat it lightly. I think it is disgraceful that a Minister of the Crown should laugh at such a situation and I urge her to take this matter seriously.

We are dealing with the most critical decision in the history of Government in Western Australia. I urge members to take their responsibilities very seriously. It is not a question of 17-17. I accept Hon. Tom McNeil's proposition that that sounds better than 16-18 but when one has done one's figures, one knows what the result will be under 17-17.

Hon. E. J. Charlton: Have you ever considered that it is up to us on behalf of the people who support us to perform and not worry about boundaries?

Hon. W. N. STRETCH: We can perform but not with one hand tied behind our backs. We cannot perform when we are playing on one oval and the Government is playing on another oval altogether. I accept the validity of what Hon. Tom McNeil is saying, but it goes beyond the mere mathematics. The ratio of 17-17 may sound better than 16-18 but in reality it is not better. The Liberal Party knows that of those 17 country members a sufficient number will be Labor Party members, who will ensure the end of this Chamber. It is nothing more and nothing less than that. This is a simple message: Members either vote with Hon. H. W. Gayfer to maintain the bicameral Government of Western Australia or they throw out his amendment and this House disappears with it.

HON. A. A. LEWIS (Lower Central) [12.37 pm]: I will not hold the House for long. I support Hon. H. W. Gayfer's amendment because it is obvious that the Labor Party has taken this matter step-by-step.

Let us examine those steps: This "maybe" Bill is proclaimed—and I hope that it is not—but the Government does not want the public of Western Australia to have any information about it. Mr President, you have been here a long time and so have I. The Labor Party has always screamed about freedom of information. The Attorney General does not want the public to know what is in this Bill.

The Premier let the cat out of the bag. He wants one-vote-one-value. When one considers the Labor Party platform, which has temporarily been altered so that the Government can con the public, one sees that one of its aims is to abolish this House. The Labor Party does not want staggered terms in this place. I point out to local government representatives, wherever they may be in this State, that this is the start of their downfall because once the Government has this Bill through in its present form, it will move on local government and say, "You will all be voted for on the same day; you won't have staggered elections and you won't have the opportunity to stay in over a long time and keep your experienced council-

lors in. We are going to kick you all out at the same time and play cynical politics with the whole business."

The Attorney General and the Premier have let the cat out of the bag. The Premier said that this matter had gone as far as it could go this time, but he wanted to see it go further the next time. What he has not said is that he wants to abolish this House and that he really wants to get rid of local government. When we look back to the Whitlam era and then consider the regional authorities such as the South West Development Authority being set up by this Government, we should realise that this Government wants regional government appointed by the Government and not elected by the taxpayers.

This House has only one course of action to take and that is to support Hon. Mick Gayfer's amendment.

HON. D. J. WORDSWORTH (South) [12.41 pm]: I strongly support Hon. H. W. Gayfer's amendment. I think it is a sad day when this House is placed in the position of having to debate an amendment such as this. Hon. H. W. Gayfer has seen what has happened to his party. I do not know whether *Hansard* recognises him as a member of the National Party but he has always considered himself to be a member of the Country Party. He has seen his colleagues perhaps trying to go too far with electoral reform and he has seen the vindictiveness of certain of their members here.

Hon. Tom McNeil: Are you speaking now as Chairman of Committees or just as a backbencher? Which of the two hats are you wearing today, because you are pointing the bone at other members in this House, siding with Mr Gayfer, and suggesting he is not a member of the National Party?

Hon. D. J. WORDSWORTH: It is interesting to listen to members when the final realisation comes to them. We have not heard from Hon. Tom McNeil before.

Hon. Tom McNeil: Keep up that sort of talk and you will.

Hon. D. J. WORDSWORTH: That is exactly what I am hoping. I hope he will get up and speak to this amendment.

Hon. Tom McNeil: It is people like you who have put us in this position. You are hopeless.

Hon. D. J. WORDSWORTH: Perhaps we might also hear from Hon. John Caldwell, too, because I think the National Party members will have a lot of explaining to do when they return to their electorates.

Hon. E. J. Charlton: That is not what you said as Chairman of Committees.

Hon. D. J. WORDSWORTH: What I said in that letter has been proved to be true. Members of the National Party are trying to hide behind the fact.

Hon. E. J. Charlton: I hide behind the truth.

Hon. D. J. WORDSWORTH: I wrote that letter, and because it had my title on it, members are now suggesting that what I said was not true.

Hon. E. J. Charlton: Both were incorrect.

Hon. D. J. WORDSWORTH: What I said as Chairman of Committees is very true. National Party members will now have to return to their electorates and live with their decision.

Hon. Tom McNeil: We are prepared to do that; we have nothing to hide.

The PRESIDENT: Order! We are debating a very important motion. While the conversation being held by the three members is very interesting, it has nothing to do with the matter before the House.

Hon. D. J. WORDSWORTH: The National Party thought its proposals were in the best interest of rural people. Its desire to have an equal number of members in this House for both country and city areas has had the effect of selling out the rural people. As I have said before, it is possible, with 50 per cent of the metropolitan vote, that the Labor Party will gain 10 out of the 17 metropolitan positions in this House.

Hon. E. J. Charlton: I think it would be an idea if the Liberal Party concentrated more on metropolitan seats instead of running around the country.

Hon. D. J. WORDSWORTH: The point I am trying to make is that a minority party has no strength if a major party that votes with it does not have the numbers. If the Liberals do not win the seats in the metropolitan area, the National Party will have no power. That is all I said in my letter. I believe that National Party members have been misled by one of their colleagues in another place because, perhaps, they

do not have the experience in this place and do not know its history. I do not think there is very much doubt about what will happen in the rural electorate.

Sitting suspended from 12.46 to 2.30 pm

Hon. D. J. WORDSWORTH: Perhaps members were not aware, due to the lateness of the hour—four o'clock—just what the effect would be. The National Party hoped for equal representation for the country and the city, but the effect will be disastrous. If the Labor Party won 10 city seats, which it could do with just 50 per cent of the vote, it would require 34.5 per cent of the country vote for the other seven to gain half the seats on the floor of the House. To gain a majority it need only win an extra seat in the south west, which would be four out of seven, by getting an extra 11 426 votes.

While the rural people may have half the number in this House as regards representation, under this Bill, particularly with regard to the way in which the boundaries of the regions are to be drawn, it would not be hard for the Labor Party to get those eight seats from the country or an extra city seat, despite the fact that the National Party thought the Bill was loaded in favour of the agricultural areas. We may see some very major changes in this House.

I was attacked over a paper which I sent out under the name of the Chairman of Committees, David Wordsworth MLC. It is regrettable that some members objected to my using the title "Chairman of Committees". I pointed out to those in my electorate the difficulties which could arise if the Liberals were not able, under this system, to gain half the metropolitan seats in the upper House in a three region package. If the Liberals were able to deliver, and the challenge was thrown out to us by Mr Charlton, the National Party would no longer have its controlling power as a minority party which it has enjoyed of late.

The challenge was thrown out, "Why do the Liberals not get their act into gear and win half the seats in the metropolitan area?" One of the difficulties has been pointed out by two other members. Any political party will have its ups and downs, but as soon as we go down and our numbers in this House are reduced, there is a strong likelihood that another Bill will be brought into this House to oppose equal representation of country and city, but on another basis, where undoubtedly the city vote will flood the country. Another Bill may be presented which will emasculate this House completely, even going to the extent of the Queensland situation, where there is no Legislative Council.

I strongly support the amendment.

Question put and a division taken with the following result—

Ayes 14

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

Noes 19

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. J. M. Brown	Hon. B. L. Jones
Hon. T. G. Butler	Hon. Garry Kelly
Hon. J. M. Caldwell	Hon. Tom McNeil
Hon. E. J. Charlton	Hon. Mark Nevill
Hon. D. K. Dans	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. John Halden	Hon. Doug Wenn
Hon. Kay Hallahan	Hon. Fred McKenzie *(Teller)*
Hon. Tom Helm	

Question thus negatived.

Third Reading Resumed

HON. G. E. MASTERS (West—Leader of the Opposition) [2.39 pm]: The decision of this House, particularly on clauses 8 and 9, has opened the door for a number of things to happen. The first is the total dismantling of the Legislative Council as we know it today. There can be no argument about that. On giving the Labor Party a signed blank cheque, which everyone knows is a very dangerous thing to do, the Labor Party, not over the long term but over the short term, can achieve its Federal policy.

I know that Hon. Joe Berinson has said it is there, as are other policies which have not been used, but that policy is there for everyone to see and it is directed at undermining the powers of the upper Houses throughout Australia, including the Legislative Council of Western Australia, with the final objective of that policy being the ultimate abolition of those upper Houses.

Today we have seen two articles about this matter in *The West Australian* newspaper, one quoting the leader of the National Party, Mr Hendy Cowan. He seemed to indicate that the changes are moderate, but I challenge that. They are significant and very great changes that

will virtually dismantle the Legislative Council as we know it. I quote from his statement in this morning's newspaper—

> Since the 1986 election, which gave the Nationals the balance of power, the Legislative Council has operated as a house of review—a rare occurrence throughout its history.

I remind honourable members—although I am sure I do not have to remind Hon. Mick Gayfer—that the National Party did in fact have the balance of power prior to 1974 when I came into the Legislative Council, and for many years before that—perhaps 50 years. That is a long time, so Mr Cowan's statement is not correct.

Hon. P. G. Pendal: It is an insult.

Hon. G. E. MASTERS: It is an insult to suggest that; although maybe Mr Cowan did not write the article; perhaps it was prepared for him. I am not criticising him for that. I know that leaders are often under the hammer, and maybe they miss something, but it is simply not true and I thought reference ought to be made to that fact in this place. Everyone knows it is a fact.

A further comment in the same article was—

> The National Party's determination to maintain the value of country votes has paid off, because WA's new electoral system enshrines, as a major element, equal representation for city and country people in the Legislative Council.

That is true, and Hon. Tom McNeil became irate before the lunchbreak when I said they made sure the numbers were 17-17. But what really happened is quite different. The Labor Party now has its foot in the door to do many other things.

Hon. T. G. Butler interjected.

Hon. G. E. MASTERS: Is the honourable member saying that is not true?

Hon. T. G. Butler: Yes, I am saying that.

Hon. G. E. MASTERS: In the long term it will not be for the protection of the country people or in their best interests. In the long term, or perhaps in the short term, country people will be seriously disadvantaged, and I will refer to that in a moment. What has happened is that this legislation has guaranteed the Labor Party 17 seats in the Legislative Council, even if it receives 46 per cent of the votes. That is the advantage.

Hon. T. G. Butler: Rubbish!

Hon. J. M. Berinson: That would require a remarkable uniformity of votes across all six regions, as you know.

Hon. G. E. MASTERS: The National Party has been supplied with those figures. I have quoted those figures throughout debate on this Bill, and the Attorney General knows that very well. I pointed out quite clearly where the percentage swings were needed to cause the Labor Party to lose a seat; that is what I am saying. I am simply saying that the Labor Party will need to lose in all six regions, from three per cent—which is very low—up to 11.8 per cent, before it loses a seat. It is unlikely that the Labor Party will lose anything like that percentage of votes. There is a possibility of its losing three per cent in one region but in the other regions it will be required to lose around seven per cent before it loses a seat.

What I am trying to tell the House is that the Labor Party will have to lose a fair percentage, far below 50 per cent, before it loses a seat in the Legislative Council.

Hon. J. M. Berinson: That is simply not right.

Hon. G. E. MASTERS: It is right, Mr Berinson. I have the figures, and I have presented them.

The PRESIDENT: Order! Order! Silence is to be observed in this Chamber, and honourable members are to cease their audible conversations.

Hon. G. E. MASTERS: I have presented the figures and made them public. The Labor Party says it is not true, but so far we have not seen any figures—certainly no figures comparable to the Liberal Party's—to substantiate the Labor Party's claims. On inquiry, my research officer was told those figures were not available. I assume they were not available to the Liberal Party, but they must have been available to the Labor Party or it would not have accepted the National Party proposal. We were quite open about our facts and figures, and I challenge the Attorney General and the Labor Party not to make impassioned speeches about my being wrong.

Hon. Garry Kelly: They are rubbery figures.

Hon. P. G. Pendal interjected.

Hon. G. E. MASTERS: If the Attorney General is going to disclaim my figures, perhaps he should present his own and at least tell us just what percentage of the vote the Labor Party will need to gain in each region before it wins or loses a seat. We have done that exercise and

I am laying it down on the record that that is the end result of that debate in this House and the acceptance of clauses 8 and 9 of this legislation. Obviously the Labor Party is quite pleased with that proposal but I point out that that is the end result and for that reason we have to look down the line to see what is going to happen.

I point out to the National Party once again that it should have carried out sufficient calculations and considered the Liberal Party's calculations—and I have made them available to Hon. Eric Charlton, and we had many discussions although there was no acrimony in that respect; we simply exchanged documents so he knows what I am talking about and is aware of the figures I am presenting now. Hon. Eric Charlton and I both know that under this legislation the National Party will be guaranteed only three seats. There is a fair guarantee of that, but that party will need a substantial increase in votes in the agricultural and south west regions to pick up a fourth seat. It is giving away one seat.

Hon. Eric Charlton is nodding agreement that that is the case. He has seen the calculations.

Hon. E. J. Charlton: I am nodding agreement on the basis the 1986 figures.

Hon. G. E. MASTERS: I am sorry, I did not say that that statement is based on the 1986 figures. The point I make is that of course I base this on the 1986 figures, but if in 1989 the Labor Party loses four or five per cent in each region across the State it will still hold 17 seats.

Hon. J. M. Berinson: That is wrong. On the 1980 figures we would have a maximum of 16 seats.

Hon. G. E. MASTERS: Then I would be very pleased if the Attorney General, on making that statement, is prepared to table and read out the figures, and what is likely to happen; and to make those figures available to the House. I would be pleased if he did that rather than make a statement without any backing. I am backing my statements with figures, and I challenge the Attorney General to make figures available comparable to those I have given him.

Hon. S. M. Piantadosi interjected.

Hon. N. F. Moore: You have made no contribution whatsoever. You would not know what you were voting on, except that it advantages you.

Hon. G. E. MASTERS: If I am able to continue above the private conversations, those are the facts. I repeat that our calculations back them up, and we are happy for anyone to look at them. The Labor Party will maintain its 17 seats with between 46 and 47 per cent of the vote. The National Party will gain three seats in the coming election, but will need an increase in votes of around 14.56 per cent to pick up another seat in the south west region, and an increase of 20.64 per cent to gain another seat in the agricultural region. So a substantial increase in votes is required.

That needs to be on the record to make sure we understand what the result will be at the next election, regardless of a drop in the Labor Party's vote.

This morning's edition of *The West Australian* contained a report of a statement by the Premier. The National Party and all members should understand exactly the intentions of this Government. The Premier quite improperly made the statement before the measure had completed its passage through this House. The article is headed "Reform Bill clear but Premier to push on". I quote as follows—

> New electoral-reform legislation will be one of the Labor Government's first priorities when the Legislative Council is reconstituted after the next State election.

The Premier gave that absolute commitment. The Premier is also reported as having said—

> It also entrenches the National Party with the balance of power in the Upper House.

That really shows how journalists were able to misunderstand some of the things that happened over the last few days in this House, and indeed Mr Gayfer referred to the problems the reporters have had in reporting on this debate because of the complex nature of the legislation.

The fact is that the legislation does not entrench the National Party with the balance of power in the upper House. I have already explained that it will get three seats, and if the Labor Party manages to maintain a majority in this House, once it gets 17 seats it will not have one of its members take the President's Chair but will leave it for someone else to fill. If a non-Labor member takes the Chair that will ensure the Labor Party gets the balance of power in this House. That is the intention of the Labor Party.

I refer again to the newspaper article—

> Mr Burke said that though the measures agreed to by the Council went some way to reducing the "notorious unfairness" of WA's electoral laws, they fell far short of what could properly be considered a truly democratic system.

Further on he is quoted as follows—

> We have not and will never abandon our longstanding objective of giving every West Australian an equal voice in deciding the composition of the Parliament and the government.

I emphasis "an equal vote". The article went on to say—

> He said that the ALP would press on till the WA Parliament was elected by one vote, one value.

No matter what the National Party's intentions were—and I listened carefully to Hon. Eric Charlton and I know he is a very sincere man who made his statements believing they were appropriate—it must face the truth that should the Government gain control of this House at the next election, it will move to introduce one-vote-one-value for both the Legislative Assembly and the Legislative Council.

Hon. Tom McNeil quite appropriately tried to defend his party by maintaining that it had agreed to a 17-17 weighting. What he does not understand—or chose to ignore—is that once the Labor Party gains control of this House it will introduce one-vote-one-value, and this would mean that in the medium and longer term the country people of this State will be very seriously disadvantaged. The Government's sole intention in the future is to introduce one-vote-one-value in the Legislative Assembly and the Legislative Council, regardless of country or metropolitan representation.

Hon. Garry Kelly: You don't think we should have the majority in this House under any circumstances.

Hon. G. E. MASTERS: That is quite wrong. When I was explaining our proposition I made available to the Attorney General our figures that demonstrated that if we considered the 1983 and 1986 elections, under our proposition the Labor Party would have had today a majority of 18-16.

Hon. Garry Kelly: On Assembly figures!

Hon. G. E. MASTERS: I have already explained that we used the Legislative Assembly figures because there would be a voting ticket where the party lines would be drawn. If we took the line between the Legislative Assembly and the Legislative Counil in 1983 and 1986, the ALP would have come out in front.

Hon. T. G. Butler: If that were true you wouldn't have got Norman Moore's support.

Hon. G. E. MASTERS: I do not give a damn about what anyone else says, I am making this speech. I have handled this piece of legislation for the Opposition in the Legislative Council. I have handled a lot of the negotiations, including one set of negotiations with the Labor Party where, in my view, a certain person made a breach of faith. I would not be interested in discussing any other matter with that person in the future. If people cannot keep private discussions confidential, that is up to them. In private negotiations I keep my word and expect others to keep their word. I discussed these matters at length with Hon. Eric Charlton and never once did he break faith with me. There is a difference between what the Labor Party has been doing and what the other parties have been doing.

I appeal to the National Party to understand what it is doing. In the short-term it may have been able to mount an argument that it was protecting the country vote by agreeing to a 17-17 arrangement. But if National Party members look at the figures closely, they will see that in the medium to longer term country people will lose any advantage they might have because the Premier today, even before the third reading has been completed in this House, said that the ALP will press on to achieve one-vote-one-value.

Hon. Garry Kelly interjected.

Hon. G. E. MASTERS: I am not going to get into an argument about who is going to win the next election. We are in with a very good chance and will be working hard to make sure we do win. We believe we have gained on the Government and that the people will eventually decide to vote for us in both the Legislative Assembly and the Legislative Council.

I repeat that if 46 per cent of the people in the various regions vote for the Labor Party, it will get 17 seats in the Legislative Council. Because of the importance of this legislation and because of the massive changes proposed to the method of electing members to the Legislative Council, we did some last-minute calculations, partly because we did not believe the legislation should proceed to some finality in its present form.

We believe there should be a referendum.

Hon. Garry Kelly: You are not serious though.

Hon. G. E. MASTERS: Try us, or shut up.

Hon. Garry Kelly: It's a joke.

Hon. G. E. MASTERS: Try us. The member has gone red.

I was distressed and amazed that the National Party did not support our proposal for a referendum. We are not saying that we wanted a referendum because the National Party was wrong. We merely asked to have what the Labor Party has been calling for over the last 10 years, when it has been saying, "Let the people decide." It has been saying, "Let's have a change in the electoral system. Let's have a change in the Legislative Council, that dreadfully undemocratic House. Let the people decide." The minute we agree, Government members run a mile. We suggested that a referendum be held to allow the people to decide.

The Labor Party is as dishonest in that matter as it is in its rejection of the philosophy of one-vote-one-value. Because it has won this round the Premier has said that the Labor Party's next objective is one-vote-one-value and to hell with the country members of this House and the arrangements of the National Party. He suggested that the Labor Party agreed with the National Party because it was the best it could do. Now he is saying to the National Party, "To hell with it; our next Bill will not suit you."

Hon. B. L. Jones: Why can't you take defeat gracefully?

Hon. G. E. MASTERS: No-one prefers a good old stoush more than I. I am trying to be moderate in my comments. If I really wanted to get rough I could. The more members keep interjecting the more I will talk.

The PRESIDENT: Order! Members have to stop interjecting and the member on his feet must address his comments through the Chair and cease talking to members on the other side of the House.

Hon. G. E. MASTERS: I am sorry, Mr President, but they provoked me and I find interjections deeply upsetting.

The PRESIDENT: I suggest the member ignore them, then.

Hon. G. E. MASTERS: I think I have pointed out the facts as I see them. I implore the National Party to look beyond this debate and beyond what is likely to happen after the third reading of this Bill. The next step may be one the party may not like. It will certainly be unpalatable to the people they profess to represent.

One other matter of concern to me is the loss of the split terms for members of the Legislative Council. It is understandable that the Labor Party would attempt to drop any arrangements or practices which do not suit them for the benefit of an extra seat or two. I know of, but do not condone, the contempt that members of the Labor Party have for this House and what it stands for. I have often heard Labor Party members, including Hon. Tom Stephens, say that the place should be abolished because it is not necessary. That view is in the background of all that has happened in this legislation.

With the National Party's help, the Government has rejected split terms and changed the system that is acceptable in every country in the world which has a bicameral system of Parliament. It is accepted in the Senate and in the other States of Australia. The rejection of that tradition is really only a short-term gain and not one that will suit the National Party in the long term.

Every member will have to consider closely what has been said in this long debate covering 18 hours.

Hon. John Williams: Twenty-eight-and-a-half hours.

Hon. G. E. MASTERS: It seems that long. It is probably the longest debate on any Bill that I have experienced since I have been a member of this place. I have done my best to allow the legislation to progress quickly while making a strong contribution to it.

I suggest that the National Party will understand the results of its work in a few years' time when it sees the Labor Party controlling this place. The Premier has made no secret about proceeding towards the one-vote-one-value proposition. The Labor Party will attempt to legislate for everything it has wanted to implement over the last 10 or 15 years, much of it which failed, but much of it which will now be passed. When, in a few years' time, we see that sort of legislation succeeding, the National Party will have to admit that it supported that success. When, in the morning, National Party members look at themselves in the mirror while shaving and ask themselves who caused the trouble, they will have to accept the blame. Three members of the National Party who supported the Labor Party have made that possible. It is no good their asking how it could happen.

Hon. E. J. Charlton: The three did not side with the Labor Party; the Labor Party sided with the three.

Hon. G. E. MASTERS: They will be able to look in the mirror and say to themselves that they have been the cause of it.

Hon. E. J. Charlton's interjection makes it worse. They will be the cause of the one-vote-one-value philosophy becoming acceptable for the Legislative Council and the Legislative Assembly.

This Bill has not even passed its third reading and the Premier has said that the Government will introduce new measures to push for the destruction of this House. In the meantime, it will become nothing more than a debating House and that responsibility will lie squarely on the shoulders of the people who supported this Bill.

I have said already that there has been no breach of faith in any of the areas about which we negotiated. However, the people responsible for introducing the proposals that will soon be acceptable in this legislation will be responsible for the Government's introducing legislation which will not be in the best interests of the people of this State. I hope they can stand the pain when it comes. There will be no point in their standing in this House and saying it should never have happened.

For those reasons I urge members to oppose the third reading of this Bill and implore them to look to the future.

HON. E. J. CHARLTON (Central) [3.08 pm]: While I believe everything that could be said has been said in the debate on this legislation, I think a couple of things need to be placed on the record again to clear up any misconceptions or misleading comments made by the Leader of the Opposition.

The Leader of the Opposition emphasised that the philosophy of one-vote-one-value will be implemented eventually in this State. It has been said to me on several occasions that two Liberal Party members have stated that they support one-vote-one-value. It has also been said in this House and it is recorded in *Hansard*. I advise members that the two members concerned are Hon. Sandy Lewis and Hon. Neil Oliver, only quoting from what I have read in *Hansard*. I make this comment because of what the Leader of the Opposition just said; that is, if the Labor Party has control of the upper House it will be the result of the line the National Party has now adopted because it will lead to one-vote-one-value.

Since I have been a member of the National Party I have said publicly and in this House that my party is diametrically opposed to the proposition of one-vote-one-value. It will continue down that line and I confirm that no parliamentary member of the National Party has ever thought of the possibility, let alone supported it.

I want it recorded that regardless of whatever the Liberal Party may do or say in the future, it is recorded in *Hansard* that two present members of the Liberal Party do support one-vote-one-value.

I have often heard Hon. Sandy Lewis attack the Labor Party because its members do not have the intestinal fortitude to proceed with that position. Concerned members of the Liberal Party have said that if the proposition were put to the vote it would be passed because it would have the numbers in this place to support the Labor Party in promoting that situation—that could occur either now, or in the future. The point I have made should be remembered by members in this House and by the public in the days, weeks, months, and years ahead.

I remind members that when they speak to anyone about what the future may hold for the proposed new system and that when referring to the possibility of one-vote-one-value they do not say that it will be introduced because of the National Party's actions. If they do, they will not be accurate. The situation could be reversed because some members in the Liberal Party do believe in one-vote-one-value.

Hon. Gordon Masters referred to what could happen in the future as a result of the percentage of the vote. I do not argue with him about that. The National Party and the Liberal Party are the conservative parties—I often wonder from our performance, who are the conservatives. The conservative parties may not like it, but the public believe that they have not performed as conservatives.

I am optimistic that in the future we can put forward policies that will be supported by the electorate. Regardless of what happens as a result of this legislation, the key to the future will be determined by the performance of all parties' respective candidates.

I know that I should not say this, but I was pleased when Fraser was elected Prime Minister of Australia. I thought he was a strong man and that he would lead this nation to bigger and better things. I am sure that all the members in this House were saddened by his lack of

performance during his term in office. Even his performance in the last day or two has been pathetic. Those are the sorts of things with which we are faced.

As I said, I have no argument with the comment made by Hon. Gordon Masters about the percentage of votes. I hope that all members in this House will give the people of Western Australia a prospect to which they can look forward.

Instead of there being a swing of two or three per cent I remind members of the conservative parties in the House that seats have been lost on this side of the House with swings of 14 per cent. We must all have confidence in our ability to swing the vote the other way.

I respect Hon. Gordon Masters for the comment he made that the result of this legislation will be on the heads of members of the National Party. I remind him and other members in this House about the role of the National Party in this Parliament. Prior to the last election the National Party was told that there would not be a coalition Government. We did not accept that, but we did not criticise the Liberal Party for its actions and say that we would sit on the back benches and antagonise it. That would not be the proper thing to do. The National Party has a responsible role to play.

I am confident that all members in this place will think carefully before they make accusations against the National Party and before they put forward their philosophies about what they perceive will be the result of this legislation. It is very easy to tell half the story. We have seen examples of incorrect statements printed in the media. In other instances, members have given the media information which they believed to be correct, and it has been printed.

I emphasise that members have a responsibility to ensure that they do not go into the community and say that they will lose so many seats as a result of the legislation—the boundaries have not been drawn and an election will not be held tomorrow. It is irresponsible to take that sort of pessimistic attitude.

If, in the future, this House is abolished it will be because of one vital thing—that we on this side of the House did not have the right candidates or policies to appeal to the electorate. In such a case, the electorate would not elect us the Government and we would not have sufficient numbers to pass legislation.

Finally, we must accept that the Government of the day, under whatever set of rules, regulations, or electoral boundaries, is the Government because the majority of people voted for it. If the conservative parties want to be in Government they must realise that the majority of electors will have to support them.

HON. V. J. FERRY (South West) [3.20 pm]: I want to take a few minutes to say that this Bill should not be read a third time. I do so in the knowledge that even the Government does not fully comprehend the implications of the Bill which is before the Parliament right now. There is ample evidence that the attitude of members in this Chamber and the attitude of members in the other House, and certainly the attitude of the public, is one of confusion. The Bill has been hacked about, as has been evident from the extremely long debate in this place over several days and nights, and there must be drafting imperfections and flaws at law in the Bill presently before members.

Hon. Garry Kelly: So do you want us to take 100 years to find them and check each clause?

Hon. V. J. FERRY: There have been other long debates and there have been other complicated Bills before the Parliament, but in the comparatively short time that I have been privileged to be here, the progress of this Bill has been quite extraordinary. One reflects that the Bill commenced in another place and that a few amendments were included in it before it reached the Legislative Council, and since that time in this Chamber there have been any number of amendments; there has almost been a complete rewrite of the Bill itself. These amendments have been brought forward in an atmosphere of confusion and doubt, which has been proved by the number of times the Committee has been asked to suspend until certain amendments could be placed in proper order or to ascertain whether the amendments were in proper sequence. The Government was certainly forced of its own volition to call time out now and again in order to consult its legal adviser. I do not doubt the Government needed to do that because of the way in which the Bill was being progressed.

The logical consequence is that the Bill cannot succeed as good legislation. It is my guess that the Bill will return to the other place for consideration, and I will be fascinated to see the examination it gets in that House. It could well be that there will be a further reference back to this place for it to consider some tidying up of the drafting, and even having

done that. I venture to say the Bill will be subjected to challenge in the courts at some future time because of some imperfections.

I have been fascinated by the Government's use of this House to progress this legislation to this point. The Labor Government has castigated the Legislative Council for years for all the work it does and the way it has performed, yet it has chosen on this occasion to use this House for its own means to write a Bill. Why did it not do that in the other place? The Government has no confidence in its own ability in the other place. It has progressed the Bill here, and having received it in this House, it has proceeded to rewrite the Bill in an atmosphere of confusion. It is interesting that the Labor Party, which has been so derogatory towards the Legislative Council, has chosen this place to bring forward its great reform Bill, the master Bill of all Bills. However, as has been mentioned, the Premier's view about this Bill, as quoted in today's Press, is that it is only one part of the electoral reform, and the Government will bring in some further measures. This Bill is not the one and only Bill the Labor Party wants. It wants something further.

My advice to the Government would be to suspend discussion on the Bill at this point and to go away and put the cleaner through it, and come back to the Parliament with a completely fresh document which may be more acceptable and more deserving to be passed by the Parliament. I concur with what has been stated, that if this Bill does pass the Parliament and become law, it is the end of the Legislative Council as a House of Review. This Government has used this House as a House of Review. It has done that in this Bill. The Government has spoken with forked tongues, as usual. By processing this Bill, the result will be one of two things: Firstly, this House will become ineffective in the future as a House of Review; secondly, it will be abolished.

A lot of Labor Party members wish to have the House abolished. I remind those members of the situation in Queensland, which is in a unicameral situation, where the upper House was abolished by the Labor Government in that State in 1922, and they have been sorry ever since. Many Queenslanders would dearly love to have a Legislative Council operating today. Similarly, the vast majority of people in Western Australia appreciate the safeguards that this place offers them as citizens of the State by having a second Chamber. That is undeniable, and it is reflected at every election.

The Government really stands condemned for progressing this Bill to this point, and I ask it again to suspend the progress of this Bill until such time as there has been a further complete analysis of what it contains, and, bearing in mind that imperfections will be found, to bring back into the Parliament a fresh Bill which will do justice to Western Australia in bringing about proper electoral reform.

HON. N. F. MOORE (Lower North) [3.28 pm]: I would not want it to be thought that the Opposition was not going to resist this again for the last possible time, so I am getting to my feet, unlike some of my colleagues on the other side of the House who have yet to comment on the Bill, to tell members again why I do not think the Chamber should agree to the third reading of this legislation. The reason why I do not believe we should pass this Bill—and I have said this, and I am not backward in coming forward in my views—is that it will result in the Labor Party winning control of this Chamber, and ultimately abolishing it. It is as simple as that. If any member can tell me in absolute terms that there is no way in the world that this Chamber will ever be abolished—that the Labor Party is about to change its views, that in fact it will swear on a stack of a thousand Bibles it will never abolish this Chamber—then maybe I could start to be convinced that I should support something it does. I do not believe the Labor Party when it says its current policy is its policy, in the same way I do not believe that what we are about to pass in any way reflects what it seeks for this Chamber. The Premier told us in this morning's paper that this is but a small step—in my view, it is a large step—in the direction of one-vote-one-value.

In my view, this will lead ultimately to the abolition of this Chamber, because what will happen is that once the Labor Party gains control of both Houses of Parliament, it will change the system from within; it will make the Legislative Council a very pale version of the Assembly; it will take away the powers it has. The power to reject Supply and the power to reject legislation, will be watered down until such time as it can convince the public the Legislative Council is a useless Chamber which has no powers and no virtues. It will then use the money at its disposal, all the taxpayers' dollars it can get its hands on, to convince the public by a massive advertising campaign that the Legislative Council should either be amalgamated into one Chamber, as has been done in Queensland, or abolished altogether.

That is the scenario. That is why I believe absolutely that this Bill should be rejected at this stage.

If one looks over the history of this Chamber and looks at the sorts of legislation this Chamber has rejected, one comes to realise just why so many people in this State have said—as did Premier Collier—"Thank God for the Legislative Council." They have not just been people with my point of view, not just conservative people in the community; they have been people on the Labor Party side of politics as well.

They know darn well that this Chamber has got rid of the rough edges and the extreme policies of some sections of the Labor Party, and they know that even Premier Brian Burke has used the argument to his left wing that there is no point in putting extreme legislation to the Legislative Council because it will knock it out. Alternatively, when he sought to apease the left wing, the Premier actually put up legislation knowing full well that the Legislative Council would knock it out and when it did, he would go back and say, "We tried very hard but those conservative mongrels in the Legislative Council kept knocking it out."

That is the sort of language they use in the smoky back rooms of the Labor Party.

Hon. Mark Nevill: You are a modern day Lewis Carroll.

Hon. N. F. MOORE: What an incredible remark in view of Hon. Mark Nevill's contribution to this debate.

Hon. Tom Butler: It is better than yours.

Hon. N. F. MOORE: At least I am making a contribution. I am standing up here on behalf of my constituents, Hon. Mark Nevill's constituents, Hon. Tom Stephens' constituents and Hon. Tom Helm's constituents who are about to be severely disadvantaged as a result of this Bill. I am arguing that we should get rid of this Bill and retain the system we now have because that at least gives the people in the north, whom I represent, some representation.

I wonder whether Government members can tell me which of the four north and north eastern members will actually lose his seat. That is the fact of the matter: One of those four members I mentioned earlier must lose his seat. I hope it is Hon. Tom Stephens and I believe the Labor Party, for all its faults, will also make that judgment. For that reason alone I suppose one could support this Bill. However, that is an aside. I wonder who will represent the people of the north now one of these members is to go. I wonder which member it will be.

Hon. Garry Kelly by way of interjection said that I had conceded some point when I was making my comments this morning. I have conceded nothing. This morning I sought to amend the Bill that the House agreed to, bearing in mind that I did not agree to it but I just did not have the numbers. My motion this morning was simply to try to change what the House agreed to, which was nothing I agreed to. I suggest Hon. Garry Kelly find out how the House works and the way in which the system operates before he makes suggestions about what I may have conceded.

Several members interjected.

The PRESIDENT: Order!

Hon. N. F. MOORE: I was interested to listen to the remarks of Hon. Eric Charlton. I understand the situation in which he finds himself laying claim to the legislation. Hon. Eric Charlton said that the Labor Party had taken on board the National Party's legislation, and he was quite right. However if I were Hon. Eric Charlton, I would not go around the country areas of Western Australia saying, "The Labor Party came along and accepted our proposition and supported our Bill" because the Bill will seriously disadvantage people in country areas.

Several members interjected.

The PRESIDENT: Order! I want to tell all members in this Chamber that audible conversation will not be tolerated. I also extend that advice to any strangers who may be taking advantage of the invitation which we extend to them to come into the Chamber because the same rules apply to them as apply to members of this House. That is, members cannot carry on a conversation in this Chamber.

Hon. N. F. MOORE: The Leader of the National Party said this morning in the *The West Australian*—

> The National Party's determination to maintain the value of country votes has paid off, because WA's new electoral system—

That is, presuming that Parliament agrees to it. The article continues as follows—

> —enshrines, as a major element, equal representation for city and country people in the Legislative Council.

The alternative that this House has, apart from supporting the National Party's amendment for 17-17, is to defeat the Bill. The existing system

provides a ratio of 20-14. The National Party cannot claim that its system in some way advantages country people when the only viable alternative is the maintenance of the status quo, which is 20 country seats and 14 city seats.

Hon. E. J. Charlton interjected.

Hon. N. F. MOORE: That is totally irrelevant. The National Party leader seeks, as do members on that side, to assume the moral high ground. He said in effect that the National Party was the only party that had any consideration for country people. He assumes the moral high ground out in the country but if the National Party had joined with the Liberal Party to get rid of this Bill, country people would have maintained that 20-14 majority. That is the alternative that was open to the National Party and is still open to it—to maintain that 20-14 weighting in favour of country people by rejecting this Bill.

Hon. D. K. Dans: Do you still favour the gerrymander?

Hon. N. F. MOORE: Arthur Tonkin resigned because he thought the Government was going to do the same thing.

The PRESIDENT: Order!

Hon. N. F. MOORE: In the same article Mr Cowan says—

> The proposed electoral system will be both fair and workable. It will be almost impossible for any party to gain a majority in the Legislative Council and, as a result, the Legislative Council will never again be a rubber stamp for the Government of the day.

How extraordinary that in his further attempt to take the moral high ground the Leader of the National Party denied that for the vast percentage of its history his party and its predecessors have held the balance of power in this place and have made the decisions which have been made. It was not the Liberal Party or the Labor Party; it was the National Party and before it the Country Party which made the decisions. The Leader of the National Party assumed the moral high ground and said that this House, "Will never again be a rubber stamp for the Government of the day." That is absurd in historical terms and it makes no sense for the Leader of the National Party to say it will be "almost impossible" for any party to gain a majority to control the Legislative Council.

He knows as well as I do that he cannot say with any certainty that it will be "impossible" for any party to gain control. He knows full well that there is considerable doubt about whether a party can gain control in this House because he knows that the 17-17 proposition which has been agreed to will not give the majority vote to the Labor Party but will give 17 seats to it. Regardless of the interjections which have been made by Government members, I maintain that the Government will get 17 seats. That is a built-in factor. The Government has built in an advantage for itself in the metropolitan area and it has built in a factor where all the Government needs is to get 50 per cent of the vote in order to get 59 per cent of the seats. No wonder the Government is beside itself in accepting the National Party's proposition. The Government knows exactly what it will get and 99 times out of 100 it will be 17 seats in this House.

Several members interjected.

Hon. N. F. MOORE: That is what the Government will get. If Hon. E. J. Charlton believes that can be changed if the Liberal Party gets off its tail in the city area—

Hon. D. K. Dans interjected.

Hon. N. F. MOORE: Hon. D. K. Dans has come back from his sojourn in the south of France to give the House a lecture from his seat.

Hon. D. K. Dans: All your mealy-mouthed protestations are being made because you are afraid you will lose your seat.

The PRESIDENT: Order! I ask the honourable member who just spoke to ignore the comments that he finds distasteful, and we will get this thing over a lot quicker.

Hon. N. F. MOORE: If I thought for one minute Hon. Mr Dans had any intention of staying here much longer I would think he was seeking to become the Western Australian version of Mr Keating with his language—mealy-mouthed, and the rest. Do not argue with me across the Chamber.

Hon. D. K. Dans: You will not be here next time.

Hon. N. F. MOORE: There is every chance that I will be.

Hon. D. K. Dans: Your own party will throw you out.

Hon. N. F. MOORE: If that happens, so be it.

The PRESIDENT: Order! I am starting to get angry. I am pretty reasonable, but I am just getting to the stage where I have had these interjections and arguments across the floor up to my back teeth. I have said on many occasions previously that one of the very important features of our Houses of Parliament is that every member is entitled to have something to say. One does not have to agree with what they say, or like what they say, but at least one has to give them the opportunity to say it. I have always found, certainly when I was sitting down there, that the less I said the quicker they finished speaking.

Hon. N. F. MOORE: Thank you, Mr President.

I do not for one minute know how I am going to be affected by my party, but the seat I now represent may well be a Liberal seat, and that is helpful. However, Mr Dans' circumstances are such that he should hardly cast stones at someone on the other side of the House.

Hon. D. K. Dans: What are my circumstances?

Hon. N. F. MOORE: The member is no longer in the Ministry.

Hon. D. K. Dans: That is right. I am happy; it was my decision.

Hon. N. F. MOORE: I am delighted to hear Mr Dans say that.

Hon. D. K. Dans: I could not have gone to the south of France had I still been a Minister.

The PRESIDENT: Order! That has nothing to do with it.

Hon. N. F. MOORE: I want to conclude my remarks on this point. The House should not agree to the third reading of the Bill for one very simple and obvious reason—to do so will be to sign the death warrant of this House. I said it several times during the Committee stage and other members have said it. It is the beginning of the end as the Premier clearly pointed out this morning. His statement in *The West Australian* is clearly the view of the Labor Party. I have never known Hon. Brian Burke to make a comment which is not the view of the Labor Party even if it was against the party's platform from time to time. When he speaks, that is what the Labor Party does. He said they want one-vote-one-value.

Hon. A. A. Lewis: They voted against it.

Hon. N. F. MOORE: But they want it, as Mr Lewis knows. Even though Mr Charlton's Bill may be passed today, the day the Labor Party gets control of this House is the day his constituents and mine get one-vote-one-value.

Hon. E. J. Charlton: Do you agree they may not have to get control of the House to achieve that?

Hon. N. F. MOORE: It depends on what the member does.

Hon. E. J. Charlton: You did not listen to me, and you are not going to, are you?

Hon. N. F. MOORE: I have already been called to order 10 times. If this House becomes controlled by the Labor Party and it can win control of the Legislative Assembly at the same time, we will get one-vote-one-value as the Premier said. Mr Charlton's constituents, mine, and those of Mr Kelly will all get the same value vote. I oppose that, and I always have. People in remote and country areas should get weighted votes so they get equality of representation.

That is a basic belief I have about democratic and representative Government. That is why we have to stop this movement in that direction right now. If we do not stop it now, I make the prediction, Mr Charlton, that in 10 years' time there will be no Legislative Council because the predictions made on this side of the House will have come to fruition. Whether Mr Charlton thinks it is because we have not worked hard enough in the city, or whatever, they will come to fruition because the built-in bias in the Bill gives the Labor Party 10 seats in the city even if it falls over backwards. It will give the Labor Party the numbers to achieve what it seeks to do. The responsibility for the abolition of this House will be on the heads of members who vote for for this Bill.

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [3.39 pm]: When I was about 11 years old my hero was Biggles. He was an intrepid RAF hero who never gave up. I was briefly reminded of Biggles today as I was listening in particular to the Leader of the Opposition and Hon. Norman Moore because they do not want to give up even at this very late stage. There is, however, a difference between Biggles and the honourable members; he was determined in an honourable cause, and they are determined in a discredited and disreputable cause.

Hon. A. A. Lewis: Are you the Red Baron?

Sitting suspended from 3.45 to 4.00 pm

[Questions taken.]

Hon. J. M. BERINSON: Most of the Opposition comments to this stage have been directed at dire predictions as to what the Government might do with the enactment of this Bill. In particular, it is said that the Government will proceed towards one-vote-one-value and all manner of other measures.

No speaker from the Liberal Party who adopted that point of view argued it on the basis that the Labor Party would ever have more than 17 seats in this House. They did try to say that was the minimum we would have and that is quite wrong. I am simply stressing that no-one was in a position to argue that we would have more than 17 seats which is, needless to say, not a majority. Secondly, their view as to our capacity to enact certain further measures was predicated on a member of the Opposition taking the position of President. Thirdly, they ignored the fact that even with that combination of circumstances, it would not be possible for a Government to push measures of this kind through an unwilling Legislative Council. Any amendment to any section of the Electoral Districts Act or the Constitution Act requires an absolute majority which would leave 17 members inadequate, even if all 17 were available for a vote on the floor of this Chamber.

Other members went on to talk about the end of the Legislative Council. That is totally irrelevant for present purposes since it is not the policy of the Government to pursue that objective. That is not the policy of the Government. Even if it were, I point out that not only do the absolute majority requirements of the relevant Acts come into play for any such proposition but also the requirements of section 73(2) of the Constitution Act, which in addition to an absolute majority of both Houses in favour of such a proposition would require the support of all the people of the State at a referendum on that subject.

Speaking for myself, I would say that the notion that the abolition of the Legislative Council should be carried forward is not simply a matter which is not within the policies or intentions of the Government but something that simply would not happen because of the practical barriers in the way of it.

The PRESIDENT: To be carried, this Bill requires an absolute majority. When I put the question, if I hear a dissentient voice, I will divide the House.

Question put and a division taken with the following result—

Ayes 19

Hon. J. M. Berinson	Hon. Tom Helm
Hon. J. M. Brown	Hon. Robert Hetherington
Hon. T. G. Butler	Hon. B. L. Jones
Hon. J. N. Caldwell	Hon. Garry Kelly
Hon. E. J. Charlton	Hon. Tom McNeil
Hon. D. K. Dans	Hon. Mark Nevill
Hon. Graham Edwards	Hon. S. M. Piantadosi
Hon. John Halden	Hon. Doug Wenn
Hon. Kay Hallahan	Hon. Fred McKenzie *(Teller)*

Noes 14

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

The PRESIDENT: I declare that the motion has been carried with the concurrence of an absolute majority and the Bill will now be read a third time.

Question thus passed.

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

Government members: Hear, hear!

Opposition members: Shame, shame!

Point of Order

Hon. G. E. MASTERS: Mr President, I understand that a message will now go to the Legislative Assembly. If that is the case, could we add to the message something like "The demise of the Legislative Council"—

Several members interjected.

The PRESIDENT: Order! I am asking all members to come to order. I am getting sick and tired of members who speak from time to time about retaining the dignity of this place and then proceed to treat it like a circus. I am getting quite angry about it.

VIDEO TAPES CLASSIFICATION AND CONTROL BILL

Receipt and First Reading

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

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Leader of the House) [4.15 pm]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to provide for the compulsory classification of videotapes for private sale and hire, to control the advertising, exhibition, and supply of videotapes, to establish a comprehensive range of offences, and to amend the Indecent Publications and Articles Act.

At a meeting in 1983 the Commonwealth Minister and all State Ministers with responsibility for censorship agreed to a compulsory and uniform system of classification of videotapes, each State being required to legislate the system into effect.

The Australian Capital Territory Classification of Publications Ordinance, which was drafted in consultation with State and Territory Governments, was accepted as suitable for use as model legislation in the implementation of the uniform classification scheme. All States and Territories, with the exception of Western Australia, have now introduced a compulsory classification scheme for videotapes based on the ACT Ordinance.

While the proposed Western Australian legislation is modelled on the Commonwealth legislation, it is largely based on the New South Wales Film and Videotape Classification Act. The model legislation has been adopted by the other States with the intention of providing uniformity throughout Australia on videotape classification and distribution.

Provision has been made in the Bill for the State and the Commonwealth to enter into an agreement which will enable the Commonwealth Film Censorship Board to classify videotapes and collect fees on behalf of the State. Where there is no arrangement in operation, provision has been made for the appointment of a State censor.

Western Australia will be able to accept classifications assigned by the Film Censorship Board in the four categories G—general exhibition—PG—parental guidance—M—mature audiences—and R—restricted. There is no provision to accept any other classifications which may be assigned by the Film Censorship Board. "X"-rated videotapes are prohibited.

It is recognised that certain material is of such a nature that it should be refused classification altogether. Classification will continue to be refused where material depicts child pornography, promotes, incites, or encourages terrorism, or offends against generally accepted standards of morality, decency, and propriety to such an extent that it should not be classified. It will be an offence to sell, hire, deliver, or advertise such material.

In the case of the sale of a videotape that has been refused classification because it deals with child abuse, penalties have been increased above those provided for other unacceptable videotapes.

It will be an offence to exhibit, in the presence of a minor, a restricted or refused classification videotape in any public place or in a school. In the Bill, a minor is defined as a person who has not attained the age of 18 years. It will also be an offence to procure a child or cause a child to be concerned in the making of a child abuse videotape. Substantial penalties have been provided for offences involving the abuse of a child.

A power will exist for the Minister for The Arts to review, vary, or revoke a Film Censorship Board classification. The Minister will also be able to exempt persons and bodies from compliance with provisions of the proposed Act, subject to such conditions as may be specified.

Point of sale controls will feature strongly in the legislation and will include the need for approved classification markings to appear on all videotapes, containers, wrappings, and casings, and associated advertising. Particular attention has been given to restricted and unclassified videotapes and the protection of minors. It will be an offence for a person other than a parent or guardian of the minor to sell or give a restricted videotape to a minor.

A comprehensive range of penalties has been included, and the legislation will render it illegal to sell, display, exhibit, or advertise a videotape which has not been classified or which has been refused classification. The possession by any person of a videotape that has been refused classification or a videotape that contains child pornography, bestiality, or promotes terrorism, will be prohibited.

Provision has been made for a member of the Police Force or an authorised person to enter business premises at all reasonable times and inspect videotapes and related records. A member of the Police Force will also be able to seize, without search warrant, videotapes which are or appear to be unclassified. Without the ability for police officers to seize unclassified videotapes without a warrant, en-

forcement of the proposed legislation, particularly with regard to totally unacceptable videotapes, would be largely ineffective. Search warrants, where required, would be authorised by a justice rather than by a magistrate.

It is proposed that video outlets be registered on payment of a prescribed fee in order to provide a means of control over the local distribution of videotapes and to ensure that adults and children can be afforded some form of protection and guidance in the selection of suitable material.

Consequential amendments are required to be made to the Indecent Publications and Articles Act to delete from that Act matters relating to videotapes which will now be covered by the Bill.

The Bill is the result of a continuing cooperative effort between the Commonwealth and the States to establish a uniform videotape classification scheme. It will promote national uniformity and ensure that a compulsory classification scheme is in operation throughout Australia while retaining the State's power to make such particular decisions as it might, from time to time, wish. For Western Australia, the Bill fills a legislative vacuum.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. P. G. Pendal.

STATE GOVERNMENT INSURANCE COMMISSION: PUBLIC ACCOUNTS AND EXPENDITURE REVIEW COMMITTEE

Terms of Reference: Assembly's Message

Message from the Assembly received and read requesting concurrence in the following resolution—

(1) In accordance with Section 48(2) of the State Government Insurance Commission Act 1986, the Terms of Reference of the Public Accounts and Expenditure Review Committee in determining and reporting on whether the Commission and the Corporation receive any improper or unfair advantage or preference over their competitors in the insurance industry are as follows:

The Public Accounts and Expenditure Review Committee is to examine the financial accounts, records and business conduct of the State Government Insurance Corporation and report to Parliament every twelve months as to whether it believes that the State Government Insurance Corporation has received any improper or unfair advantage or preference over its competitors in the insurance industry. For this purpose, the Public Accounts and Expenditure Review Committee is to examine and consider:

all Commonwealth and State taxes and charges, or payments in lieu thereof, paid or payable; the use of any public sector service or facility and associated charges and fees paid or payable; the relationship between the State Government Insurance Commission and the State Government Insurance Corporation and the use of the Commission's services and facilities and any associated fees and charges; and compliance with Commonwealth solvency and ratio requirements.

In the course of this examination, and for this purpose, the Public Accounts and Expenditure Review Committee can receive or solicit advice and evidence from interested members of the public and business community.

In fulfilling these functions, the Committee is to ensure that the privacy of individuals and their business affairs are protected and remain confidential to the Committee, and the Committee shall not disclose such information for any reason.

In the event that the Committee believes that the State Government Insurance Corporation has received any unfair or improper competitive advantage over its competitors, such evidence is to be presented to Parliament together with recommendations for any legislative amendments which the Committee considers are necessary to ensure the competitive neutrality of the State Government Insurance Corporation.

(2) The Legislative Council shall be acquainted of this resolution and its concurrence sought to the terms thereof.

OCCUPATIONAL HEALTH, SAFETY AND WELFARE AMENDMENT BILL

Receipt and First Reading

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

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Leader of the House) [4.24 pm]: I move—

That the Bill be now read a second time.

This Bill has been developed in accordance with the commitment given in 1984. During the second reading debate on the Occupational Health, Safety and Welfare Act the Government gave the commitment that it would not proceed with the legislation until 1986 or upon re-election, whereby it was further proved that it had a clear mandate to proceed with the policy initiatives at that time. Also, the Government gave a clear commitment that the comprehensive Act was to be developed within the tripartite forum of the Occupational Health, Safety and Welfare Commission.

This has occurred with that commission establishing a tripartite working party at its second meeting on 5 June 1985. Indeed, the Government can say with some satisfaction that the proposals now before the House represent, with few exceptions, the consensus viewpoint of that working party and the commission.

The introduction of this Bill is of great significance as it recognises the growing importance being attached to the development of preventative health, safety, and welfare policies. Recognition of the need for new initiatives in matters of health and safety at the workplace has been slow. However, the realisation of the costs attached to each fatality, and the injury and misery inflicted upon workers and their families, has increasingly focused attention on the need to develop preventive practices.

The Government's initiatives in the occupational health and safety area have been made necessary by the failure of the traditional prescriptive approach to safeguard the health and safety of workers. In today's industrial environment this has the effect of excluding many workers from the most basic of occupational health and safety protection. In Western Australia between 50 and 60 per cent of workers are not covered by the present legislation.

The proposed legislation aims to rectify this basic flaw by extending coverage to all workers in all workplaces. Not only is the coverage of the present legislation limited, but in many instances the Acts and regulations contain provisions which are out-moded or irrelevant to the work practices and equipment of the 1980s. Attempts to amend Acts and regulations in an ad hoc manner to keep up with change in industry have not been successful and have often resulted in complex and impractical requirements being placed upon industry. This Bill seeks to place more emphasis on the responsibilities of employers and employees in securing safe and healthy work environments.

In adopting this self-regulatory approach, the Government is recognising that regulations and statutory requirements cannot hope to cover the range of hazards likely to be experienced in the diverse workplaces of the State. Rather than attempting to prescribe minimum standards for all possible hazards, the Government—along with Governments in other nations and other States in Australia which have faced this issue—is shifting the responsibility for making the workplace safe and healthy back to the employers and employees in each workplace.

This self-regulatory focus does not mean that responsibilities can be ignored. The new legislation places an unavoidable duty of care on both employers and employees to take all practicable steps to secure health and safety in their workplace. These duties of care are supported by provisions for consultative and participatory mechanisms in the form of safety representatives and safety committees to ensure that responsibilities are not avoided and that realistic and practical solutions to occupational health and safety are developed which are relevant to the needs of each workplace.

In seeking to cover the Western Australian workplaces, the Government recognises that the mining industry has extensive legislation to cover health and safety. Our approach to the mining industry will be to incorporate the self-regulatory principles and practices faithfully into the mining legislation. The amendments to the mining legislation should be before the House either later this session or early next session.

In relation to general duties of care, the Bill establishes in detail duties on employers, self-employed persons, and occupiers. The provisions clearly establish that each employer has a duty to his employees to provide a working

environment in which his employees are not exposed to risk of injury or harm to their health. It requires an employer to consult and to provide information, instruction, and training, and to take reasonable care to avoid acts or omissions which it can be reasonably foreseen may cause injury.

There is a duty on those who design, manufacture, import or supply plant—which is defined—for use at the workplace to ensure the article is designed, manufactured and marketed so that persons when using it as directed are not exposed to risks of injury or harm to their health. Equally, there is a duty on those who erect or install the plant, etc. to ensure it is erected and installed so that persons who properly use the plant are not subjected to any hazard.

The duty imposed also extends to those who manufacture or import chemical substances or materials containing them. It requires that they ensure that any new chemical substance made available is safe when used under the conditions recommended and that adequate toxicological data is provided when the substance is supplied and thereafter when requested.

In all cases the duty of care is limited to what is practicable as defined in the legislation. In practice, this will mean that account must always be taken of the seriousness and knowledge of a hazard and the availability of methods for removing or minimising it.

The duty imposed on employees prescribes that they are required to take or exercise reasonable care to protect not only their own health and safety, but also that of other persons. They have a duty to consult, to use appropriate devices and protective equipment, and to not interfere with anything provided in the interests of health and safety.

In imposing the duty-of-care requirements for employers and employees we have relied on the provisions espoused in ILO Convention 155 and recommendation 164, a document that the Federal Opposition and the Confederation of Western Australian Industry have expressed agreement to in the past.

The next part of the Bill relates to health and safety representatives and committees. Part IV of the Act deals exclusively with workplace consultative structures. It allows for the establishment of mechanisms which will provide for consultation and participation by employers and employees on health and safety matters. This is central to the notion of self-regulation.

The requirement to elect health and safety representatives is not mandatory. I assure members this provision is activated only upon a request from an employee or employers of a workplace. The important question of the number of health and safety representatives to be elected is to be determined by either union, employee, or both union and employee consultation with the employer. To be appointed a health and safety representative, an employee must first satisfy eligibility criteria specified in the Act. Some members may consider these provisions restrictive. The Government is firm in its resolve that such provisions are required to ensure credibility of appointment.

Under this Bill all workers at a workplace will have the right to participate in the election of health and safety representatives. Where the work force is partly or wholly unionised, the selection process has been designed not to undermine existing union structures. This is in recognition that unions have in the past played key roles in promoting safety in the workplace. Where no union is involved an election may be conducted by either an employee—so appointed by employees at the workplace—or the Commissioner for Occupational Health, Safety and Welfare when a matter is so referred.

The Bill provides that a health and safety representative will be elected for two years. Provisions have also been included specifying when a person shall cease to operate as a health and safety representative. An employer, the commissioner, and any trade union whose members work at the workplace may apply to the Industrial Relations Commission to have a health and safety representative disqualified on specified grounds. The disqualification provisions afford redress to an employer, as the Industrial Relations Commission may disqualify the health and safety representative for a specified period or permanently.

The second phase of the consultative mechanism is provided in the form of health and safety committees. Unlike the other States, wherein a health and safety representative has a statutory right to demand that a health and safety committee be established, we have provided some flexibility to cater for those employers who already have in place a satisfactory committee arrangement. It is also a recognition, owing to a predominance of small business places, that not all enterprises lend themselves to this mechanism.

Essentially, an employer will be required to establish a health and safety committee within three months of—

the coming into operation of a relevant regulation;

a request from the commissioner; and

upon agreement to a request from a health and safety representative.

Where considered appropriate, the employer himself has the power to initiate the setting up of a health and safety committee at any time.

These committees are to have equal numbers of employee—non-managerial—and employer representatives, with the employee representatives being elected by the employees they represent.

The major functions of health and safety committees have been included in the Bill. Specifically, the committees should aim to keep under review the measures being taken to ensure the health, safety, and welfare of employees at work. This review process will involve contribution to the development and formulation of policy applicable to the workplace. This activity should not be seen in isolation as an erosion of management prerogative. In the context of the Bill, which emphasises consultation and cooperation, it must be viewed as a joint attempt to resolve hazards or potential hazards as they relate to a particular workplace—that is, a sharing of responsibility for health and safety at work.

Where disputes arise as to the establishment or composition of a health and safety committee, these matters are to be resolved, in the first instance, by reference to the Commissioner for Occupational Health, Safety and Welfare and, where there is a continuing disagreement, by reference to the Industrial Relations Commission.

In relation to the resolution of health and safety issues, obviously when we talk of resolving any issue we acknowledge that there is a problem or possible conflict of some description. It has been difficult to accommodate the respective employer and employee organisations' approaches in negotiations within the context of Government policy, a policy clearly enunciated and reinforced upon re-election.

In justifying our approach I refer members to article 19(F) of the ILO Convention 155, a convention which in 1982 the then Federal Minister for Employment and Industrial Relations, Mr McPhee, and the shadow spokesperson, Mr Hawke, both confirmed the need for Australia to ratify as both saw it as providing impetus in developing a national strategy on occupational health and safety.

Article 19(F) states—

> A worker reports forthwith to his immediate supervisor any situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health; until the employer has taken remedial action, if necessary, the employer cannot require workers to return to a work situation where there is continuing imminent and serious danger to life or health.

To give implementation to the above, the Bill provides that where any health, safety, and welfare issue arises at a workplace, the employer or his representative shall attempt to resolve the issue by consultation with the health and safety representative, the health and safety committee, or, where there is no representative or committee, the employees themselves. This provision reinforces the underlying self-regulatory principle of this Bill that the employers and employees have an obligation to themselves to ensure that the workplace is both healthy and safe.

In acknowledging that situations can arise where there is an immediate and serious threat to the health and safety of workers, the Bill recognises the workers' common law right to cease work. In addition, and only upon the adherence to strict procedures as detailed, the Bill will enable a health and safety representative to direct that work shall cease. The direction to cease work is applicable only to that workplace or part thereof which involves the risk of serious injury or harm to the health of the employees.

The Bill provides that where work is halted as a result of a direction from a health and safety representative or by the employee exercising his common law right, the employer is able to assign the employee or employees involved to reasonable alternative work with the same pay and benefits applying as if they had continued in their normal work. Any dispute in respect of such entitlements is to be referred to the Industrial Relations Commission.

Where a direction that work cease has been given and an inspector of the Department of Occupational Health, Safety and Welfare is advised, he will be required to attend the site forthwith to take such action as is considered appropriate in the circumstances. The cease-

work directive has no further effect once the inspector has attended and determined on the matter.

I stress that if a cease-work directive is given frivolously or mischievously by a safety representative, then either the employer, commissioner, or union could initiate disqualification proceedings.

The right of the safety representative to direct that work cease in the face of imminent danger has received some criticism from employer organisations in Western Australia. Victorian employers responded similarly to this aspect of their legislation prior to its coming into operation in October 1985. By the end of 1986, in excess of 7 000 safety representatives had been elected by employees in Victoria, yet less than 30 cease-work directives had been given. Of these, only two had been considered unnecessary by the attending Government inspector. The fear that the Victorian employers had of this aspect of the legislation before it was introduced had not come to fruition in practice.

In the bulletin of the Australian Chamber of Manufactures last December it was reported—

> So far, the worst fears which many employers had about the operation of the Occupational Health and Safety Act and in particular the role to be played by safety representatives, have not been realised.

Indeed, the Victorian Congress of Employer Associations stated in the 1986 annual report of the Victorian Occupational Health and Safety Commission—

> The responsible initiatives taken by employees through safety committees and safety representatives in addressing health and safety issues have been well received by employers and in most cases these issues have been resolved by mutual agreement.

That right, and its attached responsibility, provides an all-important balance in the codetermination system. If an employer inadvertently generates a system at work which constitutes an imminent danger to the health of employees, then the hazard must be met by an appropriate response from the persons at risk.

The Government is pleased to see that the Industrial Foundation for Accident Prevention supported this principle in its 1983 submission in response to the discussion paper for the Western Australian legislation. IFAP also noted that overseas and Australian experience with power-to-cease-work provisions indicated that it was unlikely that they would be abused in Western Australia.

Only an inspector is to have the power to issue improvement and prohibition notices. These provisions are not new. Currently the Construction Safety Act and the Machinery Safety Act provide the power for an inspector to issue such notices.

An improvement notice is essentially a device to advise an employer of his legal obligations and requiring conformity with these obligations within a specified period. To assist, an improvement notice may be accompanied by directions as to the measures to be taken to comply.

Prohibition notices go a stage further than improvement notices. They will be issued, as is the case now, where an inspector forms an opinion that an activity will involve an immediate risk to the health and safety of any person. Adequate appeal provisions against the issue of these notices and their terms have been included in the Bill.

Additionally, the Industrial Relations Commission will have access to an expert or panel of experts if it so desires to assist it in its determination on prohibition notices. These experts are to be appointed by the Minister responsible for the portfolio. It is believed this will ensure that the Industrial Relations Commission has the necessary expertise to determine matters before it.

The Bill provides inspectors with comprehensive powers to enable them to adequately enforce the measures contained within the proposals. The powers provided are commensurate with their current powers contained within the Factories and Shops Act, the Construction Safety Act and the Machinery Safety Act respectively.

The Bill seeks to rationalise the penalty structure prevailing at present. The Bill contains penalties which are realistic in today's terms and which have been designed to provide an effective deterrent to the intransigent employer or employee. An employee is liable to a penalty of up to $5 000, and where there is a continuance of the offence, $50 per day. In every other case the fines provided are up to $50 000 and $250 per day.

In moving away from the structured approach, the Government would expect the magistrate to take into account the frequency and severity of the offence when assessing the penalty.

It is still intended for breaches of the Act to be heard before a stipendiary magistrate, and standard evidentiary provisions have been included to facilitate the proving of complaints.

Unlike other States it is not intended to provide that codes of practice can be used in evidentiary proceedings.

The Government has taken the view that a code of practice is to be considered an optimum. To include a provision allowing for the code to be used in evidence has the effect of introducing prescriptive minimum standards. Evidence in the United Kingdom suggests that, for this reason, employers have shown some reluctance in participating in the establishment of industry codes of practice.

Substantial regulation-making powers have been included and, as foreshadowed earlier, the consequential amendment Bill will repeal any inconsistent legislation which might impinge on the adoption of this approach.

In conclusion, all members will agree that a safe working environment is an essential prerequisite to productive output at work. The Government submits that this legislation will lead to improved productivity in Western Australia both in the short and longer term.

In the short term, conflict on health and safety issues should be diminished through employers and employees sharing responsibility for health and safety at work and co-determining appropriate issues.

In the long term, time lost from work due to injury and disease should diminish. At present in Australia, time lost from work due to injury is two to three times greater than time lost through strikes. In 1984-85, over 31 500 Western Australians were involved in some form of compensible lost-time accident at work. The average time lost for each accident was seven weeks, while the average cost of each claim was $3 921. Total cost for all claims exceed $123 million.

I reiterate that this new approach focuses on the benefits to be obtained from the participation of both employers and employees in occupational health and safety. From policy setting in the tripartite commission to shop floor decision-making on occupational health and safety problems, participation will be encouraged and fostered. In essence, the new legislation recognises that the best people to make decisions about occupational health and safety issues are the employers and employees who share the work environment.

Employees and employers, through their respective peak organisations, have been consulted fully in the drafting of the new legislation.

The Government believes that the overwhelming majority of Western Australians place a high priority on a healthy and safe work environment. This new legislation will give all Western Australian employers and employees the opportunity to participate in achieving this goal.

I commend the Bill to the House.

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

ACTS AMENDMENT (OCCUPATIONAL HEALTH, SAFETY AND WELFARE) BILL

Receipt and First Reading

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

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Leader of the House) [4.45 pm]: I move—

That the Bill be now read a second time.

This Bill provides for amendments to the Factories and Shops Act and the Shearers Accommodation Act, and for the repeal of the Construction Safety Act, the Machinery Safety Act, and the Noise Abatement Act.

These amendments are consequential to the Occupational Health, Safety and Welfare Amendment Bill and should be considered having regard to the provisions of that instrument.

The objective of this Bill is to complete the rationalisation of the administration of occupational health and safety in this State by removing the duplication which presently exists in a number of related Acts. This rationalisation is a key component of the Government's overall strategy for dealing with occupational health and safety. The large number of Acts and regulations which impinge on occupational health and safety have led to duplication in enforcement activities and have made it difficult for employers and emloyees to maintain a full awareness of their rights and obligations.

The proclamation of the Occupational Health, Safety and Welfare Amendment Bill will see the creation of a single and comprehensive piece of legislation covering occupational

health and safety in this State. This legislation will be a consistent point of reference across industry sectors, except for the mining industry, and will facilitate substantial improvements in the utilisation of inspection and advisory services which at present operate under similar but different legislative structures.

This Bill repeals three of these legislative structures in total. The requirements and duties presently contained in the Construction Safety Act, the Machinery Safety Act, and the Noise Abatement Act will be completely covered by the expanded Occupational Health, Safety and Welfare Act. The essential purpose of the Acts to be repealed has been to provide a framework for administration, inspection of workplaces, and the enforcement of detailed regulatory provisions. The new Occupational Health, Safety and Welfare Act will contain extensive powers relating to administration and inspection which apply to all workplaces and all types of work.

Similarly, the new legislation contains broad duties of care applying to all employers and employees which obviate the need for the broad compliance requirements contained in these Acts.

The passing of this legislation will signal a complete review of all the sets of regulations pertaining to these Acts, 19 in total. These reviews will be conducted by the tripartite factory welfare, construction safety, and machinery safety advisory committees of the Occupational Health, Safety and Welfare Commission. Where clauses in these Acts are identified to be retained, they will be transferred to the regulations and form part of the abovementioned review.

The situation relating to the Factories and Shops Act is slightly different in that it contains provisions—dealing with outworkers, conditions of employment applying to award-free employees, furniture, footwear and retail trading hours—which are not appropriate for transfer or inclusion in the main Act. Nonetheless, these provisions of the Factories and Shops Act which are now within the scope of the expanded Occupational Health, Safety and Welfare Bill have been removed. Some limited amendments have been made to the remaining provisions to facilitate their continued application and enforcement. In particular amendments have been made which facilitate the administration of different provisions of the Act by different departments if desired.

It is not considered appropriate at this time to repeal the Shearers Accommodation Act. The changes to that Act proposed in this Bill reflect only the need to ensure a correct reference to the permanent head responsible for its administration.

The rationalisation of administrative arrangements envisaged by this Bill will enhance the effectiveness of efforts to safeguard occupational health, safety and welfare in Western Australia. From the Government's point of view, resources will be able to be applied with flexibility and efficiency. For employers and employees it will be considerably easier to obtain and maintain a complete knowledge of rights and obligations in relation to occupational health and safety.

The provisions of this Bill will come into operation on the day on which the Occupational Health, Safety and Welfare Amendment Act 1987 comes into operation.

Both the Confederation of Western Australian Industry and the Trades and Labor Council agree with the approach being adopted by the Government in this regard.

I commend the Bill to the House.

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

[Pursuant to Sessional Orders leave granted to sit after 5.30 pm.]

ASSOCIATIONS INCORPORATION BILL

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [4.50 pm]: I move—

That the Bill be now read a second time.

The Associations Incorporation Act 1895 enables clubs, churches, schools, and other non-trading associations to obtain corporate status. The Act worked well for many years, but is now generally regarded as inadequate.

In March 1972 the Western Australian Law Reform Commission reported on the Act. That was the first review of the Act's operation since its enactment in 1895. That 15 years has passed without action on the Law Commission report is regrettable. On the face of it, the delay is also surprising in view of the repeated public commitments to a new Act by successive Governments.

In Opposition I took several opportunities to criticise that delay. In Government, I have come to better appreciate the reasons for it. The questions involved in the incorporation of

associations are much more complex than might at first be apparent. In the first place, there are thousands of such associations, and their circumstances and those of their members and executives vary enormously. They range from very small groups handling insignificant funds to very large organisations dealing with hundreds of thousands, and even millions, of dollars. Some are serviced by large staffs and professional assistance. By far the majority are likely to be constituted by modest numbers of members and serviced by volunteers.

Major deficiencies of the present Act include the inadequate accountability of association executives to their own membership, and the absence of suitable provision for withdrawal of incorporation or the voluntary or involuntary winding-up of associations. There is, for practical purposes, no external supervisory role by the Department of Corporate Affairs or any other authority. The problem is to fill those gaps without imposing unduly onerous obligations on association executives, most of whom are working in a voluntary capacity. It is important that such work be encouraged, and excessive or inflexible regulation could easily be counterproductive in this respect. Questions of enforcement and penalties require particularly careful consideration and the Bill has been prepared with such facts well in mind.

Since the report of the Law Reform Commission in 1972, new legislation relating to incorporation of associations has been enacted in Victoria and Queensland, both 1981; New South Wales, 1984; and South Australia, 1985. The Bill draws from those sources and has four major aims—

> To clarify and to simplify the existing law with respect to incorporation, including eligibility for incorporation, and the advertising of and procedures for objection to applications;
>
> to improve the accountability of associations to their members;
>
> to empower the Commissioner for Corporate Affairs to require an association to transfer its incorporation to another Act, or to cancel incorporation in appropriate cases; and
>
> to provide procedures for the voluntary and compulsory winding-up of incorporated associations.

Generally, the Bill reduces the number of and frequency with which documents must be lodged or registered.

I will outline in more detail the various provisions of the Bill. Part I of the Bill deals with definitions and preliminary matters. Part II deals with applications for incorporation.

Clause 4 extends the range of purposes permitted for incorporation as of right. The present prohibition on incorporation of associations which trade or distribute profits to members is retained. However, subclause (3) preserves bona fide activities of associations which are consistent with incorporated status, such as a sporting club which raises funds to assist travel expenses to attend a competition, or a war widows' association which provides accommodation for those of its members in need. Other associations not permitted incorporation as of right must receive the commissioner's approval, with provision for review of his decision by the Minister. This replaces the current requirement for ministerial approval.

Clause 5 sets out the detail of documentation required for incorporation. Affidavits verifying the documents will no longer be required. The applicant's own certificate will be adequate, subject to a penalty in clause 43 for false or misleading statements. Only one advertisement is required by clause 6 instead of the present two.

Clause 7 sets out procedures whereby a person may object to an application for incorporation. Objection is made initially to the commissioner with the opportunity for review of his decision by the Minister.

Clause 8 specifies the criteria for approval by the commissioner of an association's name. These criteria are similar to those applicable to business and company names. The Minister may review the commissioner's decision.

Incorporation is effected under clause 9. The commissioner is not required to incorporate an association if its activities are such as to make it more appropriate for it to incorporate under another Act, or if incorporation is against the public interest. There is again a right for the Minister to review the commissioner's decision.

Part III sets out the consequences of incorporation.

Clause 10 invests the association with the usual characteristics of a corporate body. Clause 11 effects a statutory vesting of property. Clause 12 protects members from personal liability for the debts of the association after incorporation. This protection is directed essentially to debts of a contractual nature.

There appears to be a misconception that incorporation of an association protects members from liability for negligence. In fact, members of associations are not by virtue of incorporation protected from liability for their own negligence, or other torts committed by them.

Clauses 13 and 14 specify the powers and privileges of an incorporated association. Subclause 13 (2) makes clear that an association may, unless restricted by its rules, act as a trustee.

The doctrine of ultra vires is abolished by clause 15 except where members seek to restrain their association from acting beyond its powers.

Part IV deals with the requirements and procedures for alteration of rules. Clause 16, by reference to the second schedule, sets out the basic framework of matters with which an association's rules must deal to comply with the Act. This requirement will not, under paragraph 4 of the second schedule, apply retrospectively to existing incorporated associations. Model rules are not included in the Bill. However, it is intended that the commissioner will make model rules available to the public as a service.

Under clause 17 rules may be altered by special resolution, with a copy of the alteration being lodged with the commissioner. Under clauses 18 and 19 names and objects may be changed in a similar manner, but the commissioner's approval is also required, subject to a right of review of the commissioner's decision by the Minister.

Part V details the procedures and requirements for management of the affairs of the incorporated associations.

Clause 20 invests responsibility for management with the association's committee.

Clauses 21and 22 seek to ensure that conflicts of interest are disclosed and that committee members having a conflict of interest do not vote. Clause 23 specifies the times within which annual general meetings must be held. Special resolutions must be made or lodged with the commissioner in the manner required by clause 24.

Clauses 25 and 26 set out the requirements for keeping accounts and tabling of annual accounts. In line with current practice, there is no requirement for accounts to be lodged with the commissioner for public inspection. That is regarded as unduly onerous having regard to the nature and purposes of associations.

Under clauses 27, 28 and 29, associations are required to keep a register of members, copies of rules, and records of office holders, which are all to be available for inspection by members.

Part VI deals with winding-up and cancellation of incorporation. The present Act is silent as to winding-up and dissolution. This has resulted in a number of associations being no longer active but with no procedure to remove them from the register.

Compulsory winding-up by the court under the Companies Code is available but is a cumbersome and expensive procedure. The Bill seeks to overcome these defects. Clause 30 of the Bill provides for voluntary winding-up of solvent incorporated associations initiated by special resolution of members. Thereafter, relevant provisions of the Companies Code will be adopted by reference to regulate the process.

Clause 31 provides 11 grounds for compulsory winding-up by the Supreme Court, on application by the association, a member, the commissioner, the Minister, or in the case of insolvency, a creditor. Again, relevant provisions of the Companies Code will be adopted to regulate the process.

The present Act is also silent as to distribution of surplus property. Members are free to make their own decisions although it has been the practice for many years not to incorporate an association unless its rules prohibit distribution of surplus assets to members and require distribution to another association with similar purposes or as determined by the court.

Clause 33 provides for members to determine a distribution plan for surplus assets. However, subclause (2) prohibits any distribution to members, and requires that the distribution must be to another incorporated association or for charitable purposes. In the absence of a distribution plan, or if a plan is unworkable, the commissioner can take steps to have the surplus paid to Treasury.

The Bill recognises that an association's activities may expand beyond the normal close-knit and localised group or become more commercially orientated. Accordingly, clause 34 empowers the commissioner to require an incorporated association to transfer its corporate status to more appropriate legislation. It may, for example, be desirable that an association be subject to the fiduciary and prudential requirements of the Companies Code. If the association so requests, its property and undertakings will vest in a nominated body incorporated

under the appropriate legislation and the association will be dissolved. If the association does not request to transfer, the commissioner can take steps to have its incorporation cancelled under clause 35.

If an association is defunct for other reasons, this will also provide grounds for cancellation of incorporation. An appeal againt a proposed cancellation lies to the Supreme Court. On cancellation, assets are sold by the commissioner under clause 36 and any surplus after payment of expenses is paid to Treasury. No provision is made for amalgamation of associations. Apart from being complex, such provisions are considered unnecessary, as it is open to use the voluntary winding up procedures to achieve the same end.

Part VII deals with administrative matters, including requirements for lodging and searching documents under clause 37, and admissibility of evidence under clause 38.

Detailed provisions for investigation and audit of records are made in clause 39, as a result of associations not being generally required to have their accounts audited or to lodge annual accounts. These powers can only be exercised by the commissioner to investigate contraventions of the Act or offences involving fraud or dishonesty or other specified matters.

In these circumstances persons holding records related to the association can be required to produce those records and an association can be required to produce audited accounts. Failure to comply with a requirement under this clause will be an offence.

Part VIII deals with miscellaneous matters, including service of documents under clauses 40 and 41. Committee members are responsible under clause 42 to take all reasonable steps to ensure that their association complies with its statutory obligations. Failure to do so constitutes an offence. Clause 43 provides penalties for false or misleading statements. Clause 44 prohibits unincorporated bodies using the word "incorporated" or its abbreviation.

Clause 45 provides for fees to be paid on lodging documents. Clause 46 provides a general regulation-making power. Clause 47 repeals the 1895 Act. Clause 48 gives effect to transitional provisions in clause 2, and clause 49 makes consequential amendments.

Schedule 1 sets out a minimum prescription of matters which rules must deal with to comply with the Act as required by clause 16.

Schedule 2 comprises transitional provisions to ensure continuity of corporate status for existing incorporated associations. Paragraph 4 of this schedule makes it clear that the requirements of clause 16 and schedule 1 as to the contents of rules are not to be imposed on existing associations.

Mr President, this Bill will be of considerable interest to many members of the community and I therefore propose that the Bill lie on the Table until the Budget session to allow adequate time for public consideration and comment.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. Max Evans.

TRUSTEE COMPANIES BILL

Second Reading

HON. J. M. BERINSON (North Central Metropolitan—Attorney General) [5.05 pm]: I move—

That the Bill be now read a second time.

The Trustee Act prohibits corporations from acting as executors or administrators of the estates of deceased persons. This is based on the view that the fiduciary duties of an executor or administrator are so special that, as a general rule, they should be undertaken only by natural persons accepting personal responsibility.

Despite this general rule, the longstanding practice in all Australian and many overseas jurisdictions has been to authorise certain reputable and established companies to administer the estates of deceased persons. This practice has recognised a community demand for professional trustee and executorial services.

The present position in Western Australia is that only two companies have been granted express statutory authorisation to administer estates. The two companies, Perpetual Trustees WA Limited and West Australian Trustees Limited, have operated in Western Australia for many years. Each of these companies derives its authority from a private Act of Parliament which, in addition to authorising the fiduciary activities of the company concerned, regulates those activities.

The two private Acts were enacted at the turn of the century. Both are clearly deficient, inconsistent, outdated, and well overdue for reform. There is currently no statutory provision for the authorisation of additional trustee companies.

The Bill replaces the provisions of the two private Acts with a modern and more relevant system of authorisation and regulation.

While the Bill provides for the continued authorisation of Perpetual Trustees WA Limited and West Australian Trustees Limited, it also provides that other companies may be authorised to undertake professional trustee services. The Act provides for additional competitors to be authorised by regulations made for that purpose.

The provisions of the Bill regulating the activities of authorised companies are substantially the same as those now found in the private Acts. The Bill, however, effects four significant changes.

Firstly, the complex provisions which currently prescribe fixed rates of commission which trustee companies may charge for administering estates have been replaced by a simpler and more flexible system for regulating fees.

While the Bill no longer places a maximum limit on the level of fees which may be charged, it allows trustee companies to charge fees only in accordance with the scale published by the company at the time an estate is committed to it. A testator will therefore be able to determine the level of fees which will be levied against his estate in the event of his death by examining the company's published scale of fees at the time he executes his will. If a trustee company subsequently wishes to increase its scale of fees, it must notify the testator of the increase in writing before that increase is effected.

The second change affects those provisions which currently provide for the obligations of a trustee company to be secured over its assets. These have been replaced with provisions which emphasise monitoring and control of the operations of a trustee company rather than the taking of security. They are designed to provide improved protection for estate funds.

A major new control is that borrowings of a trustee company will be restricted to not more than three times net tangible assets. While this requirement is directed to ensuring the continued financial stability of trustee companies, it will not unduly restrict the ability of a company to expand its activities through the prudent use of borrowings.

Other requirements include more extensive external audit requirements and a new requirement for six-monthly reports to be lodged with the Commissioner for Corporate Affairs. New provisions enable the Minister to call for a review or an independent audit of the operations of a trustee company, or both review and audit in an appropriate case.

Thirdly, the Bill contains new restrictions on the level of shareholdings in trustee companies. In future, no person, either alone or in association with others, may hold more than 10 per cent of the voting shares of an authorised body without the approval of the Minister, or unless the acquisition is of a kind prescribed by regulations for that purpose. These provisions are designed to ensure that the control of a trustee company cannot pass in a manner which is likely to affect the proper and efficient administration of estates in the care of the company.

Lastly, the provisions of the private Acts regulating common trust funds and other common funds operated by trust companies are proposed to be reformed. A trustee company will be required to hold and administer any moneys which it manages as executor or administrator separately from any other money invested with it. At present a trustee company is able to mix both estate and investment moneys into a single pool for investment purposes.

Provisions are also included which restrict the investment of any moneys forming part of a common trust fund to investment in authorised trustee investments. The manner in which common trust funds are to be operated and funds accounted for are also expressed more clearly.

Any common trust fund operated by a trustee company in which the public is invited to invest will continue to be excluded from the provisions of division 6 or part IV of the Companies (Western Australia) Code. Those provisions ordinarily regulate schemes in which the public are invited to invest. However, a trustee company will have the flexibility of deciding whether it will operate such a fund in accordance with the provisions of the Bill or under the Companies Code provisions.

Where a trustee company opts to maintain a common trust fund in accordance with the code provisions, it will be freed from the restriction to invest only in authorised trustee investments, and also from the audit and accounting requirements of the Bill. It will also be able to advertise nationally for funds.

Where a trustee company operates a common trust fund in accordance with the Bill, the fund will operate free of Companies Code requirements. However, such a fund will be lim-

ited to investment in authorised trustee investments and cannot be advertised outside the State.

The option provided to trustee companies will improve the range of investment services which a trustee company may provide, and will provide trustee companies with an improved ability to compete on a national basis with other fund managers.

As mentioned previously, the Bill makes provisions for the approval of new trustee companies by regulation. This will ensure that an appropriate range of professional trustee and executorial services is available in Western Australia.

The Bill also makes provision for authorisation to be revoked. Revocation is effected by the making of a regulation which removes the name of the body from the list of authorised bodies in schedule 1. Where a trustee company is removed from the list of authorised bodies, the Minister is authorised to apply to the Supreme Court for orders revoking any existing appointments as executor or administrator, and transferring the administration of such estates to another trustee company or the Public Trustee.

As the Bill will require some changes to the current operations of the two existing trustee companies, particularly in relation to the administration of their common trust funds, the Bill provides for a six-month period during which the two companies will be required to adjust their affairs to the new requirements. There is also a power for the Minister to extend this period should either of the companies not be able to reasonably comply with the provisions of the Bill within that period.

The Bill will provide a more effective and consistent system of authorisation and regulation of trustee company activities in this State. The Bill will also ensure that the public demand for a full range of trustee executorial services is met through provisions which enable a suitable number of competitors to be authorised.

A number of matters to which I have referred are technical and I have therefore arranged for clause notes to be distributed to members.

I commend the Bill to the House.

Debate adjourned, on motion by Hon. Max Evans.

MARKETING OF EGGS AMENDMENT BILL

Report

Report of Committee adopted.

CRIMINAL CODE AMENDMENT BILL

Second Reading

Debate resumed from 9 June.

HON. MARGARET McALEER (Upper West) [5.11 pm]: I thank Hon. Robert Hetherington for arranging for this Bill to stand adjourned for the last 48 hours. I know the Bill has been in the House for probably a fortnight now, which is certainly adequate time for anyone to study it, but for one reason or another I was not able to give it consideration until yesterday. Although I do not regard myself as fully seized of everything in the Bill, I am grateful for the opportunity to make some inquiries and to study the Bill.

I remember that in 1984, in moving his first Bill, Hon. Robert Hetherington said he had been thinking about the matter for 20 years. While I have not been thinking about it for 20 years, I certainly have had good reason to be thinking about it for the last 10 years, since Hon. Grace Vaughan first moved her Bill in 1977. However, every Bill is a new Bill and the circumstances and environment in which it is introduced are also new and changed, and therefore I think every new Bill requires a new consideration and perhaps a new set of criteria by which to judge it.

I have received two surprises in the presentation of this Bill. The first was that on listening to the debate it occurred to me that it was surprising that the Bill was now introduced as a private member's Bill, because I became aware quite early that the Bill had the approval and support of Caucus and that members on the Government side claimed it was also part of their party platform. It therefore seemed to me strange that the Government itself did not put forward this Bill. I know that in other States and places such Bills have been introduced very often as private members' Bills, but generally that has been in a circumstance where there was a free vote. For instance, in New South Wales the then Premier, Mr Wran, introduced a Bill as a private member's Bill, but it was said that the vote was entirely free, although I think there was an interjection to ask whether the Cabinet felt itself to be entirely free in the matter. In Victoria, on

the other hand, when Mr Hamer was Premier, he introduced a Bill as a Government measure, although it was not finally proceeded with.

I thought to myself that perhaps it was on several counts a matter of regret that the Government did not see fit to bring the Bill forward itself, although I do not wish in any way to take any credit from Hon. Robert Hetherington who has pursued this matter. One of the reasons I thought it a pity that the Government did not take the Bill in hand itself was that, as I think Hon. Robert Hetherington himself said, he felt somewhat handicapped by the limited assistance provided to private members in preparing Bills. We all know that the Parliamentary Counsel has at least two or three other jobs and finds it difficult to give the concentration necessary to preparing a Bill, and also that in the course of her duties she does not have the same opportunity to gain experience as do members of the Crown Law Department.

I was all the more reinforced in this view when reading Mr Murray's general review of the Criminal Code when, in commenting on previous Bills and also on the Royal Commission, he had this to say—

> There were various other consequential amendments upon which I had occasion to comment. Whilst there was I think much to recommend the substance of the Commission's recommendations, it was also clear that some of the proposals were ill considered and did not reflect the views of the community generally.

In speaking of Hon. Grace Vaughan's private member's Bill he then went on to say—

> Again it appeared that there was much community support for the principles of the legislation although it was, with respect, not a good attempt at drafting an appropriate Bill and there was much that officers of this Department considered would need alteration before any such legislation was enacted.

I am no judge of drafting so the drafting of this Bill may very well be quite perfect, but it seemed to me that the Government could have obviated any difficulty in the Bill's drafting by taking it in hand and doing a little more work on it.

The second matter of surprise to me in the presentation of this Bill was that Hon. Robert Hetherington based his case almost entirely on the relationship of these provisions of the Criminal Code and the homosexual community to the onset of the disease AIDS. While I think that this approach would be valid if his basic premise were correct, I am not sure that, had Hon. Robert Hetherington talked to many of the various authorities in a number of States, he would not have had cause for some doubts as to the validity of his basic premise.

In the course of inquiries that I was able to have made, our own AIDS Council people indicated that no-one had brought to them any Western Australian law or indicated to them that any Western Australian law was acting as an impediment or a discouragement to AIDS testing. However, in New South Wales, where homosexual acts between consenting adults were decriminalised in 1984 and where there is a very large and visible homosexual community, that State has 75 per cent of the known AIDS cases in Australia. In that State there is a law which requires the reporting and registration of AIDS cases; and although about 1 000 such cases are on register it is known by the Health Department from the various tests made in clinics and by doctors that there are in fact about 15 500 cases of AIDS in the community.

That means a ratio of about 15:1 of the AIDS victims are not coming forward, although they do not have to fear incriminating themselves by doing so. The real fear which these non-registering AIDS cases experience relates to the State law itself, which requires registration. The fear is that confidentially cannot be maintained and that persons coming forward to register will be identified as high-risk individuals which will mean they will stand to lose their jobs, their friends, and their homes, and become outcasts from society. In addition there is the very usual and natural human reaction of any individual to receiving the sure knowledge that he has an incurable and fatal disease. Most of us would prefer to think we did not have such a disease and that whatever it was that was troubling us would go away. These fears are far more real and serious problems that that which Hon. Robert Hetherington mentioned in his second reading speech and used as a basis for asking the House to pass the Bill.

Another example concerns Victoria, where there is no law requiring registration and testing of AIDS cases. A paper dealing with infectious diseases was recently circulated by the health authorities there proposing a law for registration, and that paper caused widespread reaction against such a law being introduced.

Perhaps if Hon. Robert Hetherington checks again with other States he will find that the provisions in the Western Australian Criminal Code do not constitute a real problem and that, on the contrary, the situation here as regards testing and counselling, and the general rapport with the homosexual community in WA, is at least as good as and perhaps better than in the other States. He does his attempt to reform the law a disservice by using an argument which is a fairly emotional one.

I comment now on the facts as I see them. Firstly, homosexual acts in private between consenting adults are victimless crimes which are on our Statutes and which can attract a penalty of 14 years in jail with hard labour, with or without whipping. I do not know who determined that this was a suitable deterrent, but is it fairly clear that is has not been effective. It is also out of proportion to other penalties that we attach to sexual offences, such as rape. Moreover, as a penalty one can say that sending homosexuals to jail is not necessarily an appropriate course to follow because they are confined in an all-male environment where even some heterosexual men resort to homosexual practices.

It is also true that many respected citizens in our community lead blameless live but, as practising homosexuals, are labelled as criminals. It is also true that unscrupulous and violent people take advantage of this criminal tag attaching to homosexuals to blackmail, to bash, in some cases to murder, and certainly very often to harass them.

I do not think that all the abuses I have outlined would be abolished by decriminalising private homosexual acts, but I think that is a necessary first step to take in order to stop those abuses.

Finally, especially because homosexuals are known to be a high-risk group for AIDS in this country, it is important to extend the small measure of protection to them against the fear and the acute resentment felt by the community in many circumstances, and the absolute intolerance which is manifested against them. At the same time, I do not believe decriminalising private homosexual acts will encourage within the homosexual community promiscuity, association with bathhouses, or whatever practices are significant in the spread of AIDS.

I will briefly cast an eye over the progress of legislation dealing with the decriminalisation of homosexual acts in private.

It was probably the Gay Rights Movement in the 1960s which brought the extent of homosexuality to the fore in Australia. This was probably the result of the Wolfenden report in the United Kingdom. A number of homosexual groups were formed and became vocal, and public protests by the gay community were later fanned by the Whitlam Government's attempts to introduce human rights legislation.

However, in 1973 it was the Liberal, John Gorton, who moved in the Commonwealth Parliament, "That in the opinion of this House homosexual acts in private should not be subject to criminal law."

In 1975 legislation similar to that motion was enacted in the ACT and also in South Australia, where it was a free vote for both the Liberal and Labor Parties and was supported by the Liberal Leader of the Opposition, Mr David Tonkin.

In 1980 similar legislation was finally passed in Victoria, supported by Mr Hamer and Mr Kennett after a previous abortive attempt on their part to have such a Bill passed in 1977.

As I said earlier, in 1984 decriminalisation legislation was passed in New South Wales. That was a private member's Bill introduced by Premier Neville Wran. The Bill was seconded and strongly supported by the Liberal Leader of the Opposition, Mr Greiner.

The majority of Australian States are moving towards decriminalisation of homosexual acts in private. Nevertheless, real problems remain and these have been recognised in all States, including those which have passed this type of legislation.

If one reads those various pieces of legislation and all the debates which took place, one finds they highlight the same community attitudes and problems which are perceived by the community in this State. On the whole our community does not want to penalise these people, but it feels that the action of decriminalisation will bring about a reaction in other areas—that children in schools will be taught that homosexuality is an acceptable lifestyle, that homosexual couples will be accepted as families, and that homosexual couples will be able to adopt children.

As a whole, I think the community has made the choice that our society should be based on the family and it fears anything which might undermine that.

I do not think that the threat envisaged by so many people is altogether a real one. However, we must recognise that such fears exist and are

real to the extent that the more radical and militant homosexual groups will argue for just such measures as I have mentioned. Various Legislatures have tried to address this problem in different ways. The Hamer Government in Victoria, when it introduced its Bill in 1977, included a statement in the preamble to the Bill that decriminalisation of these acts was not to be taken as approval for any further relaxation of the law or that they had any moral consent. Mr Duncan, in introducing the Bill into the South Australian Parliament, expressly stated that he did not condone, support, or intend to encourage any such proceedings as homosexual marriages, or the adoption of children by homosexuals.

It seems to me that, because this is a real problem and has been the subject of many letters to me and, I am sure, to all members, Hon. Robert Hetherington and most of those members who spoke in support of the Bill have not addressed the fears that so many people have expressed, with the possible exception of Hon. Des Dans and Hon. Tom Helm. I think that their not doing that does their cause a further disservice.

I understand the difficulties which a private member has with this legislation. If the Government had introduced a Bill, it could have made a genuine attempt to allay some of the fears of the community in an authoritative way and could have made it clear that it was not its intention to go too far down the path. It could have also suggested that it would consider amending other Acts—for example, the Education Act—to the effect that it should not be taught in schools that homosexuality is an acceptable alternative lifestyle.

I am aware that many people who would otherwise accept this Bill have a very strong fear that children will be influenced in schools. Parents bear the primary responsibility for the education of their children. They delegate that authority to the State, the school, and finally to the teacher. Parents have the right to require that children be taught in accordance with the principles they espouse. I think it is appropriate that that anxiety should be addressed by the Government.

Other Acts which could be amended as a consequence of the introduction of this Bill include the Family Law Act and the Child Welfare Act, and possibly even the Salaries and Allowances Act because the public would not be especially pleased if members were permitted to take partners other than their spouses with them when travelling at public expense.

As the Government has allowed this Bill to be introduced because it has been approved by Caucus and is part of the ALP platform, I do not think it would be unfair of me to expect to hear an expression of opinion of the Government's intentions in relation to it by one of the Ministers in this House. Perhaps the Attorney General might try to allay some of the fears of certain sections of the community. I know that I cannot oblige any of the Ministers to do so. However, if they do not or if I find their explanation is not adequate, I will seek, if this Bill passes the second reading stage, to move an amendment to it by inserting a preamble in the Bill along the lines of the preamble in the Victorian Act.

I commend Hon. Robert Hetherington for his very real attempt to protect the young, to prevent soliciting and procuring, and to confine the effects of his Bill to acts between consenting adults in private. Far from criticising him for discrimination in these matters, I feel it is absolutely necessary that such provisions be put into the Bill in order for it to have public acceptance.

In my quick research, I came across many well-expressed opinions of principles which are enshrined in this Bill. I refer, of course, to the opinions by Mr J. Murray as Crown Counsel, Mr Greiner, and those included in the Wolfenden report. I will conclude my speech by quoting from that report because I think it sets out the views that I have. The quote is actually contained in the Victorian *Hansard* debate of December 1980, page 5011. The speech was made by Mr Cain, who introduced the Bill. He spoke of a policy paper published in the United Kingdom which summarised an inquiry, and then quoted from the Wolfenden report. He said—

> They asked themselves what was the function of the criminal law in the field of sexual conduct and concluded that it was:
>
> > "to preserve public order and decency, to protect the citizen from what is offensive or injurious, and to provide sufficient safeguards against exploitation and corruption of others, particularly those who are specially vulnerable because they are young, weak in body or mind, inexperienced, or in a state of special physical, official or economic dependence." . . .
> >
> > "It is not, in our view, the function of the law to intervene in the private lives of citizens, or to seek to enforce

any particular pattern of behaviour, further than is necessary to carry out the purposes we have outlined.

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

ADJOURNMENT OF THE HOUSE: ORDINARY

HON. J. M. BERINSON (North Central Metropolitan—Leader of the House) [5.38 pm]: I move—

That the House do now adjourn.

Unemployment Statistics: South West

HON. V. J. FERRY (South West) [5.39 pm]: I do not believe the House should adjourn until I acquaint it with the appalling unemployment statistics for the south west region of this State, and especially for the City of Bunbury.

The latest Commonwealth Employment Service statistics reveal shocking unemployment figures for the south west. Over the last four years, under the stewardship of the Burke Government, there has been a 50 per cent increase in unemployment in the south west—that is, the figure has increased from 3 507 in June 1983 to 5 257 in March 1987. That is an increase in four years of 1 750.

That is the increase during the stewardship of a Government elected to cure unemployment, especially in that south west area. The number of unemployed in the Bunbury area has risen from 2 556 in June 1983 to 4 037 in March 1987, an increase of 1 481 or 58 per cent.

A comparison between the Commonwealth Employment Service figures for March 1986 and March 1987 shows that there has been an increase in the number of unemployed people in the south west of 1 248, or 31 per cent. In the last 12 months the number of unemployed in Bunbury has risen by 971, an increase of 31 per cent. What an indictment of this Government's stewardship of the Bunbury area, despite all the huffing and puffing about "Bunbury 2000", and Government members and Ministers running down to the south west. What a dreadful indictment of a Government which is supposed to be servicing the region. Whatever yardstick one uses, the record of the Burke Government in trying to provide jobs is abysmal; it is abysmal both in Bunbury and the whole of the south west region.

It is devastating to realise that over the last four years there has been a 58 per cent increase in the number of unemployed in Bunbury alone. I have not checked but I feel sure it must be one of the highest percentage increases in any part of Western Australia. The huffing and puffing of the Government has brought about this result—it is not the right result. The people in the south west who want to work are being forced to go on the dole. I am not quoting from figures I have compiled; the figures are extracted from the quarterly publication issued by the Commonwealth Department of Employment and Industrial Relations. The figures are available for anyone to peruse.

I ask the Government and its members to take note of this appalling situation. These figures are compiled quarterly using a consistent formula and, therefore, provide a fair and accurate basis for making comparisons. I was taken to task in the Press in the south west region by the member for Bunbury, Mr Philip Smith, MLA. He said that I was comparing 1983 figures with figures for the end of last year and in doing so I was using an excellent unemployment figure for 1983 when the Worsley alumina refinery was under construction and employment was at a high level. I do not want him to trot out that argument again because I have quoted the quarterly figures published by the CES and the increase is consistent at 31 per cent over the last 12 months. Neither Mr Smith nor anyone else can trot out other figures and say that mine are rubbery; they are official figures.

Several members interjected.

The PRESIDENT: Order!

Hon. V. J. FERRY: It is fascinating to hear that Labor members are so sensitive when I talk about the lack of performance of their Government and its lack of concern for people who genuinely want to work. There may be some among the unemployed who prefer not to work but most want to get into the work force and carve out a life for themselves rather than be told by the Government that they cannot do so and must put up with this situation. It is despicable for the Government to adopt this attitude. These figures reflect a situation brought about by the State Government's neglect; that cannot be denied.

Hon. Graham Edwards: Absolute nonsense.

Several members interjected.

The PRESIDENT: Order!

Hon. V. J. FERRY: It is interesting to hear that a Minister of the Burke State Government and other Labor members are so sensitive to these figures.

The way to overcome the unemployment position is to give more incentive to the private sector to create jobs. The incentive should be given to the private sector through business, industry, and commerce. The "Bunbury 2000" concept has been hyped up to bring more Government employees into Bunbury and the number has increased a little. However, that is just shuffling the cards. Real employment opportunities—this fact is known throughout the world—come from private enterprise opportunities; the Government needs to encourage firms, give them incentive, and give them a chance to make a profit without taxing them out of existence. If Labor members think that is funny, they should speak to the people in the south west.

Several members interjected.

Hon. V. J. FERRY: I challenge all members in this place who have said that I do not understand the plight of the people. If I did not understand their problems I would not be talking about this matter now. I am proud to represent these people and I have done so for a long time. The Labor Party has no idea about how to help the people I represent because it does not care.

Both State and Federal Governments need to recognise that they are at fault in this matter. The Federal election will be held in a few weeks' time and in due course a State election will be held. Both Governments will get the stick for the present situation and for the ineptitude and callous disregard they have shown for people who want to work.

Question put and passed.

House adjourned at 5.47 pm

QUESTIONS ON NOTICE

SUPERANNUATION BOARD

Annual Report: Tabling

212. Hon. MAX EVANS, to the Minister for Budget Management representing the Treasurer:

The State Superannuation Board annual report 1986 includes the consolidated financial statements of the board and the Superannuation Board Investment Fund, as a separate entry.

(1) When will the Treasurer table the financial statements of the State Superannuation Board?

(2) If not, would he explain why?

Hon. J. M. BERINSON replied:

(1) and (2) The annual report of the Superannuation Board tabled on 1 April 1987 included financial statements of the board's operations for the year ended 30 June 1986. The accounts were presented in a manner accepted by the Auditor General, whose certificate was appended to the statements.

PUBLIC TRUSTEE

Unclaimed Moneys: Prescribed Amount

213. Hon. MAX EVANS, to the Attorney General:

The Public Trustee Act was amended in 1986 with respect to advertising unclaimed money.

(1) What was the prescribed amount referred to in section 45?

(2) What administration savings, as mentioned by the Attorney, will have been made to 30 June 1987?

(3) What were the advertising cost savings for the same period?

Hon. J. M. BERINSON replied:

(1) $100.

(2) Estimated at $150.

(3) $220.

BILLS OF SALE

Registrations: Revenue

214. Hon. MAX EVANS, to the Attorney General:

The Bills of Sale Act was amended to remove the need to register certain bills of sale, resulting in a major loss in revenue and offset in savings in storage and labour costs.

(1) How much revenue was raised from registrations under the Bills of Sale Act—

(a) 1985;

(b) 1986;

(c) estimated for 1987?

(2) What were the savings in labour costs as a result of the amendment?

Hon. J. M. BERINSON replied:

(1) The Bills of Sale Act was amended to remove the requirement to lodge a notice of intention to register a bill of sale by way of security. There was no fee payable on lodgment of the notice of intention.

Revenue raised is as follows—

(a) $882 727

(b) $813 176

(c) $825 000—estimated.

(2) Three officers were transferred to other divisions in the department to take up increased workloads in those areas.

CRIME

Break-ins: Increase

217. Hon. P. G. PENDAL, to the Minister for Sport and Recreation representing the Minister for Police and Emergency Services:

I refer to the 62 per cent increase in house break-ins in South Perth between 1985 and 1986, as outlined in his answer to question 174 of 26 May.

(1) Is the Minister satisfied with the police numbers at the South Perth and Victoria Park Police Stations?

(2) When were police numbers at each station last increased and by how much?

(3) To what extent, if any, are night patrols carried out regularly in South Perth?

(4) Will he consider increasing them?

(5) Is this 62 per cent increase comparable with the increase in house break-ins in metropolitan Perth as a whole?

(6) If so, what action does the Government propose to curb this explosion in suburban crime?

(7) If no to (5), why is the increase in South Perth higher than the average?

(8) Does the Neighbourhood Watch Scheme accomplish anything in South Perth?

(9) Are separate figures kept for break-ins occurring in—

(a) the hours of darkness;

(b) daylight hours?

(10) Is there any evidence that the 62 per cent increase is the work of organised crime or the work of unrelated, small-time criminals?

Hon. GRAHAM EDWARDS replied:

(1) Currently a review has been requested to be carried out by the management services branch to ascertain the South Perth police subdivision requirements.

The Commissioner of Police has advised me that the police numbers at Victoria Park Police Station are adequate.

(2) Victoria Park—last increase occurred on 23 January 1987—two constables; South Perth—last increase occurred on 20 November 1984—one constable.

(3) South Perth police operate from 4.00 pm to 12 midnight Monday to Thursday inclusive; Fridays and Saturdays until 1.00 am; and Sundays from 12 noon to 8.00 pm. After hours the South Perth area is covered by police from Victoria Park, the criminal investigation branch, 79 division, traffic, and central patrols.

(4) See answer to (2).

(5) It is not possible to make comparisons between areas due to numerous factors such as population and size of area.

(6) Police are allocated, operationally, according to demand for their services, by the Commissioner of Police.

(7) Answered by (5).

(8) A review of all areas where the Neighbourhood Watch Scheme is operating will be commenced on 1 July 1987 to ascertain the effects of the scheme.

(9) It is not possible to extract these figures without considerable cost, computer services, and manpower; and I am not prepared to subject my department to this at this time.

(10) There is no evidence to indicate that the increase is related to organised crime, but that of unrelated juvenile offenders.

GOVERNMENT BUILDINGS

Site: Rockingham

218. Hon. N. F. MOORE, to the Minister for Community Services representing the Minister for Lands:

(1) Has the State Government purchased land in Rockingham as a site for new Government offices?

(2) If so—

(a) where is the land;

(b) what is the area of the land;

(c) what was the purchase price?

Hon. KAY HALLAHAN replied:

This question has been incorrectly addressed. It has been referred to the appropriate Minister, who shall reply in writing in due course.

EDUCATION

Teachers: Graduates

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

(1) How many teachers who graduated in

(a) 1985;

(b) 1986,

are still seeking employment in Government schools?

(2) What is the anticipated number of 1987 graduates who will be employed in 1988 in Government schools?

Hon. KAY HALLAHAN replied:

(1) (a) In the group of 1985 graduates seeking secondary teaching positions, 343 were employed out of 359 available.

Of those seeking primary positions, 314 were employed out of 450 available.

There were 56 pre-primary graduates employed out of 59 available.

(b) In the group of 1986 graduates seeking employment in 1987, 282 secondary applicants have been employed out of the 400 available.

Of the 361 primary applicants available, 164 have been employed.

There have been 44 pre-primary graduates employed out of the 53 available.

(2) It is predicted that 75 per cent of secondary applicants, 65 per cent of primary applicants, and 100 per cent of pre-primary applicants will be employed during 1987. The predictions for 1988 are expected to be similar based on current information concerning graduates, projected student enrolments, and anticipated teacher resignation rates.

EDUCATION: HOSTEL

Lake Grace: Establishment

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

(1) Has the Minister received a submission from the Lake Grace district requesting the establishment of a student hostel in Lake Grace?

(2) If so, what is the Government's attitude towards this proposal?

Hon. KAY HALLAHAN replied:

(1) Yes.

(2) The Country High School Hostels Authority is presently investigating the possibility of acquiring premises in the town to facilitate this project.

GOVERNMENT BUILDINGS

Old Perth Technical College: Sale

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

Further to my question 25 of 31 March 1987 and question 127 of 28 April 1987—

(1) When was the Perth Technical College sold to Mid-Town Property Trust and the State Superannuation Board?

(2) What was the sale price?

(3) What amount has been paid to lease the site in each year since its sale?

(4) What is the anticipated cost of leasing the site for 1988?

Hon. KAY HALLAHAN replied:

This question has been wrongly addressed to the Minister for Education. It has been referred to the Treasurer, and he will answer the question in writing.

EDUCATION

Curtin University of Technology: Funding

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

(1) Has the Federal Government recognised the decision of the State Parliament to change WAIT to the Curtin University of Technology, by providing the additional funding to which a univerisity is entitled?

(2) If so, how much additional funding has been provided?

(3) If not, will the State Government provide the additional funds from its own resources?

(4) If not, why not?

Hon. KAY HALLAHAN replied:

(1) The Australian Government has not yet made a decision on funding for Curtin University of Technology for the 1988-90 triennium.

(2) to (4) Not applicable.

LAND RESERVE

Old Rockingham Golf Course

223. Hon. N. F. MOORE, to the Minister for Community Services representing the Minister for Lands:

(1) Was the old Rockingham Golf Course site ever an "A"-class reserve, and if so, when?

(2) What was its status prior to its recent sale?

(3) What was the sale price?

(4) What area of land was sold and to whom?

Hon. KAY HALLAHAN replied:

(1) No. The old Rockingham Golf Course was previously a "C"-class reserve set aside for the purpose of recreation and vested in the Shire of Rockingham.

(2) to (4) Freehold land. A Crown grant over an area of 62.972 8 hectares was issued to the Metropolitan Regional Planning Authority on 20 June 1984, and questions regarding the subsequent sale of the land should be directed to the Minister for Planning.

EDUCATION SYSTEM

Feminisation

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

I refer the Minister to the comments of the Director of Curriculum, Mrs Sandra Brown, reported in *The West Australian* on 4 June 1987.

Is it the Education Ministry's policy—

(a) that the education system needs to be feminised, and if so, how is this to be accomplished;

(b) that principals will need to be more collegiate orientated, and if so, why?

Hon. KAY HALLAHAN replied:

(a) The ministry recognises that women are under represented in promotional and senior administrative positions. The promotion-by-merit system which is replacing promotion by seniority should ensure more women are appointed.

(b) In "better schools", the ministry aligns itself with curriculum and system reform based on the recognition that the school is the appropriate unit of change. In order to achieve this there has to be a lessening of the hierarchical managerial styles concomitant with a strict centre-periphery model of operation. To this end, principals are being encouraged to adapt their personnel management styles so as to allow school-based decisions to be more representative of the views of their colleagues and the community.

WILDLIFE

Kimberley Project

225. Hon. G. E. MASTERS, to the Minister for Community Services representing the Minister for The North West:

(1) Has the Linnean Society of London approached the State Government with regard to a joint Australian-British scientific project in the Kimberley district to commemorate our Australian 1988 Bicentenary year?

(2) What is the project to be known as?

(3) What will be the estimated budget and where will these funds come from?

(4) Is the State Government offering full support and cooperation to the very valuable and important scientific project?

(5) If not, why not?

Hon. KAY HALLAHAN replied:

This question has been incorrectly addressed to the Minister for the North West and has been redirected to the Premier. He will answer the question as soon as possible.

WILDLIFE

Kimberley Project

226. Hon. G. E. MASTERS, to the Leader of the House representing the Minister for Industry and Technology:

(1) Has the Linnean Society of London approached the State Government with regard to a joint Australian-British scientific project in the Kimberley district to commemorate our Australian 1988 Bicentenary year?

(2) What is the project to be known as?

(3) What will be the estimated budget and where will these funds come from?

(4) Is the State Government offering full support and cooperation to the very valuable and important scientific project?

(5) If not, why not?

Hon. J. M. BERINSON replied:

This question has been wrongly addressed to the Minister for Industry and Technology. It has been referred to the Premier, and he will answer the question in writing.

ROAD

Tonkin Highway: Road Trains.

227. Hon. P. H. LOCKYER, to the Minister for Sport and Recreation representing the Minister for Police and Emergency Services:

Will the Minister undertake to investigate the possibility of road trains carrying produce from Carnarvon being permitted to use the Tonkin Highway between the hours of midnight and 4 am when the new Metropolitan Markets are complete?

Hon. GRAHAM EDWARDS replied:

Yes. I will refer the matter to the Minister for Transport for investigation by his department and for him to respond to the member by letter.

HORTICULTURE: METROPOLITAN MARKETS

New Complex: Completion

228. Hon. P. H. LOCKYER, to the Minister for Sport and Recreation representing the Minister for Agriculture:

When will the new Metropolitan Market complex be completed?

Hon. GRAHAM EDWARDS replied:

The target opening date is July 1989.

LOCAL GOVERNMENT RATING

United States Government Properties

229. Hon. P. H. LOCKYER, to the Minister for Sport and Recreation representing the Minister for Local Government:

(1) What is the present position with regard to negotiations with the United States Government with reference to rating of properties in Exmouth?

(2) Is the Minister aware that the Exmouth Shire is experiencing problems with the availability of rateable property?

(3) If so, what does the Government propose to do about it?

Hon. GRAHAM EDWARDS replied:

(1) Representations have been made by the Premier to the Commonwealth Minister for Defence. The Department of Defence is preparing a report on the issue for the Minister.

(2) Yes.

(3) The matter is partly dependent on the outcome of the negotiations at Commonwealth level. In addition, the Local Government Grants Commission will shortly be discussing the issue with the Shire of Exmouth, which will give the shire the opportunity to discuss its expenditure and revenue disabilities with the commission.

TOURISM

Caravan Park: Mt Magnet

230. Hon. P. H. LOCKYER, to the Minister for Community Services representing the Minister for Lands:

(1) Has the Department of Lands Administration received a request from the Mt Magnet Shire for urgent release of land for caravan purposes?

(2) If so, has action been taken to alleviate the problem?

Hon. KAY HALLAHAN replied:

(1) Yes.

(2) I am advised that the Department of Lands Administration, in consultation with the Shire of Mt Magnet, has prepared a structure plan for the town that will guide and locate its future development. The plan has identified proposed traditional usage areas and also special sites for roadhouse, cara-

van park, motel, and group housing purposes, etc. On approval of the plan by relevant statutory authorities, and subject to funding, the department will arrange for the caravan park site to be serviced and then put up for sale.

TRANSPORT

Airports: Local Government Control

231. Hon. P. H. LOCKYER, to the Minister for Sport and Recreation representing the Minister for Transport:

(1) Has the Federal Minister for Transport indicated to the WA Government which airports it intends handing over to shire councils?

(2) If so, which airports are involved?

Hon. GRAHAM EDWARDS replied:

(1) There are fifteen Commonwealth-owned aerodromes in Western Australia which are eligible for transfer to local ownership under the aerodrome local ownership plan administered by the Federal Department of Aviation. The Federal Minister for Transport has indicated that the Federal Government is seeking to transfer all of those aerodromes to local ownership.

(2) The aerodromes are Broome, Carnarvon, Cue, Derby, Fitzroy Crossing, Forrest, Halls Creek, Kalgoorlie, Marble Bar, Meekatharra, Mt Magnet, Nullagine, Onslow, Wittenoom, and Wyndham.

PASTORAL LEASES

Tenure: Legislation

232. Hon. P. H. LOCKYER, to the Minister for Community Services representing the Minister for Lands:

(1) Is the Government intending to introduce legislation to improve tenure conditions for pastoral properties in WA?

(2) If so, when will this legislation be introduced?

Hon. KAY HALLAHAN replied:

(1) Yes.

(2) It is intended to introduce the legislation during the current session.

ENERGY

Gas Pipeline: Gascoyne Junction-Carnarvon

233. Hon. P. H. LOCKYER, to the Leader of the House representing the Minister for Minerals and Energy:

(1) When will construction of the Gascoyne Junction to Carnarvon natural gas spur line commence?

(2) Have contracts for its construction been let?

(3) If so, who are the successful tenderers?

Hon. J. M. BERINSON replied:

(1) September 1987.

(2) No.

(3) Not applicable.

ROAD

Monkey Mia: Sealing

234. Hon. P. H. LOCKYER, to the Minister for Sport and Recreation representing the Minister for Transport:

(1) Is it the intention of the Main Roads Department to seal the Monkey Mia road at Denham?

(2) If so, what is the anticipated commencement date?

Hon. GRAHAM EDWARDS replied:

(1) and (2) Because of the amount of traffic using this road, sealing has a relatively high priority. A firm date for commencement of work has not been determined and is subject to the availability of funds and agreement with the local government authority on a contributory funding arrangement.

ROAD BRIDGE

Gascoyne River

235. Hon. P. H. LOCKYER, to the Minister for Sport and Recreation representing the Minister for Transport:

(1) Is it the intention of the Main Roads Department to construct a new bridge over the Gascoyne River in Carnarvon?

(2) If so, when will construction commence and finish?

(3) Has an exact location been established?

(4) Where is this location?

Hon. GRAHAM EDWARDS replied:

(1) to (4) The department has no short-term plans for constructing a new bridge over the Gascoyne River at Carnarvon. However, the consultants, Sinclair Knight and Partners, provided advice to the department on a preferred location for a long-term crossing of the Gascoyne River taking into consideration the effect of the roadworks on the Carnarvon flood mitigation works.

HOUSING: RENTAL

Waiting List: Denham

236. Hon. P. H. LOCKYER, to the Minister for Community Services representing the Minister for Housing:

(1) What is the waiting list for tenants for Homeswest homes in Denham?

(2) How long have these applicants been on the list?

Hon. KAY HALLAHAN replied:

(1) Seven applicants.

(2) The oldest application dates from March 1985.

LOCAL GOVERNMENT

Wiluna Shire: Splitting

237. Hon. P. H. LOCKYER, to the Minister for Sport and Recreation representing the Minister for Local Government:

(1) Has the Minister received an official request to split the Wiluna Shire into two shires?

(2) If not, what is the procedure to split a shire?

Hon. GRAHAM EDWARDS replied:

(1) No.

(2) The power for electors to petition the Governor for the division of a shire is contained in section 12(1)(d) of the Local Government Act.

INDUSTRIAL DEVELOPMENT

Pilbara Steelworks: Natural Gas

238. Hon. P. H. LOCKYER, to the Leader of the House representing the Minister for Minerals and Energy:

(1) Has an investigation been carried out into the viability of a steelworks in the Pilbara using energy from natural gas?

(2) If so, what is the result and possibility of establishing a steelworks in the area?

Hon. J. M. BERINSON replied:

(1) In attempting to satisfy Hamersley Iron's processing obligations to the Western Australian Government, CRA and Hamersley have conducted wide-ranging and comprehensive studies on major steel-making alternatives over a period of many years. CRA and other parties have also investigated gas-fuelled production of direct reduced iron.

(2) The capital cost of establishing a greenfields steelworks in the Pilbara is a major hurdle, and achievement of economic viability would be difficult under the present world steel market conditions.

FLORICULTURE

Chrysanthemums: White Rust

239. Hon. MARK NEVILL, to the Minister for Sport and Recreation representing the Minister for Agriculture:

(1) Have any outbreaks of chrysanthemum white rust been detected in Western Australia?

(2) If so, what measures have been undertaken to eradicate the disease?

(3) What quarantine measures have been undertaken to restrict the importation of chrysanthemums into Western Australia?

Hon. GRAHAM EDWARDS replied:

(1) Yes. First detected in November 1986, with last detected outbreak on 14 January 1987, and all properties cleared from quarantine 18 February 1987.

(2) Properties were quarantined; infected and adjacent plants were destroyed; and chemical treatments applied to the remainder in accordance with recommendations of the exotic insect pests, weeds and plant diseases consultative committee of the Standing Committee on Agriculture.

(3) Quarantine restrictions have been placed on the entry of all chrysanthemum material from other States. These require pre-entry inspection and certification of freedom from

CWR and chemical dipping of propagation material. All chrysanthemum material is subject to a further inspection on arrival in Western Australia.

QUESTIONS WITHOUT NOTICE

SUPERANNUATION BOARD QUESTIONS

Answers

77. Hon. G. E. MASTERS, to the Leader of the House:

Yesterday I directed a query to the President, and he responded at the commencement of the sitting today.

If I proceed to ask the questions that are already on the Notice Paper, similar questions to those which the Leader of the House said may be sub judice, will he be prepared to ensure those answers are given to me?

Hon. J. M. BERINSON replied:

The questions to which the honourable member refers do not relate to my ministerial portfolio. They relate to the State Superannuation Board, so the Treasurer is the appropriate Minister to whom questions affecting that board or of the present nature of Hon. G. E. Masters' inquiry should be directed.

SUPERANNUATION BOARD QUESTIONS

President's Statement

78. Hon. G. E. MASTERS, to the Leader of the House:

Will the Leader of the House now be prepared to convey to the Treasurer the terms of the statement read to the House by the President, and urge him to respond to the questions I have placed before this House?

Hon. J. M. BERINSON replied:

I am happy to convey the terms of the President's earlier comments today, but I cannot take the position any further.

SUPERANNUATION FUND

Government Contributions

79. Hon. NEIL OLIVER, to the Minister for Budget Management:

Yesterday I directed a question to the Minister for Budget Management with respect to a likely variation in the Budget in relation to retirement lump sum payments. He said the question did not come within his portfolio. I would like to know what areas the portfolio of Budget Management is responsible for?

Hon. J. M. BERINSON replied:

Most of the important areas but not the one involved with Hon. Neil Oliver's inquiry.

PORNOGRAPHIC VIDEOTAPES

Imports: Australian Capital Territory

80. Hon. E. J. CHARLTON, to the Minister for Community Services:

Is she aware of any evidence of the amount of what I term "pornographic tapes" coming into Western Austraila from the ACT and their effect on children in this State?

Hon. KAY HALLAHAN replied:

The question of pornographic videotapes comes within the responsibility of the Minister for The Arts. If the member would like to put that question on the Notice Paper, I am sure he will receive a response.

WA EXIM

Questions: Answers

81. Hon. J. M. BERINSON (Minister for Budget Management):

Yesterday Hon. Max Evans asked me a question which I was unable to respond to at the time. He asked me to pursue the apparent absence of answers to his questions 180 to 183 inclusive. I am now in a position to advise him that the Minister's office forwarded a reply to those questions on 3 June. If they have gone astray, the honourable member can contact the Minister's office direct.