# Legislative Assembly

Wednesday, 28 November 1990

THE SPEAKER (Mr Michael Barnett) took the Chair at 10.00 am, and read prayers.

## PETITION – MT LESUEUR NATIONAL PARK PROPOSAL

*Coal Mining or Power Stations Opposition*

DR ALEXANDER (Perth) [10.03 am]: I have a petition expressed in the following terms –

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned, request that the Parliament, in recognition of the immense biological diversity and importance of the Mt Lesueur area –

(1) create a National Park with boundaries as recommended by the Environmental Protection Authority,

(2) no coal mining or power stations be permitted within the boundaries or adjacent to the Mt Lesueur National Park.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 150 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 192.]

## PETITION – KALAMUNDA AND DISTRICTS COMMUNITY HOSPITAL

*Administration Transfer Objection*

MR THOMPSON (Darling Range) [10.05 am]: I have a petition in the following terms –

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We, the undersigned object to the suggestion that the administration of the Kalamunda & Districts Community Hospital be transferred to a new authority and request that our Hospital continues to be managed by a Board elected by the Kalamunda community.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners, as in duty bound, will ever pray.

The petition bears 1 141 signatures, of which 500 were obtained at a public meeting last night, and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 193.]

## PETITION – RAILWAYS

*South West Suburban Rail Service Extension Support*

MR THOMAS (Cockburn) [10.07 am]: I have a petition expressed in the following terms –

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

We the undersigned support the extension of the suburban passenger rail service to the suburbs of the south west corridor.

This part of the metropolitan area is growing and is widely recognised as one of the most desirable options for the long term expansion of the City of Perth.

Moreover, as recent international events have shown, it is prudent to minimise dependence on oil and environmental considerations support the extension and enhancement of our public transport system.

Your petitioners therefore humbly pray that you will give this matter earnest consideration and your petitioners as in duty bound will ever pray.

The petition bears 249 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 194.]

## PETITION – MOTOR VEHICLE AND DRIVERS' LICENCES RENEWAL

*Local Post Office Agencies*

MR TRENORDEN (Avon) [10.09 am]: I have a petition in the following terms –

To: The Honourable the Speaker and members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.

That we be allowed to use our local Post Office Agencies to renew our Motor Vehicle and Drivers Licences so that we do not have to travel further to an Official Post Office. Post Office Agencies also open on Saturday Mornings while Official Post Offices do not and we are further inconvenienced.

As in duty bound your Petitioners will ever pray.

The petition bears 9 306 signatures and I certify that it conforms to the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

[See petition No 195.]

## SELECT COMMITTEES – REPORT TABLING

*Extension of Time – Select Committees on Land Conservation, Energy and the Processing of Resources, and the Right to Farm*

On motion by Dr Gallop (Minister for Education), resolved –

That the time for bringing up the reports of the Select Committee on Land Conservation, the Select Committee on Energy and the Processing of Resources, and the Select Committee on the Right to Farm be extended to 27 June 1991.

## SELECT COMMITTEE ON LAND CONSERVATION – INTERIM REPORT

*Presentation Procedure*

On motion by Dr Gallop (Minister for Education), resolved –

(1) That the Select Committee on Land Conservation be empowered to present any interim report to the Clerk of the Legislative Assembly prior to the prorogation of the present Session; and

(2) Any interim report received by the Clerk prior to the prorogation of the present Session shall be deemed to be laid on the Table of the House and shall be treated for all purposes as a proceeding of the House and the Clerk shall take such steps as is necessary and appropriate to publish the interim report.

## SELECT COMMITTEE ON PAROLE – REPORT TABLING

*Extension of Time*

On motion by Mr Cunningham, resolved –

(1) That the date for the presentation of the report of the Select Committee on Parole be extended to 2 April 1991; and

(2) That until 7 December 1990, this House grants leave for the Select Committee on Parole to sit during sittings of the House.

## LOCAL GOVERNMENT AMENDMENT BILL (No 2)

*Committee*

Resumed from 27 November. The Chairman of Committees (Dr Alexander) in the Chair; Mr Gordon Hill (Minister for Local Government) in charge of the Bill.

**Clause 11: Section 245A amended –**

Progress was reported after the clause had been partly considered.

Mr CLARKO: I move –

Page 6, line 4 – To delete the figure "2" and substitute "4".

This amendment relates to the period between council inspections. Another aspect of this clause is the way pool owners will be charged for inspections, with a third aspect being the question of the maximum charge the Government proposes to adopt. It will be interesting to see how the Minister puts in place the payment of a fee by pool owners for inspections. This clause proposes that pool owners share collectively the cost of pool administration in their municipalities. If the cost of pool administration is $10 000 and there are 1 000 people with pools in the area, each would pay $10. Everybody in Western Australia needs to understand that if they have a pool they will have to pay for inspection of the pool. I understand that, at the moment, they pay $1 to register their pool. However, they will now be charged a new fee of $10 or $20 a year.

That is a grossly inferior system of paying for inspections to that which I suggest. I suggest that pools be inspected by councils every four years and that they pay a $40 fee for that inspection. The idea of billing pool owners a yearly fee is full of complexities and is not the right way to do this. The Bill proposes that the maximum charge will be determined by the Minister. This is an intrusion into local government at a time when the Minister and his colleagues involved in rewriting local government legislation are doing the opposite. It is proposed to give local government the ability to make decisions on matters which they are capable of making. The State Government should not be involved but, in this case, it will be involved in price control. That went out after the second World War.

My amendment is complicated by the fact that the Minister declined yesterday to accept the proposition put before the House, namely, that a personal inspection form should go to every pool owner in the State for completion. I hope that amendment will be pressed in another place. It would ensure that someone would be responsible for checking the pool at least once a year and that would be done with virtually no cost. Despite the loss of that amendment, the Opposition presses for a four year council inspection although it will be pressing in another place for that to be combined with annual inspections. Anybody reading yesterday's debate will understand that the two have to be taken together. The annual inspection should be complemented by a council inspection every four years. Every responsible owner of a pool should check it at least once every 12 months. The requirement for annual inspections will be changed to biennial inspections by the Government. Safety requirements of pools could be ignored in that time which is undesirable and no responsible citizen would want that to happen.

I received this morning information from building surveyors who have said that it will not be possible to inspect all the pools by 1 July 1992. I do not know whether the Minister has received a submission on that matter. A requirement of the legislation introduced in May this year was that it be in place by July 1990. That did not happen.

The Opposition is concerned about having a comprehensive system of inspections and that is what this amendment refers to. However, it will not be as effective as it would have been if the other inspection amendment had been passed. In summary, the Opposition wants every pool in Western Australia inspected – the Government has suggested by 1 July 1992 but there are some doubts about that date. Secondly, the Opposition suggests that a formal requirement be introduced for pool owners to carry out safety inspections of their pools. Thirdly, it suggests that inspection by council officers be done every four years. I presume that this legislation suggests that that be done on a random selection basis. The

Government's requirement for inspections every two years will have to be based on a greater number of pools being randomly inspected. Our amendments cover the totality of inspections and would significantly reduce the costs to pool owners.

It is not desirable to put yet another cost burden on the ordinary citizen who has a swimming pool. Under this proposal each year a swimming pool owner will cop a bill of $18 or $22 which will be his share of the cost of pool inspections in his municipality. It is an unnecessary cost burden. I accept that there is a need for inspections by the professional people employed by local authorities. I understand that there is debate in local authority circles that some councils will try to overcome the heavy burden of inspections by allowing unqualified people, instead of qualified building surveyors, to undertake this task.

[The member's time expired.]

The CHAIRMAN: Order! I know that the member for Darling Range, who has the call, was not involved in this debate last night, but I will make this general point for the benefit of all members who intend to speak: I draw their attention to Standing Order No 142 which refers to tedious repetition. I am not trying to cut short the debate, but this matter has been canvassed previously and it is incumbent on speakers not to repeat their arguments, but to introduce new material to this debate on the amendment which seeks to change the figure "2" to the figure "4". I will be enforcing the Standing Order as rigidly as I can without stifling debate.

Mr THOMPSON: I am sorry I was not present in the Chamber when this debate was in progress last night. I was more gainfully employed chairing a public meeting of 500 people, who unanimously agreed with the point of view I held.

Mr Gordon Hill: At 2.00 am?

Mr THOMPSON: At that time I was asleep and I had completed my effective day's work. It took members until 3.00 am to do their day's work and it was less effective than was mine.

The CHAIRMAN: Order! It is a matter of judgment.

Mr THOMPSON: I have taken an intense interest in the swimming pool fencing debates for many years. When I was first in Opposition in 1971 I successfully convinced members in this place to amend the swimming pool fencing legislation, only to find that I was outvoted by my own people in the Legislative Council because a deal was done between Hon John Williams, who was representing my interest, and Hon Claude Stubbs, who was the father of this legislation. As a private member Claude Stubbs convinced the Parliament that it should have swimming pool fencing legislation. It was a piece of legislation which was not supported wholeheartedly by the Labor Party and Colin Jamieson, to the day he died, was opposed to swimming pool fencing legislation.

The question which should have been addressed at the outset is: Whose responsibility is it to ensure safety in respect of swimming pools? I advise the Chamber that having isolation fencing and annual inspections by the local authorities might make the legislators feel good, but it will not stop kids from drowning. The only thing that will stop that tragedy is for those who have responsibility for the pools to be educated to ensure that their methods of providing safety are adequate.

The other point I make is the individual parental responsibility with respect to children. All this legislation will do is to make those people who are its proponents in this Parliament feel good, but it will not save the lives of children. Statistics show a high percentage of pool deaths have occurred in pools which were fenced and had gates which meet the requirements of the legislation. Those things can be as safe as the people who are in charge of them allow them to be. An expensive system of inspections can be in force, but five minutes after the inspector has left the premises the fencing could become unsafe because a kid wheels his bike up to it and climbs on top of the bike to get over the fence or because someone throws a towel over the locking device of the gate. Pools will not be made safe by legislation; they will be made safe only by educating the people who have pools to make sure they have in place adequate safety measures.

Quite frankly, the proposed system of inspection will not work. It will be expensive for local authorities and it will not be effective. I would support it if I believed it would be effective, but the proposals in this legislation will not be effective.

The Shire of Kalamunda, in the spirit of ensuring that the fences around swimming pools were adequate – considerable time had elapsed since swimming pools could be installed and in the intervening period the requirement for fencing to be erected around them had been implemented – caused an inspection of pools in its area. It took months to complete that inspection and it cost the shire a large sum of money. It employed unqualified people to undertake that inspection, which was financed by one of the Commonwealth RED schemes. The Commonwealth provided funds for employment generated activities and the council received a grant to employ people to inspect pools. The balance of the cost was paid by the ratepayers. Whatever the score, the total cost of that exercise was exceptionally high and I question the ability of local authorities to be able to carry out the intention of this legislation. I agree with the member for Marmion on this clause.

Mr STRICKLAND: During the closing stages of the debate last night I thought I heard the Minister say the Building Code of Australia established the guidelines for the construction of pools, but those guidelines were not necessarily the precise rules. I ask the Minister to establish whether that is the case.

The CHAIRMAN: Order! I am sorry, but we are not dealing with this matter; we are dealing with inspections. I ask the member to deal with the amendment which seeks to change the inspection period from two years to four years.

Mr STRICKLAND: We are dealing with inspections and I am making sure what is being inspected and under what rules. I have been told by local authorities which are charged with this responsibility that they do not have discretion in these matters.

The first inspection will be carried out by July 1992. I reminded the Chamber during the second reading debate that the City of Stirling cannot now tell, with 100 per cent accuracy, on which properties pools are established. That will mean that the first inspection will be to identify where the pools are in the municipality. While it has been a requirement for people to register their pools a register has not necessarily been kept. Within the office of the City of Stirling some of that information is kept in the health surveyors' area, from where inspections were previously carried out, and some is in the building surveyors' area. The information is not kept in a form which would allow a property file to be compiled and notices sent to the people who will be required to pay for inspections. Additional time is needed for that and I give the Minister credit for extending the time to allow that to take place.

We are talking about two types of inspections; the first must be a pool audit to establish where the pools are located. Once that has been identified the recurrent stage will be entered into, and two types of properties will have been identified, those with pools and those without pools. Last night we considered on the spot inspections. Whatever system is put in place spot check inspections will be required. Once a register of swimming pools has been compiled, and an inspection is made every four years – which will be the case if the Minister accepts the Opposition's amendment – that will be sufficient to establish that the houses with pools have satisfactory fencing and so on. However, some people who do not have swimming pools may go to the local Woolworths, buy plastic liners, take them home and fill them with water. Because these liners are more than 300 millimetres high, and have been bought for the purpose of wading, paddling or swimming, they will be covered by the Building Code of Australia standards, and proper security arrangements must be made. The spot inspections must continue. Yesterday I quoted from a letter I had received from the City of Stirling –

The CHAIRMAN: I will not tolerate the member's quoting the same material today in a debate on a specific clause that he has quoted previously. I remind the member that Standing Order No 142 requires him to desist from irrelevant and tedious repetition and states that if he persists in that the Chair may direct him to discontinue his speech. I have no desire to invoke that rule but I have that power, and I ask him to observe the fact that we are talking about periods of inspection, a specific amendment to a specific clause of the Bill. There is no scope for canvassing my ruling.

Mr STRICKLAND: I ask you, Mr Chairman, to indicate what you regard as repetition. I said something once in this Chamber a long time ago when many people were not in the Chamber. I want to raise that matter again so that the people in the Chamber now who were not here previously can hear that point.

The CHAIRMAN: The member is seeking clarification, but it is not proper for him to argue with my point. We have been debating this Bill for some hours. It does not matter whether new people come into the Chamber; that is not relevant to this issue. Standing Order No 142 states that a member shall not persist in tedious repetition either of his own arguments or of the argument used by other members in debate. That is a subjective interpretation, but we have reached the point at which members are repeating material. The member for Scarborough said that he was referring to material he had raised yesterday. To me that transgresses the rule. That again is a subjective judgment, but it is incumbent on members to restrict their comments to matters that have not been raised before in any sustained way. Of course, it is quite acceptable to develop a point that has been touched on before. I cannot remember everything that has been said, any more than the member can, but I do know when themes are being repeated.

*Point of Order*

Mr CLARKO: You, Mr Chairman, of all people who sit in the Chair, will appreciate that material can be repeated several times on an issue of this type by a member indicating, for example, that it is his intention to have a safe system at a reasonable price. If a member commented on a certain matter last night and now refers to it again, I would not regard that as tedious repetition. I consider tedious repetition results from somebody making the same point over and over again without making any progress in the debate. Obviously the Opposition wants to make progress on this Bill. As the principal person handling this Bill for the Opposition I seek to do that. However, if you, Mr Chairman, constrain debate too tightly in an attempt to save time it may be that the debate will take more time rather than less time.

The CHAIRMAN: I am well aware of that danger and I agree with the member for Marmion that at a certain point it is not worth intervening because by doing so one holds up the proceedings. That is why I remind members of the Standing Order, and it is incumbent on members to observe that interpretation. I will not pull up members every time I think they may be transgressing the rule but occasionally if something appears to be a possible or blatant transgression, then I will. If members make passing reference to material raised yesterday, perhaps we can proceed and I am sure the Minister will respond in due course.

*Committee Resumed*

Mr STRICKLAND: I am talking specifically to clause 11. I have been told by the City of Stirling, the local authority responsible for these matters in my electorate, that it prefers a system of on the spot fines in lieu of annual inspections, because of the redundancy. The point was made last night that once these solid fences of steel, galvanised iron and so on have been installed, they will not change overnight. They will stand up to any weather. However, the self-closing mechanisms of gates could be a problem. It is not necessary to inspect these fences too often because they will not deteriorate, and an inspection every four years instead of every two years will be adequate in the recurrent stage. In support of that argument we said that although the original inspection will be of a technical nature to ensure the fence is satisfactory, the ongoing inspections in the recurrent stage could be carried out more quickly to check that the latches on gates are working and that the fence is as installed. I strongly support amending the clause to allow for inspections to be made every four years.

There will be two stages with regard to cost, the first being the original phase-in situation involving the registration of pools and the way in which people will be billed for the inspections. That cost may have to be absorbed by the local authority. It may be necessary to inspect every house to identify those with swimming pools. When that identification has been made the recurrent mode will be entered into. If the Opposition's proposal for four-yearly inspections is accepted, fewer people will be needed to carry out the inspections and it may be possible to reduce the cost. It will be necessary for the present situation to continue with regard to on the spot inspections of houses with no swimming pools. That is a problem and the situation must be monitored. It was established last night that the local authority has a real responsibility and potentially a liability in this area and, therefore, it is duty bound to carry out the inspections thoroughly, and in a manner which not only maximises the safety requirements but also will not accrue public liability as a result of a drowning or some other cost connected with the tragedy.

I ask the Minister to verify whether the rules must be complied with and the fact that there will be no discretion. I have been told by the City of Stirling that it would have to allow for

up to a 50 per cent call back rate; someone may not be at home or there may be something wrong and a notice will have to be served that the pool must be made to conform. Those factors will add to the recurrent cost and will relate to the time frame and to the averaging out of the maximum fee.

Mr WIESE: I have indicated to the Minister that I want to clarify seven or eight points.

The CHAIRMAN: Order! We are not having a general discussion on this clause. We are talking about a period of inspection, and I will not permit a general debate.

Mr WIESE: I will not indulge in a general debate. I have indicated to the Minister that I intend to raise some points in discussion on this clause and that I will do that when we finish with this amendment. However, I will get one of those points out of the road in discussion on this amendment because it relates directly to it.

The National Party is happy to accept a four-yearly inspection rather than a two-yearly inspection, which is currently provided for in this clause, so we support the amendment. However, there is some misapprehension about what will happen because the clause provides that the inspection shall be periodic. It does not state that it shall be conducted once every two years. There is a potential for an inspection to be monthly if local government authorities decide that is the way they want to go. That may be taking it to a ridiculous extreme but will the Minister clarify whether I am correct in making that assumption?

Mr GORDON HILL: We have gone over this ad nauseam and all the issues raised today were raised last night. The member for Darling Range said that no amount of precaution that may be taken by the Government, local authorities, parents or the public at large will satisfy us that there will no longer be any deaths associated with swimming pools. The member is quite right. No amount of legislation or regulation will make the system absolutely foolproof. It boils down in the end to a question of not just personal responsibility but also the commitment of pool owners and of local government to ensure that the regulations are complied with. That is why we are demanding at least one inspection every two years; a periodic inspection, as the member for Wagin said. The inspection may be more frequent but it will be at least every two years.

The member for Darling Range referred to parental responsibility. It is rather sad that we always hasten to fall back onto this area of responsibility, because were we to put ourselves in the shoes of the people who have lost their child or children, we would feel some sympathy for them and for their tragic loss. There is no point in our harping on the question of parental responsibility because no amount of talk in this place and no amount of legislation will ever bring those children back to life. We should not attempt to make those parents who have lost their children feel at all guilty for, in some cases, their non-compliance with the -

Mr Wiese: I do not think you believe that any member is trying to do that.

Mr GORDON HILL: I accept that, but I wanted to make that point.

The member for Marmion proposes a four-year inspection period. That goes back to the system we have currently - a system of self-regulation. That system has not worked in the past. We continue to have tragedies of the type we have seen in recent summers. A proposal that will place on pool owners the onus of undertaking their own pool inspections has not worked in the past and we have no reason to believe it will work in the future. We need to provide that local governments will ensure that pool owners comply with the regulations. Those regulations have been clearly spelt out.

The member for Scarborough asked whether the Australian standards need to be strictly adhered to. I was under the impression that they were more of a guideline and that if they were in conflict with the State legislation or regulations, the State position would be binding. I was incorrect in making that assumption. The member for Scarborough is right; those regulations and Australian standards under the Building Code of Australia will prevail.

The member for Scarborough said we must ensure that some sort of safeguard is provided for those people whose gates open inwards as opposed to the new regulation which will require gates to open outwards. I advise the member that it is proposed to have a deeming provision in the new regulations which will cater for those people who have gates which open inwards. That arrangement will be sustained so long as the pool owner has complied with all the old regulations. The new regulations will exempt those who have gates opening inwards.

We covered most of the arguments last night, and now we are going over them again. Much has been said about the need for identification of the location of swimming pools. Some local authorities suggest they may undertake aerial surveys to identify those locations. That can be done on either a local or a regional basis; that is for local government authorities to determine.

Mr Strickland: About 98 per cent of pools are known; it is only the missing couple of percent.

Mr GORDON HILL: It will be largely accurate. Some may have indoor pools, which will be difficult to identify. With an aerial survey it will be possible to identify where outdoor pools are, and perhaps local authority representatives could knock on doors. The proposal is not entirely satisfactory, but it goes a long way towards addressing the problem. The cost could be passed on to pool owners.

Mr Strickland: It would cost Stirling about $11 000 for that survey.

Mr GORDON HILL: That is on the basis of an aerial survey which can be amortised with other local government authorities. The regulations provide a maximum amount which local government authorities can charge. The maximum amount allowed will be $50 averaged over two years. That is estimated by the department in consultation with local government. The City of Perth has advised us that the likely cost for pool inspections will be $29 over the two year period, so the $50 allows for some fat. There is no compulsion on local government to impose any charge. It may well see fit to absorb those costs within its budget.

Mr Clarko: It would not be fair to the other ratepayers, would it?

Mr GORDON HILL: That is a matter of judgment; it is not something I want to impose on local government. Local authority has the power to do that.

Mr Clarko: There is a section which provides for councils to make concessions, say to pensioners, but when they do that, as would be the case in the proposition put forward by the member for Balcatta about seniors, the cost is passed on to another group of people. The seniors do not pay it; the fellow next door pays it.

Mr GORDON HILL: There is a capacity for local government to absorb those costs if it chooses. Local government has the opportunity to charge for the costs and the regulations will impose a maximum fee. I understand the Western Australian Municipal Association supports this proposal, I understand building surveyors have also expressed support, and it deserves the support of this Chamber.

The member for Marmion raised the question of whether it is possible for inspections to be undertaken by July 1992. We are talking about a little over 18 months. Building surveyors have not raised the matter with me, nor with the Department of Local Government. It is felt that it should be possible to undertake inspections within that time.

At the risk of infringing the tedious repetition requirement of Standing Orders, as I have already said, an administrative cost is associated with the system proposed by the Opposition. It is not true to say that no costs will be involved with having four-yearly inspections and simply sending out to pool owners what amount to statutory declarations, asking for them to be returned every year. Although I accept the costs will be less, it is not true to say that no costs will be associated with that system.

I think I have covered all the points raised by members opposite. It is disappointing to hear the National Party now expressing a view in support of the four year option proposed by the Liberal Party, especially as we had rather extensive discussions on this matter. I thought we had reached agreement on a yearly inspection. The National Party expressed its view in relation to this matter and said it supported a two-yearly inspection. It now wants to double that period, and that is rather disappointing. The member for Wagin has explained that this is to ensure that the area of farm dams is addressed. As I said last night, and also during the second reading speech, that issue is well catered for in the legislation and in the second reading speech. The Government does not support the amendments.

Mr COURT: I have been listening to the argument about when inspections should be carried out on swimming pools. From the legislative point of view we are looking at what should be done, but I have a practical suggestion. Last year I tried to get a swimming pool gate at home fixed. It met all the regulations; it opened outwards, had all the springs and did

everything required. However, the spring had broken. I was busy so I decided to ring someone up to come out and fix it. I rang a number of fencing contractors who do these repairs. It is a nuisance job to come out and put a new spring into a gate. They suggested I should go down to the hardware store or find a handyman to fix it, but because I was worried about safety, I just wanted the thing fixed.

I took it upon myself to ring a number of people and float this idea. Why does the industry, either the swimming pool manufacturers or the fencing people, not get together and offer a service and publicise it? For a fixed fee, perhaps $30 or something like that, someone could come out and inspect one's fence and gate. This is not required by legislation, but summer is coming up. I could ring up this hot-line and someone could come out and, for a reasonable fee, carry out an inspection.

In 99 per cent of the cases where gates are not working I am sure the problem will be the spring which needs to be replaced. I put forward not a legislative change – although I support the proposals being put forward by the member for Marmion – but a practical suggestion. A service could be provided by the private sector and the public could pay for it. I was thinking of the swimming pool manufacturers and the fencing people. They could combine to offer a single telephone number whereby a member of the public could ring in for a person to come out and quickly check his fencing and gate and, if necessary, carry out any minor repairs required. This is a practical suggestion because when I tried to find someone to fix my gate I could not find anyone. When I pulled the spring out I had to run around the town to find a spring to fit the gate.

Mr Taylor: What you do is, you get a big spring and connect it at one end to the gate and at the other to the fence. It slams the gate shut.

Mr Gordon Hill: Next time the member should get the Deputy Premier to come out and fix it.

Mr COURT: I did what he said, but I used a bit of heavy shock cord from a yacht to solve the problem. However, I am sure that it does not meet the safety requirements and that a child could take the safety spring off. The problem is that I have two different types of gate. One manufacturer installed the gates at one end, then we had extensions built and the first manufacturer had gone out of business so another manufacturer installed the gates at the other end of the pool. It is an elaborate system, and I wanted to do things properly. I want this practical suggestion to be put to the industry because it is an easy way to have someone come out and check the gates. We are talking about local authorities carrying out these inspections; most people do their own inspections anyway, but it would be easier for people to make a quick telephone call and have someone come out and fix the problem in five minutes. I put the suggestion forward for consideration.

Mr CLARKO: In discussing the merits of inspections every four years as opposed to every two, the Opposition wants a safe system at a reasonable cost. We want a mixture – we suggest a council inspection every four years and an annual inspection by the pool owner, whereas the Government wants an inspection every two years, so that in every second year there will be no inspection. Clearly our system is superior, as the pools will be inspected annually.

I mentioned that earlier this morning I received a telephone call from the building surveyors' organisation.

Mr Gordon Hill: How early was that?

Mr CLARKO: I am glad the Minister asks, because I got to bed at 3.45 am and the call came at 7.30 am.

Mr Gordon Hill: I was swimming in your electorate at 7.30 am.

Mr CLARKO: Those people who need fitness and exercise programs have to do those sorts of things; some of us do not. Seriously, though, the person who telephoned said that building surveyors questioned whether the initial comprehensive inspection of all pools could be done by 1 July 1992. In the light of what my colleague, the member for Scarborough, said a moment ago, that 18 month period will be pretty tight. In the City of Stirling there are about 40 000 sites to inspect.

Mr Strickland: No, it is more like 80 000.

Mr CLARKO: I thought there used to be 40 000 rate notices, but perhaps it is 80 000. In the City of Wanneroo, where I live, there is also an enormous number. I understand the chief building surveyor of the City of Wanneroo has said it takes him three or four years to cover all of the pools under the system now in place. Hon Bob Pike made an inquiry of the City of Wanneroo and was told that the new system would require 10 extra inspectors, and I understand that in places like Kalamunda councils are considering employing people who are not building inspectors on a casual basis. If they are not professionally qualified I think that will cause some concern.

If the Statewide inspection proposed by the Minister is completed by July 1992, two years later – that is, in 1994 – the pools will have to be inspected again. That inspection should be somewhat faster than the first one, if the councils do not have the same problem of identification. Alternatively, they may have to go back and do it again. If they worked simply on the basis of the pools they inspected two years earlier that would not be right. Another problem is that people have pools which they think are not pools. Some types of children's pools are required to comply with this legislation but people do not believe that is the case; similarly, people with above ground pools believe they do not need to comply. That is a complication the Minister will have to face every two years.

Interestingly, when the second inspection is carried out in July 1994 the Minister will be sitting on this side of the House and the present Opposition will be sitting on the Government benches and will be able to bring in our preferred system. That is another reason we can advance this four yearly inspection argument – by 1993 we will be able to legislate for an annual personal inspection of pools.

Mr Gordon Hill: At least the member concedes that I will still have my seat, even though he says he will be sitting over here. However, I think his judgment in relation to who will be sitting where in 1994 is misguided.

Mr CLARKO: I thought the Minister had one of the blue ribbon seats. It is as plain as night follows day that the Opposition will be sitting on the Government benches after the next election – the Minister should just look at the figures.

Mr P.J. Smith interjected.

Mr CLARKO: The member for Bunbury probably will not be there, and that will be a great pity. We will lose the personal warmth he contributes to this Chamber, but I think he is under serious threat. However, I think the Minister's seat is safe, although I cannot have a bet with the member about it because that is illegal.

As to self-regulation, one thing the Minister said which is comprehensively wrong is that self-regulation has not worked. That is nonsense. We do not have a proper system at the moment, and that is the reason for the Minister's doing what he is doing. I have spoken to the chief building surveyors at each of the four biggest local authorities in Perth over the past couple of years and they have given me some idea of how many pools have never been inspected, how many have been, the number which do not comply, and so on. It is a very big task for them to take on. Certainly the present system is ineffective and the Minister is taking steps to do something about it. We support the general thrust of his proposed provisions but we do not support the specifics.

It is like the famous saying about Christianity having been tried and found wanting, but the experts say that it has not been tried. That is the case with self-regulation. There is no self-regulation of a formal sort. Personal conscience leads one to check one's pool fences, but there is no formal requirement. We propose to bring in a formal requirement that at least once a year pool owners will have to sign a piece of paper saying they have checked that the gates are automatically self-closing, and so on, knowing that heavy penalties will result if that is not the case. That onus has not been placed on pool owners before. I believe the Minister has suggested that he cannot trust people to fill in a form, although he has not used those precise words. Under our proposed system people would have that onus. Obviously there would have to be an education program to accompany the introduction of our proposed system of form signing, and that is appropriate.

I received another telephone call immediately after the one at 7.30 am, from a person complaining about how the Commonwealth Government had sent a form to his business demanding certain information. He threw the first form in the bin and received another one

which stated that penalties would apply if he did not complete it. Much of Australia works on a system where people are required to respond to correspondence and to do certain things. For instance, I have recently lodged my tax number in regard to an account I hold with Westpac Banking Corporation; so to suggest that we live in a society where that kind of thing is alien is back to front. It is part of our system now. I want to focus people's minds on their pools, and our system would make people more conscious of the need for safety requirements in their pools.

The Minister has moved past the first stage – that is, our personal inspection form – and we are now discussing the merits of a two year inspection versus a four inspection. In another place we will press again to institute the four-yearly inspections and I hope the Bill will be returned to this Chamber so that the Minister will have an opportunity to make one of his bold decisions.

Mr Wiese: He made a good decision this morning, to ban abalone fishing.

Mr CLARKO: As the unofficial shadow Minister for abalone I could say something about that, but I will not.

The CHAIRMAN: The member could, but I am sure he will not. So could I, but I will not either.

Mr P.J. Smith: That is why the Minister was swimming there this morning.

Mr CLARKO: I do not have to go down to the ocean as the Minister does. All I have to do is look out my window, because I can see all those reefs from there. It is one of the joys of my life.

We seek the four-yearly inspection system and will put it in place at our first opportunity. It would be unfair for anyone to suggest that we are attempting to introduce an inferior system of inspection. We do not want that. We do not move from the figure "2" to the figure "4" for that purpose. The Government did not accept our first amendment; we will persist with it in another place. We envisage a happy marriage between personal inspections and council inspections.

**Amendment put and a division taken with the following result –**

| | | | |
|---|---|---|---|
| | | Ayes (18) | |
| Mr Ainsworth | Mr House | Mr Mensaros | Mr Fred Tubby |
| Mr C.J. Barnett | Mr Kierath | Mr Minson | Mr Wiese |
| Mr Clarko | Mr Lewis | Mr Nicholls | Mr Bradshaw *(Teller)* |
| Mr Court | Mr MacKinnon | Mr Strickland | |
| Mrs Edwardes | Mr McNee | Mr Trenorden | |
| | | Noes (24) | |
| Mrs Beggs | Dr Gallop | Mr Leahy | Mr P.J. Smith |
| Mr Bridge | Mr Graham | Mr Marlborough | Mr Taylor |
| Mr Catania | Mr Grill | Mr McGinty | Mr Thomas |
| Mr Cunningham | Mrs Henderson | Mr Read | Mr Troy |
| Mr Donovan | Mr Gordon Hill | Mr Ripper | Dr Watson |
| Dr Edwards | Mr Kobelke | Mr D.L. Smith | Mrs Watkins *(Teller)* |

| Pairs | |
|---|---|
| Mr Cowan | Mr Carr |
| Mr Blaikie | Mr Wilson |
| Dr Turnbull | Mrs Buchanan |
| Mr Watt | Dr Lawrence |
| Mr Grayden | Mr Pearce |

**Amendment thus negatived.**

Mr CLARKO: I move –

Page 6, lines 14 and 15 – To delete the lines.

A moment ago the Minister stated that the intention is to apply a maximum charge of $50 to inspections of swimming pools. How was that figure arrived at? The Minister and his advisers continually assert that this legislation will give greater powers to local government. Surely, to arrive at the charge to be applied to local authority inspections does not need the supervision of Big Brother. Perhaps the next step will be to follow the New South Wales Government and its predecessors – and I refer particularly to the Wran Government, which decided on a maximum figure by which councils can increase rates. A ceiling has been applied to such rates, and that is lunacy. It is incredible that my colleagues followed the example of the Wran Government.

This provision is a form of that concept. If the Government places a maximum charge in such an area; obviously it mistrusts local government, otherwise the Government would allow local authorities to decide on a charge to apply to swimming pool inspections. I do not say that each council would work out the charge in precise dollar and cent terms –

Mr Catania: Does the member say that if the figure is greater than $50, he would agree?

Mr CLARKO: Certainly. If wealthy people, such as the member for Balcatta, flourish over the years in the luxurious travel industry – and the member in his huge home with all its arches –

Mr Catania: That is a racist statement.

The CHAIRMAN: Order! Let us return to the subject under discussion; that is, the charge for swimming pool inspections. That has little to do with the subject the member is talking about.

Mr CLARKO: I question that. Why should any person who does not own a swimming pool be required to accept the onerous cost involved in meeting charges for swimming pool inspections? The onus should be on the owners of swimming pools to meet the cost of such inspections. The member for Balcatta asked what would happen if the charge were higher than $50, and that is central to the issue.

The CHAIRMAN: I was drawing attention to the fact that debate has deteriorated to a personal argument which has absolutely nothing to do with the matter before the Chair.

Mr Clarko: With respect –

The CHAIRMAN: There is no "with respect". Please observe the Standing Orders and return to the question under discussion.

Mr CLARKO: I always speak about the matter under discussion, and whether a house has four or five arches implies the cost of a house –

The CHAIRMAN: Order! I will not allow the question to be canvassed any further.

Mr CLARKO: I will speak to the issue and the Chairman can decide accordingly. I am speaking to the matter when I talk about individuals who live on such properties, and whether they share the burden –

The CHAIRMAN: Order! I will make two points: If the member persists in canvassing my rulings or in arguing with the Chair – as he is doing now – I will invoke Standing Order No 73. The member is aware of the effect of that, as a result of events last week. That is the first warning. Secondly, on many occasions in this place the Speaker, and others in the Chair, have drawn attention to the problem of making debate personal rather than substantive. I believe that the member was transgressing that line, even though he does not accept what I said. The intent of the amendment is clear; it relates to charges. Having dealt with the point made by the interjection, I would advise the member to move on, unless he wants to further invoke Standing Order No 73.

Mr CLARKO: For those who can read and understand the words of the amendment, it is clear that the application of a maximum charge – if the charge is less than the cost to councils collectively or individually – will be borne by ratepayers in general.

I make that point very deliberately. A member interjected and asked whether I would accept a maximum figure of higher than $50. If the cost was to be higher than $50, the burden would be placed on the non–pool owner and I object to that. Unless the figure is set extremely high, it will not be effective. One could impose a maximum that is irrelevant, but

if a maximum was too low it would place an extra cost on the non–pool owner. Obviously extra costs will be involved; this is a charge and if one owns a pool one will have an extra bill. The Minister says that the figure cannot exceed $50, but it is important to know whether that amount will cover the cost.

The City of Perth say that the cost will be $29, and if we say that that is a good figure for Western Australia, and if the Minister puts on a $50 maximum, in truth the Minister is imposing a Claytons maximum charge. In addition, if that is not changed regularly it will be overrun. If it is an accurate figure – if not, why have the figure – and if we are to do this in a dinkum manner, it should be altered by the CPI rate. Therefore, if it is $50 this year and the CPI increases by six per cent, the maximum figure will be $53 next year. If the system is adopted by which one becomes tired of the initial figure and at some time it is increased to, say, $75, there is no point in having a maximum figure. If the average cost was $29 and a maximum of $30 was imposed, a possible situation would be created in which country towns with few pools in the area – they may be extremely cold areas – would do very well out of that; it may cost them only half of that. We are not in the business of doing that as it would be unfair to the frigid, iceberg–type people in cold areas. I was about to say Albany, but the member is not here.

Initially many people thought, as I did, that when the biennial or quadrennial inspections took place, one would receive a bill for the inspection. However, we have the unusual amalgam by which a council will decide the costs by determining whether the clerk in the office has spent 10 per cent of his time on matters relating to swimming pools, and whether the girl on the switchboard has spent 0.1 per cent of her time on such inquiries. It would be impossible to come up with a precise estimate, and one would have to make an educated guess – I bet that the City of Perth's estimate of $29 is an educated guess.

It is inappropriate to have a maximum as it would not be possible to effectively work out a maximum for all municipalities. For example, I suggest that the figure for Waroona would be quite different from the figure for the smaller local government authorities in the south west, and these would also be very different from the larger municipalities of Wanneroo, Stirling, Perth and Melville. An economy scale may not apply to the inspections. This is a major mistake in the legislation.

Mr STRICKLAND: I am concerned about clause 11(d), which contains proposed new section 8(a), as it states –

> shall not exceed the estimated average cost of carrying out inspections in that year;

Have guidelines been created by which councillors or interested persons can ascertain how average estimated costs have been arrived at? The member for Marmion touched on this point, and I happen to support the principle of proportioning costs in a program. However, there are degrees to which that can be done. For instance, the obvious up–front costs will be the salaries, holiday pay and so on. I have been told that vehicles will be involved, and this will constitute a cost. Also the cost of the office requirement and other such matters will have to be taken into account. If there is an absence of guidelines, people who are very lateral in their thinking could take the opportunity to query whether a council had drawn in as many costs as it could to increase the charge in these difficult times.

What does the Minister envisage will happen if someone challenges the charge? People have rung my office to lay this point on the line; they have said, "What the heck do these people think they are doing in introducing fees for my swimming pool? I will not pay it." It is all very well for constituents to make those comments, but the ultimate crunch will come when people are fired up and receive advice from legal eagles in challenging this legislation. These persons could state, "I will not pay the cost because it has gone beyond the actual cost involved. How was the cost determined?" Will the Minister comment on that possibility as these are problems we could face in the future?

Has the Minister surveyed local authorities to ascertain what they believe the costs will be? Has the average cost – someone mentioned $29 – been determined by survey, or has this been arrived at by one or two comments received by the Minister? I would envisage that the costs would vary from local authority to local authority. The country areas would involve high mileage in travelling to the pools for inspection each day. This may mean that a full time inspector will have to be employed whereas a third of the time may be spent in covering

the same population in the metropolitan area. Will these matters be left completely in the hands of the council?

I support the concerns raised by the member for Marmion regarding the setting of a maximum figure of $50 in that local authorities may need to exceed that. Why not trust the local authorities to determine this figure? It used to be said that government had three tiers, now because it might be construed as someone sitting over the top of someone else we talk about the three spheres of government. Why are we sitting over the top of local authorities by specifying what the ceiling charge will be?

Mr GORDON HILL: I am rather surprised that the Opposition should argue for the removal of a ceiling. It is not a question of whether one should trust local authorities, as the member for Scarborough has said, but of determining the cost of the inspection. That estimated cost has been determined, and some fat has been added to that to give local authorities an opportunity to go to the higher figure if it is necessary. I am surprised that the Opposition should suggest that, on the one hand, we should trust local authorities and, on the other hand, suggest that local authorities may well be dishonest and would apply the maximum allowable charge.

Mr Strickland: That is not the point I made.

Mr GORDON HILL: The member for Scarborough may not have said that, but the member for Marmion certainly implied it. I am sure that I heard the member for Marmion say that local government would apply the maximum possible charge irrespective of the cost of the inspection; that is suggesting that local government may be dishonest. I do not believe that to be the case nor do I believe councils will go for the higher charge in order to maximise their returns.

Mr Clarko: Would the Minister agree it will be difficult to work out?

Mr GORDON HILL: They will apply the actual cost of inspections.

Mr Clarko: It is a guess only.

Mr GORDON HILL: They will be able to determine that in the process of that inspection.

Mr Clarko: How do they apportion the switch girl's time?

Mr GORDON HILL: That may not be necessary.

Mr Clarko: It is, if the authority is truly costing it.

Mr GORDON HILL: Local governments will undertake an analysis of the costs relating to the inspection of pools. I am not sure where a switchboard operator or receptionist comes into that.

Mr Wiese: Do you think it would be fair?

Mr GORDON HILL: Quite frankly, the debate is getting pedantic because every minor point is being raised and we are going over the same ground as last night. It is not necessary to dwell on the subject any longer. I made the point earlier that the major city councils in Perth have been contacted about the likely charges. A Western Australia-wide survey has not been taken, but the larger city councils have been contacted and one would imagine they would have the highest costs involved in swimming pool inspections. The City of Perth building surveyor in correspondence to the department on 13 September 1990 indicated that the total inspection cost per pool would be $29. Local governments can apply the maximum charge of $50 so there is plenty of fat for them. I reject the assertion that local government would necessarily go to the higher limit.

Mr CLARKO: It will be extremely difficult for councils to work out the cost of inspections. While the Minister says that the switch girl is not part of the cost of an inspection, it is part of the cost of putting an inspector into the field. Hon Bob Pike gave me a note indicating that the City of Wanneroo would require 10 extra inspectors, and that those inspectors would require 10 extra vehicles plus other items.

Mr Gordon Hill: The City of Wanneroo indicated to the department that an inspection would cost no more than $40.

Mr CLARKO: That is a guesstimate.

Mr Gordon Hill: It is the council's figure.

Mr CLARKO: It is predicated on quicksand. The Minister says that local government supports this element of the legislation. Of course it does, because councils budget for the cost of swimming pool inspections; that is passed on to the ratepayer in the form of rates. Under the proposed arrangement councils can collect the moneys they spend now, plus the moneys they will spend in an expanded way in the future. As a previous chairman of the City of Stirling's finance committee – as was the member for Scarborough – I am aware that councils will be relieved of the burden that goes with the building department in regard to inspections of pools. That will be transferred from them to pool owners.

Mr Gordon Hill: You are being inconsistent.

Mr CLARKO: I am not being inconsistent; that is why town clerks and treasurers would be rubbing their hands together, because this is a new source of funds. They have now been relieved of the annual cost of inspections which they have carried ever since there have been pools. The Minister has shot himself in the brisket. I said, "Do not apply a maximum" and the Minister's accounting–qualified colleague, the member for Balcatta, said, "If it costs more than $50, you should charge that."

The CHAIRMAN: We have been over that particular point before.

Mr CLARKO: I can go over it again as long as it is not tedious, Sir.

The CHAIRMAN: I am starting to find it tedious. I suggest you move on to your next point.

Mr CLARKO: My amendment seeks to delete the words "shall not exceed the maximum charge, if any, prescribed by regulation". At the moment the Bill proposes a maximum charge, but the words "if any" indicate that the Minister is not fully committed to having a maximum charge, so he should drop it. For example, if some councils came to see the Minister and said that the figure of $50 was inadequate and that it worked out to be $70, the Minister will be able to increase the charge.

Mr Gordon Hill: The figure is included in regulations, which have to come before the Parliament.

Mr CLARKO: It says that it shall not exceed the maximum charge, if any. So if the Minister does not want a maximum charge there will not be one.

Mr Gordon Hill: There will be a maximum charge because of regulations.

Mr CLARKO: If this Government was toppled tomorrow there might be a different viewpoint. The Opposition is opposed to this clause and its weak set of words. I wait with interest to see how pool owners will react to the Government's Bill, which will impose an annual charge on them. These words should be deleted and there should not be a maximum amount.

Mr Gordon Hill: Are you suggesting that it could be more?

Mr CLARKO: If there is a charge it should relate to inspections.

**Amendment put and negatived.**

Mr WIESE: The first amendment under this clause relates to the deletion of paragraph (a) of section 245A of the principal Act. Paragraph (a) gives local authorities the power to make by–laws in relation to swimming pools and it is through those by–laws that they control swimming pools. They use it to prescribe fees in relation to swimming pools. The amendment in this Bill takes those powers from councils to act under section 245A. There are a couple of problems with that. First, where will councils get the power to make by–laws relating to swimming pools; and, secondly, the new Bill has been introduced to provide local government with a general competence to make by–laws on its own behalf. However, this clause removes that power from local government and passes it to the Government under subsection (3) which provides the Government with the power to make uniform general by–laws. That makes a joke of the thrust of the changes to the Local Government Act which propose giving local government general competence to make by–laws where necessary.

I want the Minister to clarify also the responsibility for the safety of pools. Is the owner or the occupier responsible? The Bill says it can be either. In many cases the two are different. Many houses in both the city and country are rented and the responsibility has to be clarified

because it is a grave responsibility and local government will have the power to impose very heavy penalties against the person who is found guilty of an offence. As I said, it is necessary therefore to define who will be responsible for any fines that may be imposed. The Bill provides for fines of $5 000 and $250 respectively. We can therefore afford to have no doubts about who is responsible for the safety of a swimming pool.

I also want clarification about farm dams. The Minister has endeavoured to indicate his views on this matter during his second reading speech. However, many people in the community are not sure about the situation. There is conflict between the definition of a swimming pool as it appears in the Local Government Act and that which appears in the building code. The definition in this Bill could apply to a dam. The Minister has indicated that he has difficulty in defining whether a dam is caught up by this clause. I agree with him. My colleagues, members of local governments and people in the bush tell me that we must clarify this matter so that there is no possibility of someone being caught up in a public liability case if a person drowns in a dam near a house or a shed on a property. The Minister should clarify whether a dam is intended to be caught by any part of this legislation. The three matters I have raised are of major concern and they need to be clarified at this stage.

Mr GORDON HILL: I do not know how many times I have to say it: I said it in my second reading speech, twice last night and I will say it again now – it is on the public record and I will continue to say it if the member wants me to. The question of farm dams has been clarified. I do not know whether I can be more explicit than I have already been: Farm dams are not captured by this legislation. That point has been made over and over again.

The member for Wagin referred to paragraph (a)(i) of this clause and he expressed concern about the removal of a phrase from the existing legislation. I remind him that the phrase has been removed because it is no longer relevant following the adoption of the regulations relating to swimming pools as they apply to the Building Code of Australia which has been accepted by local authorities. Local authorities still have the power to make by–laws, but they must be consistent with the building code.

The other States are moving towards the adoption of the building code provisions which have already been adopted in this State with, as I said previously, the support of local government. That is the reason for this clause.

The member for Wagin raised a question about who takes responsibility for any problems associated with a swimming pool inspection. He asked whether it is the responsibility of the owner or the occupier of the land. I point out to the member that the phrase in this Bill is consistent with the phrase expressed in the existing legislation which refers to the owner or occupier of the land on which there is a swimming pool meeting the requirements of the by–laws. Under this legislation the swimming pool will have to meet the requirements of the Building Code of Australia. A situation may arise whereby a pool must comply immediately with those standards, but the owner is absent from the country. In that case the local authority would serve an order on the occupier of the land rather than the owner. The local authority must have the option to serve an order on the owner or the occupier because it may have to act immediately to address a grave situation. It is consistent with the existing provision.

Mr WIESE: I am not completely stupid and I am very much aware that the words "owner or occupier" in the existing legislation are included in this Bill. The question I asked the Minister was who will accept responsibility for the pool, the owner or the occupier. Under the existing legislation a person can be fined $200 or $10 for not providing structures or devices as are prescribed for the protection of the safety of persons who may enter the property and now those fines has been increased to $5 000 and $250 respectively. It is a huge increase and it is important that we are in a situation to say whether the owner or the occupier has the overall responsibility for the pool. If I were an occupier of a property and I was served a notice to make improvements to the pool, quite frankly I do not believe I have the ability to make those improvements without referring the matter to the owner. As an occupier the responsibility is not mine. The responsibility rests with the owner and it is not realistic or proper to expect the occupier to be responsible for undertaking major physical improvements or modifications to the surrounds of the swimming pool. The reason I asked the question is to have the situation clarified. If it is the responsibility of the occupier the word "owner" must be deleted from this legislation and if it is the responsibility of the owner,

the word "occupier" must be deleted. A situation cannot be created in which the court has to decide whose responsibility it is. If the occupier does not have the ability or the legal right to make changes to the surrounds of the swimming pool he should not have to wear the responsibility of a $5 000 or a $250 fine.

The Minister touched on the fact that it is now a different ball game and that local government will no longer have the ability to pass by-laws relating to swimming pools.

Mr Gordon Hill: It will have the ability as long as the by-laws are consistent with the building code.

Mr WIESE: By deleting paragraph (a) of the existing Act local authorities will no longer have the power to make by-laws and that power will be transferred to the Government.

The comments the Minister made about the Building Code of Australia must be clarified. The situation in rural areas is that a building regulations order in council has been passed and it is cited as the building regulations order and relates to swimming pools. It states that the provisions of the building regulation 1989, so far as they relate to a building classified as a class 10 building – that is, a swimming pool – shall not apply in the municipal districts specified in schedule I. At present 50-odd local authorities throughout Western Australia have sought and obtained exemption from the requirements of the building regulations which relate to swimming pools. I seek assurance that councils will retain the power to apply for exemption from the requirements to register swimming pools and meet the other conditions under the building by-laws once this legislation is passed.

Mr GORDON HILL: With regard to the first point raised by the member I will read very carefully for his benefit section 245A(2) of the Act which begins –

> A council may so make by-laws –

The Bill proposes to change the paragraphs following that first line of the subsection. I have indicated before that local government can continue to make by-laws under the new legislation, as long as those by-laws are consistent with the Building Code of Australia.

With regard to the member's second point, 98 of the 112 local municipalities outside the metropolitan area have applied for exemptions. The regulations in those circumstances apply only to the townsites and the local authorities will be required only to undertake inspections in townsites. The 14 remaining local authorities have specifically asked for the regulations to apply to them. Those who have sought exemption have obtained it.

Mr WIESE: I thank the Minister for that clarification. I misread the Bill and did not understand the situation. The Minister's assurance that councils will be able to seek exemption from the requirements of this Bill will overcome many of the problems that non-metropolitan councils envisaged with this legislation.

I want to clarify a further aspect relating to public liability. Can any public liability be attached to a local authority as a result of its carrying out the inspections and certifying that properties reach the standards set by the regulations? Reference has already been made in this Chamber to potential problems under the existing legislation when casual inspectors have been used and inspections have been carried out by people employed under the RED scheme. It is not hard to envisage a situation in which an owner facing a public liability claim for some accident associated with his swimming pool may feel that the local authority has some responsibility since it carried out a pool inspection and certified that the pool conformed to the regulations. That possibility has been raised by local authority, and I believe it is a valid point.

The proposed new section refers to structures or devices, as prescribed. Nobody in this Chamber, or anywhere else, seems to have any idea of what will be imposed by the regulations. Before the legislation is finally passed some indication should be given so that pool owners and local authorities will be better informed. That could have a bearing on the way in which the legislation is received in the upper House. What stage has been reached in formulating the regulations? Is it possible for members in another place to sight the draft regulations, so that more detail will be available to them on how difficult it will be to comply with these regulations, the possible cost and so on?

Mr GORDON HILL: If a local authority has carried out inspections as required under this legislation it will have fulfilled its obligations. It clearly has a duty of care and

responsibility, but having done that it has met its obligations. I understand it would have no liability for any problem which arose associated with a swimming pool not being up to standard. We can always make regulations which will go a long way toward satisfying the expectations of the community, but we can never be absolutely certain that the regulations or structures put in place will prevent accidents or tragedies associated with swimming pools. Therefore, if the local authority has met its obligations, it cannot be held responsible for any tragedies that occur. One could use the example of building inspections under the building code. If a building has been inspected by building surveyors and it later collapses, the responsibility does not rest on the local authority or the building surveyor, it rests with the builder and the owner of the building. That analogy deserves consideration.

With regard to the other point made by the member relating to regulations and structures, when these new regulations are introduced they will come before the Parliament for consideration. Structures and regulations are currently in place. Those regulations are defined by the Building Code of Australia, and the structures associated with that are supposed to conform with the Building Code of Australia. So that aspect has been taken care of. It is in place.

Mr Wiese: I thought you said it had not worked.

Mr GORDON HILL: That is not what I said. I said I do not believe that the self-regulation referred to by the member for Marmion has worked. It may have worked in some cases but not in every circumstance because we continue to see tragedies associated with swimming pools and with non-adherence to the regulations. However, regulations and structures are in place under the Building Code of Australia and it is expected that those regulations will continue to be policed.

Mr Wiese: So in the initial stages there will be no change?

Mr GORDON HILL: That is right.

**Clause put and passed.**

**Clause 12: Section 528 amended -**

Mr WIESE: This clause proposes to introduce into local government an ability which has never existed previously and which will change what has been a standard practice in local government for a long time. The current situation is that rate revenue must be expended within the 12 month period in which it is raised. That has been part of local government practice for as long as any of us can remember. This clause seeks to carry the process of differential rating, which was introduced into local government four or five years ago, a further step down the line to enable the differential rate which is raised in a particular area not just to be used within the particular area to which it applies but to be put aside into a reserve fund to be used at some later time, perhaps many years in the future, for a specific purpose.

The rate being a differential rate will be able to be raised for a specific area within the council and the revenue will have to be applied to the specific area from which it was raised. Local governments have fought for a long time for the ability to raise a differential rate. I have always strongly supported that ability. It was a good step forward when local government was granted that power. However, I have some reservations about what we are now proposing because the justification for this quite major change to local government policy is that canal developments are now taking place in this State, and at some stage in the future the maintenance of those canals will have to be considered. That will be an expensive exercise.

The current situation in respect of road maintenance is that part of the moneys raised from rates is spent on repairing and maintaining the roads in a particular area. A council may levy a differential rate if that is required, but the moneys must be spent on the roads for which it was raised and in the year that it was raised. We are now saying that 10 years down the line a council may have to do maintenance on the roads in a particular area, so it can raise a rate now and put that money into a reserve fund so that in 10 years it will have the money to do that work. That is a pretty radical departure from current practice. I am strongly opposed to that concept and do not believe it should be introduced. Can the Minister explain why there is a need for this clause, and what guarantee there will be that in 10 or 15 years that money will be spent in that area? The requirement may no longer exist for the money to be spent in

that area, so what will happen to the money? I also have a difficulty with the concept of rating people today for maintenance work that will be carried out in 10 or 15 years. That is a substantial departure from previous procedures and must be strongly justified if we are to accept that concept.

Mr STRICKLAND: It is my understanding that there is no way to protect money in local government. From time to time people do the honourable thing and suggest that money be set aside in a series of reserve accounts for large projects and that the funds be built up so that at the appropriate time the projects can go ahead. However, the difficulty that local government has with this concept is that the membership of councils changes on an annual basis, and a council of today may have a certain intent but the council of tomorrow may have a changed intent. A large sum of money may be allocated to a reserve account, but the council of the day may by simple resolution take the money from that account and spend it where it wishes.

I support the principle of using a differential rate to raise money to be spent in an area to solve a particular problem. That is a good principle. However, the difficulty is that we may take money off one section of the community to fix a problem, but five years later someone may decide to take all that money and use it for some other purpose. That will impose a rate burden on one section of the community but will not necessarily address its problem. I ask the Minister whether he has given consideration to the fact that reserve funds are no guarantee that the money will be used for a particular purpose. Will the Minister take steps to address this problem? I support the principle, but if the money could be at risk, or used for another purpose, that would defeat what we want to do. We might have to amend the Bill in another place. The Minister may be able to give us an undertaking to proceed on that course.

Mr GORDON HILL: I could explain this change by giving the example of the Shire of Murray. The Shire of Murray requested a change to the Act to give it an opportunity to dredge an opening to its canals. The choice for the Shire of Murray was either to impose a huge rate burden on the local community and undertake the dredging in one year, or spread it over time. We propose to meet this request by enabling the shire to build up funds to undertake the dredging to the opening of the canals which it needs to do from time to time. If the shire does not have this capacity, there would be a burden on the ratepayers.

Mr Strickland: I understand that and support it.

Mr GORDON HILL: In relation to the use to which that fund can be put, it can be used only for the purpose for which it is raised.

Mr Strickland: Can you explain how that is guaranteed? It is my understanding that any council can resolve to take reserve funds and do what it wishes with them.

Mr GORDON HILL: The funds can be used only for the particular area set out in the municipal fund budget. The funds can be used only for the purpose of that reserve fund. If the local government authority wished to use the funds for any other purpose it would need to obtain authorisation from a meeting of electors. In such circumstances a meeting of 20 or more electors could give such authorisation. The fund cannot be used for any other purpose without the authorisation of a meeting of electors.

Generally speaking, it is much easier to organise opposition for these things than support for them. The Shire of Murray needs this change to be put into effect. The member for Wellington would be well aware of the need. The Shire of Murray needs to dredge the opening to the canals, but it is unable to do it at the moment; it needs to build up a fund in order to undertake that dredging. The shire can use the fund only for that purpose in that area. If the shire wants to change the purpose of that fund, or use the money in that fund for another purpose, it would require the authorisation of a meeting of electors. Safeguards are in place to ensure that local government is accountable.

Mr STRICKLAND: The Minister has not allayed my concerns. I must go on record in this Chamber as saying that my experience in local government tells me that while the money is placed in a reserve fund, and while there are some controls over its use, those controls can quite easily be circumvented in such a way that the money is used for another purpose. As a result, I ask the Minister, in the time between the Bill's leaving this place and when it is ultimately passed through the Parliament, to give serious consideration to that aspect. If necessary an amendment might be proposed in the other place to ensure that a relatively

small number of ratepayers will never be put under pressure as a result of a differential rate resulting in money being taken off them for a purpose and put into a reserve fund.

At another time with another council membership a public meeting can be held and a decision made to take that money and spend it on another project. If people want another project urgently enough, they attend meetings. We may be putting a small section of ratepayers' moneys at risk if a larger group of people comes along and wants another project. It would be a good thing to afford some protection to this fund because it is financially prudent to put money aside for special purposes so that we can better stage big projects.

Mr WIESE: I accept what the Minister has said in his reply, but he may not be aware how easy it is to change one of these reserve funds. I have been involved in the process, and all it requires is a general meeting of 20 people and it is done, just like that! It is very simple. A resolution is on the agenda, and in two minutes those funds are transferred out of the reserve fund. Those funds were raised for a specific purpose to be spent in a specific area. In two minutes they can be transferred into whatever is decided by that meeting of ratepayers.

I find it very difficult to accept that one can put on a differential rate, raise the money, put it into a reserve fund, and five years down the line new people, a new council, can take the money away. Those ratepayers will have paid money at the differential rate. That money has been taken away from them and they will never get the benefit of it. The only fair way to do this is, if there is a specific requirement, by raising a loan. The expenditure is taken out of the loan fund, not out of the differential rate, so that when the time comes to do the work the loan is raised, the differential rate is imposed on the people who will benefit from that work, and those who will receive the benefit make the repayment of the loan. They have had the benefit of the work and they pay for it. It is not fair to raise a differential loan 10 years beforehand from people who may never receive the benefit.

In principle, this amendment tackles the process in the wrong way and in a way which I believe is very unfair. That is why I am strongly opposed to the concept of what the Government is endeavouring to include in this Bill.

Mr GORDON HILL: On the one hand members of the Opposition argue that there should be greater autonomy for local government; that we should not interfere in the management process. On the other hand we are told that greater restrictions should be put on local government authorities and amendments should be made to this clause; there should be some greater regulation.

The present position is that the money can be used for any purpose other than the reserve fund for which it was established. The question of accountability is taken care of with the requirement that the change of the use of that fund would need to be authorised by a meeting of electors. Both previous speakers have indicated that is not hard to organise, and I am sure that is the case.

Mr Wiese: A meeting of electors comes from the whole shire, and when making a decision to alter the purpose of a reserve fund that meeting of electors is taking money away from a very small, specific group and they are outnumbered.

Mr GORDON HILL: I accept that point, and that provision currently applies to any reserve fund. The member for Wagin – or perhaps it was the member for Scarborough – indicated he has been involved in changing the use of such reserve funds.

Mr Strickland: I am aware that it can be done.

Mr GORDON HILL: I understand it can be done, and it can be done under existing legislation. However, I am saying that this requirement is for a specified area rate to be put into a reserve fund for a particular purpose. While reserve funds can be set up, the Act has been interpreted to say that a specified area rate cannot be set aside in the fund to be used for that particular purpose, and that that rate must be used in that year in which it is raised. I pointed to the example of the Shire of Murray, which needs to dredge the entrance to the canals from time to time. That shire is not able to build up a reserve fund to undertake that dredging operation, although it is necessary for the ratepayers in that shire.

We are addressing the specific need for this change, but we can examine the general issue raised by both the member for Scarborough and the member for Wagin – that is, that we should give some safeguards in addition to the safeguard that requires electors to approve a

change in the purpose of that fund – in the context of the review of the Local Government Act.

**Clause put and passed.**

**Clauses 13 to 18 put and passed.**

**Title put and passed.**

*Report*

Bill reported, with an amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by Mr Gordon Hill (Minister for Local Government), and transmitted to the Council.

## WAGH FINANCIAL OBLIGATIONS BILL

*Second Reading*

Debate resumed from 1 November.

MR COURT (Nedlands) [12.36 pm]: This legislation is extremely important and I wonder if the few members sitting opposite understand just what it is about. If they do not, I will tell them: It is for this Parliament finally to authorise a further $55 million to go into the ill-fated Petrochemical Industries Co Ltd project; and this deal really is typical of what has taken place with all of the WA Inc deals. It is a WA Inc special. The Parliament is being asked to authorise this money, which has already been spent and lost down the gurgler, to go via WA Government Holdings Ltd into this project. Like all of the dealings associated with WA Inc, the PICL deal in general was certainly steeped in deceit and cover-up, and this very transaction we are debating here today also, I believe, has been part of a cover-up.

Before I begin explaining my concerns about this transaction I want to tell the Minister for Finance and Economic Development that I am rather annoyed that we are debating this legislation before three questions I have had on the Notice Paper for some time are answered. The three questions relate to large amounts of money which have been allocated to WAGH, and I would have thought the answers were quite simple. The first question, 1927, was –

> (1) Would the Minister provide a detailed account of how WA Government Holdings Limited will be spending the $54 600 000 allocated in Consolidated Revenue for the 1990-91 financial year?
>
> (2) If this expenditure includes legal expenses, what will these legal expenses be for?

The Minister for Finance and Economic Development might be aware that during the Committee stage of the Estimates we did not have time to cover that item under Miscellaneous Services. It was one of the most important items of expenditure to be approved in the Budget and I thought it was quite proper that we be given a detailed account of expenditure, not just a glib, general account of how the money is to be spent in global terms. We did not have time to discuss it during the Committee stage; now legislation is before the House to approve another $55 million to go into it and still I have not received the answer to that question.

My second question was –

> Will the Minister provide a detailed account explaining to whom the $55 million borrowed from the ANZ Banking Group Ltd on 30 June 1989 to assist Western Australian Government Holdings Ltd was paid?

That is what this legislation is all about. I thought that a proper question to ask before we debated this legislation, and I expected to receive a detailed answer. This House is being asked to approve this expenditure, but where was that huge amount spent? It has disappeared, and I thought it would be quite proper for the Minister to supply a break-up of that expenditure. We approve of amounts of $50 million-odd to go to Petrochemical Industries Co Ltd. Will we receive a detailed break-up regarding where the money is to be spent? I realise the Minister for Finance and Economic Development is busy at the present time but that is a good question.

Mr Taylor: I will respond.

Mr COURT: The money has already been spent but we do not know how it has been spent. When this House is expected to approve such a payment, the least we can expect is a detailed break-up of such expenditure. My third question was –

> Would the Minister provide a detailed account of how Western Australian Government Holdings Ltd spent the $62 300 000 allocated from the Consolidated Revenue Fund in the 1989-90 financial year?

The Government has blown about $300 million on the petrochemical project; the Government thinks that we have been anaesthetised against losing such large amounts, and that such large amounts do not represent anything any more. The Opposition has the responsibility to find out where that huge amount of money has gone. I am extremely disappointed that I did not received detailed answers to my questions before we commenced debate on this legislation.

The second reading speech states that on 30 June 1989 the Government – through WAGH – borrowed $55 million from the ANZ Bank in the $55 million interim financial facility; that there was a clear obligation to repay that amount on or about 30 June 1990. A guarantee was issued by the Treasurer and approved by the Governor under section 53 of the Northern Mining Corporation (Acquisition) Act. Is it not strange that in January 1989 the Burt Commission on Accountability reported to Parliament, and that the Government gave an assurance that it would comply with the recommendations of the Burt commission? One of the most serious matters raised in the 1989 report was that the Government was issuing guarantees through WAGH as part of the Northern Mining Corporation (Acquisition) Act. That is, huge guarantees were issued which bypassed the approval of Parliament. The question is whether the guarantees on the project were legally allowed.

Page 74 of the report of the Burt Commission on Accountability reads –

> This is a question upon which the Commission is not competent to express its own opinion. However, we are told that the Treasurer, quite properly in the Commission's view, has acted on advice received from both the Crown Solicitor and Solicitor General. Accepting that advice to be correct, then it must be said that through and by means of the company, which now has the capacity of a natural person, the executive has the legal capacity by means of a guarantee to create liabilities in no way conditional upon "objects", which may have to be discharged with moneys to be paid out of Consolidated Revenue and it may do so without any obligation upon it to obtain any further Parliamentary authority and without any obligation to inform the Parliament what it intends to do or what it has done.
>
> If this is so, then it can be said, in practical terms, that no criterion of accountability as outlined earlier in this report has been satisfied . . .

So the Burt Commission on Accountability said that although legally the Government was advised it could issue the guarantees, by doing so the Government bypassed the approval of Parliament and the Government is not accountable to Parliament. When the report came out the Government said clearly it would comply with the recommendations, that it would become accountable, and that no guarantees would be issued unless approved by Parliament. Yet six months later the Government has used the same guarantee facility without the approval of Parliament to slip another $55 million to the PICL operation.

Mr Minson: So much for new accountability.

Mr COURT: Yes. We cannot believe the Government. But that is just the beginning of the story. I will now outline another couple of factors of this transaction: Why did the Government take out a loan facility on 30 June through the ANZ Bank? Why did not the Government, as normally is the case, use the Treasurer's Advance Account to provide those funds? Had the Treasurer's Advance Account run out? Was too much money being put through that means?

When funds are taken from the Treasurer's Advance and the Government comes to Parliament to receive authorisation – as was eventually the case – the Government must come to Parliament for approval to make such an appropriation in the previous financial year. Cleverly and typically, on the last day of the financial year, the Government took out a

loan facility; and on the first day of the next financial year it has used the Treasurer's Advance Authorisation to repay the ANZ Bank. The Government has covered up the $55 million expenditure in one year and put it forward to the next year. In other words, some 18 months after the event, in 1990 the Government finally comes to Parliament for approval. Today this House is being asked to approve an action which took place on the last day of June 1989.

The story continues. On 27 June 1989 the Government sent a letter informing the other parties involved in the PICL project that it regarded its obligations under clause 4(1) of the shareholders' agreement as at an end and that it would not provide further interim loans to Petrochemical Industries Ltd. The letter also stated that the Government would not be able to arrange project financing. So the situation was that three days before the money was agreed the Government formally sent out notice that it would not put more money into the project. However, the Government had a commitment to meet and payments to make so it was necessary to borrow $55 million from the ANZ Bank.

Can the Minister for Finance and Economic Development explain why the Government took that course of action when it always intended to use the Treasurer's authorisation? Three days before the Government had given notice that it would not go ahead with the project; it had withdrawn finance for the project.

The only way to retrieve the money after the decision not to go ahead with the project was to fall back on the taxpayers through the Treasurer's authorisation. Three days before official notice was given, the money was borrowed from the ANZ Bank which enabled the Government to say that it had carried out the expenditure through the Treasurer's authorisation in that financial year. We are asked 18 months later to approve that deal. This is typical of what occurred at that time.

I was in this Chamber preparing to debate the appropriation of $54.6 million which had been allocated for this ill-fated project, and I thought to myself that it was like fairyland that $300 million-odd could be lost on one project. It must be one of the most despicable acts of poor financial management in which any State Government could ever be involved! Many members in this Chamber, on both sides of the House, are promoting worthwhile projects required in the community, such as schools, hospitals and police stations; however, these projects have been cut to the bone this year because we had to find money to pay for these failed deals.

Mr C.J. Barnett: They were done with the worst possible motives.

Mr COURT: Indeed; they were done to keep the Government in power and to keep its members in this Parliament at any price. That was the main motive of the PICL deal. I look forward to the Minister for Finance and Economic Development explaining why the Treasurer's Advance was not used that year. Why did the Government keep it out of that year's expenditure? Why was it so urgent? Why did the Government need to quickly borrow the money on 30 June to meet the payment? On what was the money spent? Those are rather simple questions. Again I ask why, when the Burt Commission on Accountability reported that by using guarantees with Northern Mining Corporation NL the Government was bypassing the parliamentary system, did the Government continue to do this six months after it said it would comply with the commission's recommendations? We do not need a Royal Commission to find out these things; I hope the information can be produced during today's debate.

While debating this project it would be opportune for the Minister for Finance and Economic Development to give the House an update on what is happening with the winding up of this project. I understand that three companies are in the process of being liquidated - Petrochemical Industries Co Ltd, Petrochemical Investments Pty Ltd and Petrochemical Holdings Ltd. I believe that Mr Carlson from Ernst & Young is involved in the liquidation, and an update on the situation would be appreciated. The liquidator is trying to realise the assets of the project and he must consider the claims of the creditors.

Mr C.J. Barnett: He is finding it very hard because there is nothing to sell; it is a tough job.

Mr COURT: Yes, and that is why this debate is an opportune time for an update on these issues. For example, how many claims are outstanding?

I had the privilege, along with some members opposite, of going to America to look at

petrochemical plants. The member for Peel was in charge of that delegation and we met a number of people who worked in the petrochemical industry. Some of those people gave up their jobs and came here to work on this project on a contractual basis. When the project collapsed they were not paid. The Government made sure that the local people were paid out, but the people who had come from overseas were not. These were very experienced people in this industry. They can write letters until they are blue in the face, but their claims will not be met. Perhaps the Minister for Finance and Economic Development can provide an update on the situation with the liquidation. Has it been possible to sell the assets? I believe the main asset to be the land at Kwinana and the so–called intellectual property relating to the project. Will the Minister explain whether the Government is the first secured creditor; will it be paid first if the liquidator is able to realise something from those assets?

I would also be interested to know what security the Government had regarding this deal. We were given certain assurances which never eventuated on guarantees with the Rothwells rescue. It was reported in the newspaper recently that a former director of WA Government Holdings Ltd, Mr Heron, was involved with a group of people working overseas. What is happening in relation to the legal matters associated with that project? When we agreed to the $54.6 million, the $55 million and the $62.3 million here and there, we were told that $52 million would repay the original loan from Western Australian Development Corporation to WAGH; that loan is now accruing interest. The Premier stated that the money would be repaid over four years, and it was then stated that other legal expenses were involved. I find it extraordinary for the Government to quickly add up a great deal of money in legal fees, and it is extravagant to put aside huge sums of money for this matter. Will the Minister for Finance and Economic Development give an update on the money authorised by the Parliament to be provided to this project? It is about time some of the details on the expenditure were explained to the Parliament. When nearly $300 million goes down the gurgler with nothing to show for it at the end of the day, it is a very serious situation.

I have raised a number of questions such as those relating to borrowing of money on the last day of the financial year. Now the Government will go to a Treasurer's authorisation to obtain that money after claiming three years ago that it would not happen. Why did the Government use this means, and why did it delay making the expenditure and advising the Parliament? Those are some of the many questions I raise about this project. The whole PICL deal was an absolutely despicable episode and is one of the worst elements of the WA Inc debacle. The project was designed to save the skin of members opposite. From day one the deal was full of deceit and the truth was not told in the Parliament when many questions were asked. I cannot support this expenditure, but if the Bill were thrown out it would be the same as the blocking of Supply. However, I feel sorry for the taxpayers of this State who must find the money to be allocated to the ill–fated deal. I hope the Minister will give the people of Western Australia the courtesy of a full, detailed explanation of where the $55 million will be spent.

*Sitting suspended from 1.00 to 2.00 pm*

**MR COWAN** (Merredin – Leader of the National Party) [2.00 pm]: If members cast their minds back about 12 months they will recall that WA Government Holdings Ltd became an issue with which the National Party was very much involved. We wanted to get any of the expenditure associated with the Government's failed business dealings withdrawn from the Consolidated Revenue Fund and put into a separate Appropriation account. The Government has gone part of the way to meet that obligation. In order to remind members what occurred I will quote the then Treasurer, Mr Parker. On Wednesday, 29 November in response to a message from the Legislative Council requesting that the Legislative Assembly amend the Bill by dividing it into two or more Bills, Mr Parker moved that –

1. The Legislative Assembly declines to comply with the request.

   The Legislative Assembly informs the Legislative Council that all the provisions sought to be removed from the Appropriation Bill:

   (a) are included in the Bill in accordance with the existing constitutional provisions;

   (b) are essential if the State is to meet its existing commitments.

2. The Legislative Assembly notes that the proponents of the request have

stressed the importance of ensuring that no future participation by the State in equity participation in any commercial venture should proceed without prior Parliamentary approval and prior and separate approval by the Parliament of related appropriations.

3. The Legislative Assembly further notes and conveys to the Legislative Council the unqualified undertaking by the Government that:

(a) no future equity participation by the State in any commercial venture will proceed without prior Parliamentary approval;

(b) appropriations for any such future activity will be sought in a separate Appropriations Bill so as to allow each such appropriation to be considered separately and on its own merits, and without reference to general budgetary requirements;

(c) legislative effect to these undertakings will be provided in a Bill to be presented in the next Session of the Parliament.

That clearly outlines the commitment the Government made. In response to that commitment we now have before us a part-honouring of that undertaking.

Mr Taylor: This Bill goes further than that commitment because it does not relate to any future participation but to a past one.

Mr COWAN: I am aware that that is the case and also that the commitment was given for future undertakings, and I could quote the relevant passage to the Minister. The then Treasurer gave an undertaking that it would also apply to any future funding of matters such as the issue which is before the House at the moment.

Mr Taylor: That is right; there is no future funding.

Mr COWAN: The Minister for Finance and Economic Development and I dispute this point, because we have not only this appropriation of $55 million from the General Loan and Capital Works Fund, but also an appropriation of money from the Consolidated Revenue Fund account. It is made very clear, and as has been said by the member for Nedlands, we cannot default on these matters. The Parliament has a duty to see that this appropriation is passed in order to be sure that the Government does not default on any of its debts.

Mr Taylor: We have not defaulted on the debt.

Mr COWAN: Because it has been paid; but it must be appropriated.

Mr Taylor: It has been appropriated.

Mr COWAN: It would have been paid – even if the Government had brought this into the House in a speedier fashion – under the Government's obligation to meet the guarantee. Had the Government not met its guarantee it would have been in default. The Parliament is not in a position to say no to the appropriation – it can, of course, but I do not know what that would achieve.

Mr Taylor: We were in that position because that was the time that the Legislative Council indicated that it would not pass any Bills.

Mr COWAN: Only one Bill was under threat of not being passed.

Mr Taylor: The Leader of the National Party should recall that he said "none".

Mr COWAN: The Minister is right; I did say that – I meant it, too. We now have this separation, but it only partially meets the requirement of the National Party. I know that we are not dealing with the Appropriation Bill but a special Bill, yet page 61 of the Consolidated Revenue Fund Estimates shows an appropriation of $54.6 million to WA Government Holdings Ltd. The National Party requested that any appropriation of money to be set aside for the Government's failed business dealings should be part of a separate Bill. Yet, in the CRF Estimates, $54.6 million is appropriated, in addition to this $55 million.

Mr Taylor: Mr Parker's motion last year related to any future equity participation. We are going further here and I mentioned that in my second reading speech.

Mr COWAN: I have already acknowledged that the quotation was an undertaking by the previous Treasurer to ensure that any future appropriations for Government participation,

whether through equity or any other funding, should be part of a special Bill. What should happen in the future is that instead of money being paid, and the Government coming to the Parliament and seeking to have that payment approved by the Parliament, the Government must bring a Bill to the Parliament at the time at which it issues a guarantee.

That is substantially different. It gives this Parliament the opportunity to comment on whether the investment that the Government is seeking to make is an appropriate investment for the people of Western Australia. Given the history of losses of public funds in this State, that is a very appropriate measure because, first, it involves other people in the decision making process and, secondly, it requires a little more time before the money is actually transferred from the CRF. That is a much more appropriate way of dealing with taxpayers funds.

I do not think there is any point in members on this side of the House harping on the extent of the losses which have been incurred by the Government. There is also no doubt that the losses, having been incurred, must be honoured. As this payment has been made and, as the Minister for Finance and Economic Development said, as this legislation is merely the Government formalising the appropriation of $55 million out of the public account – the General Loan and Capital Works Fund – to cover money that has been expended already through the Treasurer's Advance Account, we have no option but to approve the legislation. I do not think it could ever be said that we support the legislation. However, I think we have an obligation to approve it. I hope that when the Government invests in projects in future, the undertaking given on 29 November last year to introduce special Appropriation Bills to the Parliament is honoured because that is one of the principal checks and balances which can be applied to ensure that the Government does not waste any more of our money.

MR LEWIS (Applecross) [2.13 pm]: My contribution to the WAGH Financial Obligations Bill will be a retread to some degree of some of the things that have been said by the member for Nedlands and by the Leader of the National Party. I believe that this legislation should have been introduced into the autumn session of Parliament and that was deliberately not done because of the Government's fear at that time of the Opposition's advertised intention to block Supply.

Mr Taylor: You are absolutely right.

Mr LEWIS: And the Government did not want further embarrassment.

Mr Taylor: You are dead right again. There is no way that I would have been put in the situation, as the Under Treasurer had advised the Council the year before, of this State defaulting on a payment to the ANZ Bank. It was legally and properly paid. As I said to the Leader of the National Party, this legislation is over and above that. It was legally and properly done and there was no way that I would put the Council in a position of being able to reject that legislation. We had the ability to make sure that payment was made and it was made.

Mr LEWIS: The Minister is saying that he was of the opinion that the Opposition would block Supply.

Mr Taylor: I was of the opinion that all of the Bills that were before the Parliament would be blocked.

Mr LEWIS: And the Minister made a decision not to introduce this legislation in the autumn session.

Mr Taylor: A responsible decision.

Mr LEWIS: An irresponsible decision. The Minister's responsibility is first to the Parliament.

Mr Taylor: My responsibility is to the State of Western Australia.

Mr LEWIS: That is devious in the extreme. At least I admire the Minister for admitting that that is what he did.

Mr Taylor: There was nothing devious about it. The Bill was paid on 29 or 30 June 1990 properly, legally and responsibly.

Mr LEWIS: I do not think it is responsible to deliberately take a devious track to withhold

information from this Parliament and to not pursue a previous undertaking to this Parliament to do things properly and accountably.

Mr Taylor: It is well known that this Bill had to be paid by 30 June 1990. It was announced by the Premier and me at the beginning of this year.

Mr LEWIS: Now that we have established that fact, I remind the Government of the promises made to the Parliament by the previous Premier, Peter Dowding, who said that the total debt from the petrochemical project would not exceed $100 million. That was the undertaking he gave the public of Western Australia. Let us look at the total debt today. A total of $38.8 million was allowed for the debt in the 1988–89 Budget; in the 1989-90 Budget, including this $55 million, the advance from the Treasurer's Advance Authorisation Account totalled $117.3 million; another $54.3 million has been set aside in the current Consolidated Revenue Fund Budget that is now before the Legislative Council. That ill–fated project has cost $210.4 million to this time.

Mr Court: How much did you say?

Mr LEWIS: I said $210.4 million. That is the amount on record.

Mr Court: There is a lot more than that. It is nearly $300 million.

Mr LEWIS: I know; it is more than that. However, that amount is all that has been brought to account in Parliament. Like the member for Nedlands, I am disappointed the Government has not honoured its undertaking to accountability when the Premier said that the debt would be managed and fully accounted for and, at a suitable time, a full statement of the debt would be given to the Parliament. She said that the Parliament would be informed of the money that was paid out by this Government for this ill–fated deal. One does not have to be terribly smart to understand the projected costs, because as yet the Government has not brought to the Parliament a full accounting of the losses and that sticks in my craw. It professes to be accountable and it still has not brought to this Parliament a full accounting of the losses it has incurred. It cost $175 million for the initial purchase of 44 per cent of the deal and $155 million for construction costs and other debts that were raised. The interest component of the managed debt over five years totals $24 million a year which, as has been admitted by the Government, gives an all-up figure of $430 million. It is the Government's responsibility to bring to this Parliament with this legislation an account of the total cost, or is it too ashamed to do so? Obviously the Minister for Finance and Economic Development is not prepared to tell this House what the total projected cost of the failed business dealing will be. However, I estimate it to be between $430 million and $450 million.

Mr Court: It depends on how many legal cases it has.

Mr LEWIS: That is true; it could be a lot more than that.

The petrochemical deal has never been debated in this House subsequent to the McCusker inquiry. Of course, the McCusker inquiry brought out many of the events which occurred in the ill–fated deal. It is a deal that could be described as the greatest confidence trick in Australia in 1988 and I defy anyone on the Government benches to deny that. Members must remember the words of former Premier Peter Dowding and former Deputy Premier David Parker: "There are no guarantees; no public moneys have been placed at risk and there will be no losses." They are the famous last words. Those people are no longer members of this place and I wonder why this Government is still in office. If it had any shred of propriety it would have resigned its commission and gone to an election some time ago.

The Government entered the petrochemical deal through WA Government Holdings Ltd on the basis that it was not aware that Rothwells Ltd was insolvent. It is now on the public record and in the McCusker report that the Government well and truly knew of Rothwells' insolvency in early June 1988 – some Ministers have said that it was perhaps in July 1988. The Opposition has exposed, by virtue of statutory affidavits tabled in the Legislative Council, that former Premier Burke knew of Rothwells' insolvency perhaps as early as November 1987.

The Government entered into a petrochemical deal; in the words of Mr McCusker, a contrived deal. It was a bogus deal which had no resemblance to the true value of the project and it was wholly and solely valued on the basis of how much the vendors of that project, the

proprietors of Dalleagles, owed the Government and the Bond Corporation. Mr Dempster owed the R & I Bank $50 million and, contingent on his receiving that sum of money as his share, the cheque only went from the Petrochemical Industries Co Ltd to Mr Dempster on the basis that it was assigned immediately to the R & I Bank to fully discharge his debt. The non-performing basket of companies that were owned by L.R. Connell and his interests were estimated by Mr Connell and others, in a rather cursory way, to be valued at $350 million.

The problem was that the Government was going into an election and it did not want the embarrassment of telling the public that it had murdered $150 million, which represented the National Australia Bank's guarantee; therefore it contrived this deal, in the words of former Premier Dowding, to convert debt to equity. The only problem was that there was never any value in the equity. The Government's deal was contrived to shift State funds to pay out its debt via a third party and thereby give that third party a great benefit.

Mr Kierath: In other words, it was going from one debt to an even larger debt.

Mr LEWIS: Exactly. To discharge a debt of $150 million the Government paid out in excess of $150 million to cover up its embarrassment of having to go to the public within months of an election and admitting that it had murdered $150 million of the State's funds.

People talk about corruption, and it can only be proved on the basis of a person getting something out of it. In other words, it can be seen as a corrupt action only if someone gained from the deal. I suggest to the Government that its action was indeed corrupt because its gain was the ability to go to the public of Western Australia without being seen to have lost $150 million of public funds. I put it to you, Mr Speaker, that to put in place a bogus deal is a corrupt action. Mr McCusker reported that the moneys paid were virtually gifts to Connell and Dempster for equity which was worth nothing. The deal was completely contrived as a pay off to the Government so it could go to an election and be seen to be clean and not as having lost any money. It put forward a "you beaut" $1.2 billion project that would bring promises of largesse to the public of Western Australia within two or three months of an election. That is where the fundamental question of corruption rests.

I draw to the attention of this Parliament the real irresponsibility of this Government. Recently we debated a parliamentarians' superannuation Bill and mention was made of a member, a Minister or an officer of the Parliament perhaps losing his other superannuation benefits because of improper conduct. In the circumstance to which I have been referring, the Government knew that Rothwells was insolvent yet it pursued this deal to shift a large amount of money to Messrs Connell and Dempster, money which belonged to the public of Western Australia. I put it to the House that it is an act of gross impropriety and extreme malfeasance. If directors of a public company did that, even to the tune of $100 000 and not $400 million, they would be charged and brought before the courts because their action would be in breach of their fiduciary duty to the shareholders of that company. The directors of WA Inc, the Ministers of this Cabinet, have walked free from one of the greatest acts of malfeasance this country has ever witnessed.

The real scam was that even in the depths of this devious deal the most devious person was L.R. Connell. He had a basket of non-performing companies that, according to him and perhaps Mr Lloyd, who was acting on behalf of the Government, owed $350 million to Rothwells Ltd. The payout to L.R. Connell from Dalleagles was $350 million and Mr Dallas Dempster received only $50 million for the other half. Mr Connell had been borrowing from his own financial group which the Government glibly called a bank. The Government said that if Rothwells Ltd bank fell over, the effects would be felt throughout the financial community of Western Australia. Anyone who knew anything about securities and banks would have known that Rothwells was not a bank. It was euphemistically called a bank, but it was a broker of money and a doer of deals. If Rothwells had been put in the hands of the liquidator prior to the petrochemical deal, Mr Connell would have faced the wrath of the Corporate Affairs Department. A basket of companies borrowed millions and millions of dollars from Rothwells and on-lent those same funds to $2 straw companies. It was easy for Mr Connell to say to Mr Lloyd and to the Government, which was running Rothwells at the time, that the companies were minor non-performing companies and that he could not repay the debt. What was the easiest way out of the problem? The proper action would have been for the Government to immediately call in Corporate Affairs and call back the National Companies and Securities Commission. The Government persuaded the National

Companies and Securities Commission to withdraw its investigation and I challenge the Minister for Finance and Economic Development to deny that. As a result of an investigation, Rothwells would have been placed in liquidation, Corporate Affairs would have examined the basket of non-performing companies and the officers of those companies would have faced the courts; they might have even been incarcerated. That action would have been a matter for the law. However, the law was circumvented with the compliance of the Government by allowing Mr Connell to buy out the basket of non-performing debts for $350 million.

Why was the debt non-performing? Was it non-performing at the pleasure of Mr Connell and his cohorts? I suggest that was because it was easy for Mr Connell to approach the management of Rothwells at the time, who were the de facto in Government, and say that the value of a basket of lemon companies is about 100¢ in the dollar. Why pay those companies 100¢ in the dollar for that basket of lemons? According to Mr Connell they were all lemons. Could not Mr Connell have deliberately made those companies non-performing? Perhaps those companies did have assets. Were they brought to account? Did anyone examine them and appraise their true value? Did this Government, without thought, say to Mr Connell that it would give him $350 million for them so that he could walk. Whose money was it? It was the public of Western Australia's money. Mr Connell may have walked away and said he received nothing from the deal because the companies were lemons, but Mr McCusker says the Government gave Mr Connell a gift.

How do we know Mr Connell did not mark up the downside of that basket of lemons? How do we know that the basket of lemons was worth only $300 million if liquidated? In fact, the true value may have been only $300 million. We must remember Mr McCusker says the Dalleagles purchase occurred on the basis of a price set by the purchasers, not by the vendor. Mr Connell therefore could have easily picked up another $50 million without that being accounted. Who valued his basket? An accountant for the shareholders of Rothwells valued it. A public meeting was held and the shareholders of Rothwells agreed that Mr Connell should buy the basket of lemons for $350 million rather than perhaps $300 million because that might result in their receiving 60¢ or 55¢ in the dollar rather than 40¢ in the dollar. Of course the shareholders of Rothwells would agree to do that.

No-one – certainly not the Government – examined the true depreciated value of the basket of lemon companies which Mr Connell so graciously bought from Rothwells to relieve it of its debt. Mr Connell was not using his own money; he was using Government money and Bond Corporation money. The trick was that Bond and the Government were owed $200 million each and the Government paid about $200 million; it was, therefore, an easy deal – the conversion of debt to equity.

That is how the public of Western Australia were conned. That is the shame of a Government whose sole purpose was to hold onto power. Why did it want to hold onto power? Was it afraid that a Royal Commission, instituted by a Government which would have been elected at that time, would have exposed the nefarious affairs? On the other hand, were the Government's actions taken out of greed for power?

We are now debating this despicable Appropriation Bill contrived by the Government. The people who have the gall to sit in the House as members of the Government must be reminded of the truth.

The bottom line of this issue hinges on three aspects: The $350 million which was paid to Mr Connell meant that the State of Western Australia subsidised the shareholders of Rothwells by 49¢ in the dollar. According to Mr McCusker, if the basket of companies had not been purchased the shareholders would have received 6¢ in the dollar. Because of the $350 million payment to Mr Connell, the shareholders received 55¢ in the dollar. A condition of that deal was that the debt owed by Rothwells and by Mr Dempster to the State Government and its agencies be immediately discharged. The other germane point is that Mr Connell set the price of his buy-back for the acquiescence of the shareholders of Rothwells at the time on the strength of the fact that they would benefit because the more money he received for his basket of lemons, the more money they received. However, the deal cost the public of Western Australia more money. In that eleventh hour, Mr Connell cleverly pulled the wool over the Government's eyes. He marked down in a negative sense the liability of the companies he had graciously bought from Rothwells, and took a cool

profit in the middle of that. Even if that profit was only five per cent of $350 million, it was still $17.5 million in the old back pocket.

Effectively what happened with this deal was that the Government unequivocally gave to two of Perth's entrepreneurs a huge windfall profit on the basis of its being saved the embarrassment of having to pay out $150 million. The bottom line is that it would have been better for the Government if it had faced up to that before the election, paid the $150 million, and got out of the way the embarrassment, because that would have saved the State $300 million, or thereabouts.

We obviously have to pass this appropriation Bill, but I agree to it with great regret because I have to sit in this Parliament and look constantly across the Chamber at a Government which has perpetuated – is that right?

Dr Gallop: It may be right. It depends on what will follow.

Mr Court: It is a confidence trick, and you have never denied that outside the House.

Mr LEWIS: It is the greatest confidence trick ever pulled in Australia, particularly on the public of Western Australia.

MR TAYLOR (Kalgoorlie – Minister for Finance and Economic Development) [2.41 pm]: I suggest to the member for Applecross that when he talks about looking across at people he learn a lesson in terms of the response that I and others have to his speeches. That response may appear to be based on our not listening, and frankly it is exactly that, because his extravagant language and approach to subject after subject in relation to these matters is such that I do not even feel inclined to respond to what he has to say. An occasional sentence of his extravagant language may get a run in the local Press; however, it is hardly worthy of that. The member could learn a lesson if he listened occasionally to the speeches of the Leader of the National Party, and if ever he wonders why what that member has to say is listened to and responded to, he should reread the speeches of the Leader of the National Party.

In responding to some of the issues raised I will refer, first, to the $55 million. I often wonder whether people read the second reading speech before they respond because I said in my second reading speech that that $55 million of bridging funds was appropriated to get this project under way, and while awaiting the project's being documented in a form or in a presentation that would enable project financing. The Australia and New Zealand Banking Group Ltd provided the bridging finance, which was to be cleared on 29 June 1990. However, when it became clear that the project would not proceed and that the project financing would not be forthcoming, the State stepped in as the funding source to honour its obligations, hence the refinancing of the ANZ Bank facility by way of the General Loan and Capital Works Fund.

I mentioned in my second reading speech that Parliament has authorised, under the Treasurer's Advance Authorisation Act, the use of funds for this purpose; and in fact sufficient funds were set aside in that sense. The ANZ Bank facility was clearly due on 29 June 1990, and when it became clear that the project would not go ahead it became clear also that State funds should be utilised as the funding source for that refinancing matter.

Mr Court: But you had pulled out three days before you borrowed the money from the ANZ Bank.

Mr TAYLOR: That is the member's version, and it is not correct. The liquidation of Petrochemical Industries Ltd came after this phase and has nothing to do with the $55 million. The $55 million was expended to get under way the construction phase of the project.

I apologise to the member for Nedlands for not having answered the questions he asked before we got to this debate. I will do my best to have those questions answered today or tomorrow if at all possible. I apologise for that because it is something that I had not noted on the way through, knowing full well that we may have the opportunity to debate this legislation today.

As I said to the Leader of the National Party, the very nature of this legislation is to go one step further than the commitment that was entered into by the Government last year in relation to any new equity positions as far as these sorts of matters are concerned. This

legislation will enable the House to consider a matter that has already been paid, quite properly and legally, and where – as the Under Treasurer said to the then Minister for Budget Management – if it had not been paid it would have caused the State some concern. So that money was paid out, and certainly the request before the House is an after–the–event authorisation or appropriation. This sort of approach has not been taken previously and it certainly goes further than the House has previously been asked to go. This legislation is now before the House to enable us to debate this issue and to give it proper consideration.

I appreciate the fact that Opposition members know full well that in the past this sort of legislation would have put us in a rather unusual position, to say the least, but the legislation is here for our consideration and for proper debate. So despite the comments that have been made by a couple of members, I thank members for their consideration of the legislation, and I commend it to the House.

Question put and passed.

Bill read a second time.

*Committee*

The Chairman of Committees (Dr Alexander) in the Chair; Mr Taylor (Minister for Finance and Economic Development) in charge of the Bill.

Clause 1: Short Title –

Mr COURT: This clause reads, "This Act may be cited as the *WAGH Financial Obligations Act 1990*." I thought the least we could have had from the Minister for Finance and Economic Development is a proper explanation as to where this money has gone. It is all very well for him to say it has been used for the interim finance for the project, but I would have thought we had reached the stage by now where we could start having some detail presented to this Parliament as to what the money has been expended on. Do we have to ask questions?

Mr Taylor: We paid the ANZ Bank – what do you think?

Mr COURT: But what has WA Government Holdings Ltd used the money for?

Mr Taylor: In order to set up the project at the start – to enable the project to get to a stage where we could get financing for it.

Mr COURT: Does not the Minister think the time has come for us to know who has received the money? It is all very well for him to say it was used for interim financing. Hundreds of millions of dollars have gone into this little exercise, and one way or another the people of this State require a balance sheet.

Mr Taylor: You have a question on notice and, as I said before, I will answer that and give you the detail. I apologise for not giving the detail.

Mr COURT: It is interesting that we could not discuss that appropriation in this year's Budget because we did not have time during the Committee stage. I did the right thing and put the question on notice. I have received an apology and I accept that, but I still think that, if anything, the Minister should stop this debate right now and give the Chamber some detail as to just where the money is being spent.

As for the admission that the Government used this facility to bypass this Parliament because it thought we would not approve that payment –

Mr Taylor: That is not true. You should read the second reading speech.

Mr COURT: The Minister has said in this Chamber today that he thought we would block Supply.

Mr Taylor: Don't you put words into my mouth. You tried that a couple of weeks ago and you will pay the price for it.

The CHAIRMAN: Order! There is just one small point. I am trying to discover how the remarks of the member for Nedlands relate to clause 1 of the Bill, the short title. Perhaps he could illuminate us.

Mr COURT: We are talking about the WAGH Financial Obligations Bill. There is an obligation for this money to be paid and we have been told that the Government borrowed

the money from the ANZ Bank because there was concern about whether or not the Parliament would approve it.

Mr Taylor: That is not right. The money was borrowed ages ago and in fact we repaid the money, as due, on 29 June 1990. That is when it was repaid, and it was repaid legally, properly and correctly.

Mr COURT: Through the Treasurer's Advance Account?

Mr Taylor: It was repaid through the General Loan and Capital Works Fund and now we are doing it, legally, properly and correctly.

Mr COURT: But why did the Government borrow the money from the ANZ Bank on 30 June 1989 when, three days earlier –

Mr Taylor: We could have done it ourselves.

Mr COURT: And what would have happened if the Government had done that? It would come through the Treasurer's Advance Account. That is what I am getting at.

Mr Taylor: That is right.

Mr COURT: But for it to go through the Treasurer's Advance Account we would then have had to approve it in this Parliament last year.

Mr Taylor: No, it could have been an after–the–act authorisation. You do not understand the financial system.

Mr COURT: If it came from the Treasurer's Advance Account in the 1988-89 financial year it had to be approved in the following financial year, which was 1989-90. We are now in the 1990-91 financial year.

Mr Taylor: That is right, and it was repaid on 29 June 1990.

Mr COURT: So the Minister has deliberately kept that expenditure from the scrutiny of this Parliament.

Mr Taylor: That is absolutely wrong. You do not even understand the way the system works.

Mr COURT: I understand it only too well, and the Minister is misleading this House.

Mr Taylor: Don't you accuse me of that.

The CHAIRMAN: Order!

Mr Taylor: Get your facts right.

The CHAIRMAN: Order! The member for Nedlands will resume his seat. I want to say something related to what I said a moment ago about the relevance of this debate. However right the member for Nedlands thinks he is in what he is saying, I do not believe that what he is saying is related to the short title of the Bill. I understand any debate on clause 1 to be about whether or not the title of the Bill is appropriate, and I think the member has gone far beyond that in his remarks. It appears to me that the sorts of points he is making would have been more appropriately made during the second reading debate rather than during debate on a specific clause, particularly when we are simply discussing whether the Bill has the right title. That is my interpretation of how debate on this clause should be confined and I think we have precedents here to back that up.

Mr COURT: I appreciate what you say, Mr Chairman, and I will continue my remarks during debate on clause 3 of the Bill, which is the relevant clause for those comments.

**Clause put and passed.**

**Clause 2 put and passed.**

**Clause 3: Appropriation –**

Mr COURT: This is the crucial part of the Bill because it asks for $55 million expended from the Treasurer's Advance Account in 1989-90. The debt fell due in the 1988-89 financial year, and the Government needed the money to pay it. It needed $55 million and it went to a bank and borrowed it. The Minister for Finance and Economic Development says that I am wrong about when the Government made the decision to terminate the project. It is

in a number of transcripts of court proceedings I have here, which spell out quite clearly that in a letter sent on 27 June –

Mr Taylor: Are you still getting that information from the Bond camp?

Mr COURT: This is public information. What a ridiculous thing to say! It would not worry me where the information came from because I am talking the truth, I am giving the facts.

Mr Taylor: The facts as provided by the Bond people.

Mr COURT: What does the Minister mean, "the facts provided by the Bond people"? I will show him the amount of money I spent getting transcripts from that damned court down there. Does he know what it costs per page to get transcripts of those hearings? We spent thousands of dollars getting them so that we could start to find out something about this Government's rather dubious financial dealings. What a stupid thing to say! We are being asked to approve expenditure of $55 million and the best the Minister can do is to make the smart alec comment, "You got your information from the Bond people." It would not matter where the information came from; the Government cannot hide the fact that in writing the Government people said that it regarded its obligations under the shareholders' agreement as at an end and it would not provide further project interim loans to PIL. The Government has said that in a letter, and it comes up here. The Government's legal representative, Mr Archer, says in this transcript of a hearing at the Supreme Court of Western Australia before Master White in the matter of Petrochemical Industries Ltd –

> We are here as an actual creditor. It is our case, as the affidavit of Mr Herron seeks to make good, that the funding arrangements have been terminated by us by notice given on 27 June and that thereupon the then $63 million, now $68 million plus interest, is immediately due and payable by the company to us; so that we are an actual creditor.

That is the Government's representative speaking, not anyone else. My point is that the Government gave notice on 27 June that it was terminating any more payments. Why did it not take that money out of the Treasurer's Advance Account in that financial year?

Mr Taylor: Because it was due to be rolled over on 29 June 1990 if we had sought to roll it over. There was no point in rolling it over. The project had collapsed. The ANZ Bank should be repaid and it was repaid.

Mr COURT: What was rolled over?

Mr Taylor: The ANZ Bank financing. It could have been rolled over and in fact it was repaid, because there was no project.

Mr COURT: According to the Minister's second reading speech the credit facility had been negotiated: it was not rolled over.

Mr Taylor: I am talking about 29 June 1990.

Mr COURT: That is when the Government had to pay it back by.

Mr Taylor: Or it could in fact have been rolled over.

Mr COURT: No. The Minister for Finance and Economic Development has worked in Treasury. He should not try walking me around this date exercise. I am telling him factual dates. I am telling him the loan was taken out on 30 June 1989. That was three days after it was said that the Government had terminated the matter. So, it was expenditure incurred in the 1989–90 financial year. The Minister has pulled a nice trick with that loan from the ANZ Bank. The Burt Commission on Accountability spelt out that a guarantee cannot be used which would bypass this Parliament, and the Government stated that it was sorry for what it did in the past and said that it would not provide guarantees under the Northern Mining Corporation NL agreement in the future. Again, we were deceived as another guarantee was taken out on the Northern Mining agreement; this is indicated in the second reading speech.

Mr Taylor: That is right.

Mr COURT: But the Government gave a commitment that it would not use that mechanism because of the recommendation of the Burt commission. However, the Government has expended another $55 million of taxpayers' money without bringing the issue to the Parliament.

Mr Taylor: Absolutely wrong; totally wrong!

Mr COURT: What does the Minister mean, "Absolutely wrong"? It is indicated in the second reading speech.

Mr Taylor: Totally wrong.

Mr COURT: I had better walk the Minister for Finance and Economic Development through the issue again: In January 1989 the Burt Commission on Accountability – on page 74 of the report – referred to the legal advice indicating that the Government could issue guarantees under the Northern Mining legislation. It then stated –

> If this is so, then it can be said, in practical terms, that no criterion of accountability as outlined earlier in this report has been satisfied and that no mechanism exists to achieve public scrutiny.

The then Premier said, "We have done wrong in the matter in bypassing the scrutiny of Parliament. We will not do it again." However, months later, on 30 June, the Government did exactly that. It believed that by toughing it out in the Parliament, the matter could be covered up. The Government did not use a Treasurer's authorisation.

Mr Taylor: This was negotiated in June 1989 with a clear obligation to repay it, as we did, by June 1990.

Mr COURT: I am not denying that.

Mr Taylor: It was done quite properly and quite correctly.

Mr COURT: No. The expenditure was incurred in the 1988–89 financial year.

Mr Taylor: And the obligation was that it was repaid by 29 June 1990. We could go around in circles.

Mr COURT: If there is one thing which makes me furious it is that $55 million of taxpayers' money is being spent without the matter coming for the approval of Parliament! I will repeat time and time again that after the release of the report of the Burt commission we were promised this would never happen again. However, months later it happened again. Why is this so? It was a little trick by which the Government did not have to come to the Parliament for approval until 18 months later – today is that day. We are now giving approval for $55 million which was spent 18 months ago. Is that not a beaut little trick?

Mr Taylor: The money was properly paid out.

Mr COURT: Whose word can one believe? How the Government toughed it out for as long as it did before accepting a Royal Commission is beyond me. I take the word of members opposite. If the Premier of the State says that the Government will not bypass the scrutiny of the Parliament again, I accept that that will be the situation. However, what does one get? One gets dishonesty from this Government. It has used exactly the same procedure as it used in the past.

Mr Taylor: What do you mean exactly the same procedure? Explain yourself.

Mr COURT: What would have happened if the Government had not taken out a facility with the ANZ Bank, but had used a Treasurer's Advance for the expenditure incurred in that year? The matter would have arisen in Parliament some time during the 1989–90 financial year. Admittedly, it would have been a sensitive time for the Government because of the concerns at that time about the blocking of Supply; however, is the Minister running away from the fact that the Parliament should approve such expenditure?

Mr Taylor: The loan was quite properly repaid on 29 June 1990 without any shadow of a doubt.

Mr COURT: The Minister is being quite deceitful!

*Withdrawal of Remarks*

Mr TAYLOR: I object to being called "deceitful" by a little scumbag like that on the other side!

The CHAIRMAN: I cannot take that as a withdrawal request.

Mr LEWIS: I would suggest that the Minister for Finance and Economic Development withdraw those disparaging remarks about the member for Nedlands.

The CHAIRMAN: I will not take the Minister's request for a withdrawal and turn it into something else. However, the Minister was offended by certain words used by the member for Nedlands and the Minister, in his request, made the same error as that which he accused the member of making. I suggest that both members withdraw those remarks and we can return to the substance of the debate.

Mr COURT: I withdraw those comments.

Mr TAYLOR: I withdraw my comment, Mr Chairman

*Committee Resumed*

Mr COURT: The Minister indicated that the money was quite rightly repaid before 29 June 1990, but I object to the way the loan was taken out in the first place.

Mr Taylor: Get your facts right.

Mr COURT: On 30 June 1989, in the 1988–89 financial year, the transaction was conducted. That is a simple matter which anyone can understand. By taking out a loan facility instead of achieving it through a Treasurer's Advance in that financial year, the Government hid the expenditure from the Parliament. It did exactly the thing it promised not to do. Does the Minister deny that after the Burt Commission on Accountability report was released, a commitment was given by the Government that it would not bypass the scrutiny of the Parliament with future expenditure items?

Mr Taylor: Yes, we have gone further than that with the Bill before the Parliament today. Also, the repayment of the loan by 29 June 1990 was quite in keeping with that commitment.

Mr COURT: The Minister will not last long at this rate because he is trying to distort the point I am making. The Government did not want to explain where the $55 million went. The Government went back on its word and it did not want to face the scrutiny of the Parliament. If the Government had used the other mechanism it would have had to obtain approval last year for the $55 million, and in doing what it did the Government delayed the debate for 18 months.

Mr Taylor: The Premier and I raised this issue within weeks of that change taking place. We had a Press conference and indicated that it would be repaid by 29 June 1990. We also announced how we would treat the issue of the $175 million involved with this project. Do not pretend we tried to cover these things up.

Mr COURT: I would have thought that it was a serious matter when $300 million is expended on a project for which we have nothing. During the second reading speech I asked the Minister whether he would be good enough to tell us how the liquidation of the company was proceeding.

Mr Taylor: That is a matter for the courts.

Mr COURT: The Minister did not offer a word about the security held by the Government. I asked what was happening as far as the legal actions were concerned; I was not asking for detail, but I thought it would be quite appropriate for the Minister to tell the people of Western Australia, who are funding the action, how it was progressing. However, I did not receive a word. The money has been spent and this Government wants the PICL deal to disappear. It has announced that a Royal Commission will be held so that we can all now shut up on the issue. I do not care whether a Royal Commission is held or not, but I will continue to say that this Parliament should be given answers on how the money was spent. The Government has been caught out on this little $55 million deal.

It was a cute little trick and a way of bypassing the scrutiny of this Parliament. What makes me sick about the whole exercise is that we were given a promise in this House that the Government would no longer use the Northern Mining Corporation (Acquisition) Act to provide guarantees.

Mr Taylor: We didn't.

Mr COURT: That is how the Government got the loan in the first place.

Mr Taylor: The Premier and I have not used the northern mining corporation legislation.

Mr COURT: The Minister for Finance and Economic Development said in his second reading speech –

> The $55 million bill acceptance facility with the ANZ Bank was backed by guarantee issued by the Treasurer and approved by the Governor under section 5 of the Northern Mining Corporation (Acquisition) Act. The credit facility had been negotiated on 30 June 1989 . . .

Mr Taylor: That is right.

Mr COURT: That is the last day of the 1988-89 financial year. The Minister told me that the Government had not used that legislation.

Mr Taylor: I said we had not used it – the current Treasurer and I.

Mr COURT: "We" is the Government.

Mr Taylor: We have brought the matter to the Parliament as we said we would do.

Mr COURT: What game is the Minister for Finance and Economic Development playing? I read the Minister's comments in his second reading speech and he still says he did not use that legislation. That is how the Government got the loan. Has he read page 74 of the Burt commission report? If he has not already been told, that is how the Government ended up with WA Inc.

Mr LEWIS: The Minister for Finance and Economic Development said that the Government had deliberately withheld bringing this legislation to the autumn session of this Parliament because the Government was afraid that it would be used as a vehicle by the Opposition to block Supply.

Mr Taylor: Read the second reading speech.

Mr LEWIS: By the Minister's own words only five minutes ago he said that this debt was incurred in June 1989. Is that right?

Mr Taylor: You are telling the story.

Mr LEWIS: Mr Taylor said that when he and Dr Lawrence took office as Deputy Premier and Premier they held a Press conference and the Premier made a statement that WAGH's debts would be appropriately managed. The Minister for Finance and Economic Development drew attention at the Press conference to a need to repay this debt prior to 30 June 1990. One would think that, if these people were acting accountably and in accordance with recommendations of the Burt commission, it would have been in last year's CRF appropriations. That debt was incurred in June 1989. The Government knew that it had to pay the $55 million by 30 June 1990. Why was that appropriation and this Bill not brought to this House for approval in line with the previous undertaking of this Government? The Minister for Finance and Economic Development has told us that the Government did not do so because it was afraid that the Opposition might use it as a vehicle to block Supply and bring down this Government.

The Premier and the Deputy Premier at the famous Press conference on coming to office said that the $175 million that was owed by WAGH to the SGIC would be a managed debt; it was accruing interest at the rate of about $24 million or $25 million a year and would be managed over five years. In a subsequent debate in this House the Minister for Finance and Economic Development was asked whether he would show a draw down. He said he would present to the Parliament figures for the total debt so that the Parliament could understand the total debt and could understand why every year it would have presented to it one of these pieces of legislation for approval. However, the Deputy Premier has come into this Parliament and dropped on the table a simple Bill and said to us that that is the legislation for the $55 million. He has not mentioned how much the debt is that has to be repaid or the total moneys that are expected to be lost and has asked the House to accept it. I thought this Government was about accountability, appropriating funds and about knowing what its responsibilities are.

Mr Bradshaw: If you put a question on notice you get the same answer.

Mr LEWIS: The member is absolutely right. This Government, notwithstanding all of its rhetoric on accountability and how it will not use guarantees again without properly bringing them before the Parliament and without telling the Parliament what it is about, has gone back on its word. I suppose the Minister for Finance and Economic Development thinks it is okay for him to say that he has been in the chair only since January or February. He must

understand that he was part of that collective Government. Just because a couple of its members have gone does not absolve him from his responsibilities. It is similar to the failure of a company and one director saying that he was not responsible for that failure. That is a cop out and an untruth. If the Minister were honest, he would accept that he was part of that Government that went back on its word, entered into guarantees and did not bring the facts of those guarantees to Parliament.

Mr TAYLOR: The $55 million could not have been part of the 1988-89 Budget because it was part of WAGH; it was a borrowing by WAGH from the ANZ Bank. It was a private facility. The whole project had been financed by borrowings from private interests. They were put together in a borrowing from the ANZ Bank. How could that be included in the Budget? It could not be. I said in my second reading speech that –

> This Bill seeks an after–the–event appropriation of the General Loan and Capital Works Fund for $55 million from the Treasurer's Advance Account in 1989-90 to repay the Australia and New Zealand Banking Group Limited the interim financing that had been provided for WA Government Holdings Ltd.

I then spoke about the after–the–event appropriation. I also said –

> Consistent, however, with undertakings given by the Government, a separate Bill has been introduced on this occasion which deals with the $55 million interim financial facility that has been repaid.
>
> The $55 million bill acceptance facility with the ANZ Bank was backed by guarantee issued by the Treasurer and approved by the Governor under section 5 of the Northern Mining Corporation (Acquisition) Act.

I further said that –

> . . . there was a clear obligation to repay on or before 29 June 1990. In the event of the debt not being honoured, the Government would have been required by law to meet the guarantee. Moreover, failure of WAGH to meet its financial obligation would have placed the ANZ Bank in the invidious position of having to put this wholly State–owned company into default to ensure recourse to the Government guarantee.

Of course, the company referred to is WAGH. It continues –

> To put it bluntly, a default would have had a major adverse impact on the State's excellent credit rating and on its financial reputation. As the Under Treasurer put it in his minute of 9 November to the Minister for Budget Management, "It is impossible to see how such an event of default would not have serious and longstanding consequences."

Therefore, rather than allow the company to be faced with the prospect of going into default, it was correctly and legally decided to repay the facility on 29 June 1990. That is exactly what should have happened.

Mr Lewis: That is why it should be included in last year's Budget papers.

Mr TAYLOR: It could not be included because it related to WAGH. The point I make in relation to that payment is that it was not necessary for the Government to bring this matter before the Parliament. The matter could have been left. As I said to the Leader of the National Party with regard to the obligation taken on board by the Treasurer in 1989, the Government went further and decided to introduce legislation dealing with this matter. This legislation dealing with the after–the–event appropriation was not necessary in this form, but I have no doubt that it was the right and proper thing to do.

Mr COURT: It was a good try by the Minister for Finance and Economic Development to wheedle his way out of the situation. When a guarantee is given a liability is incurred. The situation is different in this case. The Government made a commitment that it would not use the Northern Mining Corporation guarantee without first coming to the Parliament. That commitment was ignored and three days before the guarantee was given the Government advised the House that under the shareholders' agreement it would not provide further project interim loans to Petrochemical Industries Ltd. The Government had decided to pull its funding out of that project. However, it was still committed to pay the money and the

only way it could obtain the money – because no income was available from the project – was to use the guarantee of the Crown. By the end of the financial year the taxpayers of this State were committed to pay that vast amount, well in excess of $55 million, which represented the funding to date on that project. I make the point that the Government had already terminated its financing of the project and it went about this devious way of getting the $55 million. The Treasurer should understand that once a guarantee is given a liability is incurred. In accordance with the terms laid down by the Government, instead of taking out a loan using the guarantee of Northern Mining, the Government should have asked the Parliament to approve the $55 million. That promise was made to the Parliament when the Burt Commission on Accountability report was released.

The whole PICL deal has a long way to go but the least the Government could do is be more open about where the funds have been expended. The fact that a Royal Commission will be established does not mean that this Parliament should not get answers to its questions.

Mr TAYLOR: The member for Nedlands has spoken about the date on which the decision was made not to go ahead with the project and the date of liquidation –

Mr Court: I am not talking about the liquidation but about 27 June when the letter was sent.

Mr TAYLOR: I have been informed that months prior to that date promissory notes in relation to this matter had been on the market by arrangement with Credit Suisse. A decision was made, with the involvement of Treasury, that the promissory notes were not close enough to be monitored and to be kept under control, and as a result a change was made from the promissory notes to the ANZ Bank facility which was raised on 30 June 1989. It is not that the $55 million was taken out after the decision was made on 27 June; in fact, the promissory notes were taken out well before that date. The refinancing by the ANZ Bank facility took place on 30 June 1989.

Mr Court: We are talking about the ANZ Bank facility, not about other borrowings. If you took out the facility to replace other loans, that presents another problem.

Mr TAYLOR: The member for Nedlands is trying to say that this facility was taken out after people should have had knowledge that the project would not go ahead.

Mr Court: It was, and you have said so yourself.

Mr TAYLOR: That was not the case. The promissory notes were on issue some months before by arrangement with Credit Suisse. The member for Nedlands is refusing to acknowledge that.

Before sitting down, I apologise for my earlier comment to the member for Nedlands; I do not often get angry but I do not like being called deceitful.

**Clause put and passed.**

**Title put and passed.**

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by Mr Taylor (Minister for Finance and Economic Development), and transmitted to the Council.

## RETAIL TRADING HOURS AMENDMENT BILL

*Second Reading*

Debate resumed from 1 November.

**MR FRED TUBBY** (Roleystone) [3.32 pm]: This Bill seeks to make four significant changes to the principal Act. The first major change concerns the powers of the Minister. Sections 5 and 12 are being amended by clauses 5 and 8 respectively. Clause 5 provides for exceptions to the Act by the Minister publishing an order in the *Government Gazette*. Clause 8 provides for the Minister to publish a notice in the *Government Gazette* to alter trading hours from Monday to Saturday. Those alterations can be applied Statewide or to any portion of the State as the Minister sees fit. Another major provision deals with

expanding the trading opportunities for owners of small retail shops such as delicatessens. The third and possibly the most significant change is the proposed extension by five hours of the trading hours for service stations, or "filling" stations as they are referred to in the legislation, until 6.00 pm on Saturdays. The amendment also provides exceptions to the Act for filling stations in non-metropolitan zones on application to the local authority covering the area. The fourth and final change to the Act concerns the establishment of the retail advisory committee and the appointment of members.

The Opposition does not support clause 5 of the Bill, which seeks to extend the powers of the Minister. The Minister already has sufficient power under the existing legislation to overcome anomalies which arise from time to time. There is no need for those powers to be increased. The extension of trading hours prior to Christmas this year is an example of how the Minister's powers can be used. This matter was discussed by the retail advisory committee which overwhelmingly recommended trading be permitted on a Tuesday night similar to Thursday nights. For some reason, the Minister chose not to accept the advice of her advisory committee and made an ad hoc decision to declare Sunday, 23 December as an all-day trading day similar to Saturdays. Why did the Minister decide not to follow the recommendation of her committee? I cannot see any value in a committee, which represents both small and large businesses, consumers and ministerial staff making recommendations which the Minister ignores. For those reasons the Opposition will not accept these amendments to the legislation.

The present Act severely restricts the ownership of small retail shops which operate on extended trading hours, particularly delicatessens. Those restrictions have caused problems within the industry and on occasions the Minister has granted exemptions. An example of this concerning the Beldon shopping centre was brought to the attention of the Minister by me and the City of Wanneroo. The newsagent in that centre bought the delicatessen and because he owned two premises he was unable to operate extended trading hours for the delicatessen.

Mrs Watkins: He owned a newsagent in the Wanneroo shopping centre and the delicatessen in Beldon; there is a little more to it than that.

Mr FRED TUBBY: I accept the member for Wanneroo's comments on the location of those premises. However, it does not alter the fact that he owned a newsagent and bought a delicatessen. Under the Act, because he owns two premises he cannot operate the delicatessen for extended trading hours. That caused considerable problems for the people living near the shopping centre in Beldon when they were faced with the fact that the delicatessen could no longer operate after hours. The Minister stepped in and granted an exemption to the Act, and I compliment her for doing so. In line with that case and other cases which have been brought to the attention of the Minister, the provisions in the Act are proposed to be significantly enlarged. The changes will still allow small family businesses to operate within the delicatessen arena, and will not allow large concerns to own a chain of delicatessens to operate under extended trading hours. The Minister is seeking to slightly enlarge the family business arena but not to open it up to larger business concerns. The Opposition will support those amendments to the legislation.

The third issue is by far the most controversial and concerns the extension of service station trading hours on Saturday afternoons. In 1988 the then Premier, Peter Dowding, gave assurances to the industry that trading hours would not be reviewed until 1993. I realise the Minister will dispute that fact. The Motor Trade Association of Western Australia has a letter from the then Premier outlining the circumstances. The Minister informed me that she had accepted legal opinion that what was stated and implied and what the industry accepted the Premier was referring to is not, in fine law, reality.

Mr Trenorden: That is a very interesting concept because the Premier wrote to them and had discussions. The implication of what was intended is very clear.

Mrs Henderson: What is clear is not what the Opposition spokesman is saying.

Mr FRED TUBBY: The Minister will find very eminent lawyers who will put forward one point of view and equally eminent lawyers who will put forward exactly the opposite point of view with equal vigour and strength. I could find some lawyers who would give me an alternative point of view on that letter. I am not concerned about the legality, or the legal

interpretation of a letter written by the Premier to the Motor Trade Association. What I am concerned about is what the industry understood from the verbal discussions with the then Premier, which were confirmed in writing. That made it perfectly clear that the industry would not be facing a review until 1993, and that is the basis on which the industry accepted that proposal for further extensions.

The Retail Shops Advisory Committee which the Minister has set up under the legislation did not discuss these proposed extensions to the fuel station trading hours. We have already seen one case of the extension of trading hours for Christmas, where the Minister has overruled the committee's decision. Now we have another instance where, without even referring to this body, the Minister has set out to change the trading hours in a very significant sector of the economy which should have been addressed by the Retail Shops Advisory Committee but was not. In early 1989 a Westpoll survey indicated that consumers were not overly concerned with the status quo in regard to roster stations and the provision of petrol out of hours. I do not know what the results were, but it was pretty evenly weighted and there was no great demand for further deregulation of trading hours, or any extension.

Mrs Henderson: The Westpoll showed that 70 per cent or more of consumers wanted it.

Mr FRED TUBBY: That was the second survey. The industry then campaigned to promote the extension of trading hours, and this continued for something like six months. At the end of that time the industry conducted a market survey, and around the same time a second Westpoll survey was conducted. These surveys showed a very significant swing in favour of the extension of trading hours for filling stations. To my way of thinking that shows the power of propaganda. If we ask someone cold how he feels about something, we get a very immediate and honest reaction about how it affects him personally. If no great inconvenience is caused, a person will say it is okay, which is what people did six months before this second poll. After a campaign pointing out how badly the public was being serviced for fuel out of hours, there was a significant swing.

Mrs Henderson: The same questions were asked.

Mr FRED TUBBY: I do not know; that is something the Minister can find out.

Mrs Henderson: How can you say the question is biased?

Mr FRED TUBBY: I am not saying anything about bias. I am saying that when one asks people how they feel about a particular set of circumstances, and when there has been no propaganda campaign, one receives a gut feeling. If the situation does not affect them, they have not thought about it.

Mrs Henderson: Where was the campaign? I never saw any advertisements or anything like that.

Mr FRED TUBBY: There was a media campaign. They were contacting people.

Mrs Henderson: Who was contacting people?

Mr FRED TUBBY: The oil companies. They were trying to build up support for this proposal.

Mrs Henderson interjected.

Mr FRED TUBBY: The Minister can have her say in a moment. Representatives from industry then approached the Minister for Consumer Affairs with the results of its survey. Without referring to the Retail Shops Advisory Committee the Minister decided to extend trading hours on Saturday afternoons. She then approached the industry and notified it of her decision. Members can imagine how those people felt after the Premier, less than two years before, had given them a period of five years' grace before there would be any review of their trading hours.

Mrs Henderson: That is not true.

Mr FRED TUBBY: The Minister can argue about the legality; I would sooner argue about the morality of that letter. The major groups, including the Minister, pursuing extensions to trading hours, claim there will be significant improvements within the industry. One will be with regard to the service to the public; it is claimed that will greatly improve. The second is in regard to the rationalisation of the service station industry.

Let us see what we already have out of hours. We have a structured system where any motorist can read in *The West Australian* precisely where he can purchase fuel once service stations close at lunchtime on Saturdays. A motorist can go to the exact spot and purchase the amount of fuel required. If we were to replace that with an ad hoc system such as that proposed by the Minister, which will allow service stations to open or close as they wish, on Saturday afternoons, motorists will chase all over town or the suburbs looking for a service station which is open. A motorist who goes to an outlet and is lucky enough to find it open one Saturday afternoon might return the next Saturday afternoon – by which time the proprietor might have decided that because insufficient customers went through his outlet, it was not profitable for him to open, so he does not open – to find the station closed and he would have to chase after another outlet.

Mrs Henderson: No-one need have a problem with that.

Mr FRED TUBBY: I beg to differ. Motorists have a problem. People now know exactly where they can get fuel at night or during the day. These outlets are strategically placed around the metropolitan area.

If it is proved there are insufficient petrol stations in any locality, it is within the Minister's power to increase the number of roster stations. From time to time this has been done. I have put questions on notice to the Minister and representatives from the Motor Trade Association have approached the Minister to discover where there is a need for further outlets to be placed on roster, but the Minister has been unable to specify which areas need addressing.

Mrs Henderson: Why don't you tell the truth?

Mr FRED TUBBY: According to the Minister it is the whole metropolitan area. This is a load of rubbish. I have had no trouble getting petrol out of hours. One cannot drive very far down any highway without seeing those roster signs.

Mrs Henderson: Do you know how many people the RAC go to every month to fill up their tanks? It is 1 000 people a month.

Mr FRED TUBBY: Wow! May I ask the Minister why that is?

Mrs Henderson: Because they have run out of petrol.

Mr FRED TUBBY: May I ask the Minister why those people are running out of petrol?

Mr Shave: Because they do not have the money to fill their tanks.

Several members interjected.

Mr FRED TUBBY: Does Mr Acting Speaker know how much the RAC charges those people for the fuel?

The ACTING SPEAKER (Mr Donovan): There are too many people speaking at once.

Mr FRED TUBBY: I shall tell members how much the RAC charges for that fuel: Precisely nothing. People receive $3 worth of fuel from the RAC for nothing.

Mrs Henderson: Only if they are members.

Mr FRED TUBBY: Only members can call out the RAC. They are the only people who know they can obtain $3 worth of fuel free from the RAC whenever they run out of petrol.

Several members interjected.

The ACTING SPEAKER (Mr Donovan): Order! The Hansard reporter is indicating to the Chair some difficulty in recording this debate. Could members please give Hansard their cooperation.

Mr FRED TUBBY: The Minister is very quick on the uptake.

Mr Shave: No–one has told her that people cannot afford a full tank of petrol, and she does not understand.

Mr FRED TUBBY: That is right. The Federal Government may choose to ignore the fact that our State and our country are probably in the worst recession they have experienced since the 1930s. Some people who lived through the 1930s Depression have told me that the situation now is even worse than it was in the 1930s and that the only reason it does not

appear to be so is that the welfare system has been improved significantly since that time. However, the economic situation for businesses and for people who are being laid off is as bad as, if not worse than, in the 1930s. People are finding it very difficult to make ends meet, and if they can obtain $3 worth of fuel for nothing, some people would do that.

Mrs Henderson: Are you saying they would purposely run out of fuel on a dark road and have to wait for an hour for a little yellow van to come along?

Mr FRED TUBBY: Exactly.

Mrs Henderson: You are a joke!

Mr FRED TUBBY: It is no joke. I can assure the Minister that if she did not have money to buy fuel she could drive down the street, call the RAC and get $3 worth of fuel for nothing. If one does not have any money, $3 is $3. The Minister may think that is a joke but I do not, and people in the community are not laughing.

Mrs Henderson: That argument is a joke.

Mr FRED TUBBY: They are blaming this Government and the Federal Government for their predicament.

Mrs Henderson: You should have a much better argument than that.

The ACTING SPEAKER: Order! Can we give the Hansard reporter this level of cooperation: Interjections are fine, as members know, if the interjection is made and then the member on his feet speaks, and then the interjector interjects, and so on. When both are happening together it is impossible to record.

Mr FRED TUBBY: People in the community are hurting, and this is borne out by people who operate roster stations, who say that cars come in continually throughout the weekend to buy $2, $3 or $5 worth of petrol. They do not come in once and buy $15 worth of petrol on a Saturday afternoon; they come in two or three times and buy it in very small quantities. Why they choose to do that is quite beyond me, but they do not have much money in their pockets and they buy only the amount of petrol they can afford at that time in order to get where they want to go, and when they get there if they have to fork out another couple of dollars to get home they do so. They do not drive around with $15 worth of petrol in the tank. That is another sign of our economic times, and that is one of the reasons for queues outside roster stations – not because people are filling up their fuel tanks with sufficient fuel for the weekend, but because they are coming back continually and buying very small quantities of fuel.

Mrs Henderson: Are you saying they go to the bank two or three times on a Saturday?

Mr FRED TUBBY: I honestly do not know what they do.

Mr Wiese: Some of them do, especially the young ones.

Mrs Henderson: Then it is not because they do not have the money.

Mr FRED TUBBY: The Minister is living in a fool's paradise if she thinks people out there have money to buy fuel, because I am saying they do not.

Mrs Henderson: Do they go to the bank several times on Saturdays and withdraw $5 each time to buy petrol?

Mr FRED TUBBY: I know what my son does, and I know how much I pay him. He will go to a fuel station and buy $5 worth of fuel because that is all he has in his pocket at a time. He will do that on Saturday and will do the same on Sunday when he has scrounged another $5 from me. I would say that many other teenagers would do the same thing. I will not give my son $15 or $20 at a time because he would spend $5 on fuel and $15 on something else. I wait until he has almost run out of fuel and give him $5 at a time, and that is causing a problem for the service stations.

Mr P.J. Smith: It doesn't sound as though his dad is short of money, anyway.

Mr FRED TUBBY: How many teenage children does the member for Bunbury have? Perhaps he is lucky not to have them on his hands any more. The community is suffering an economic recession, and those people are feeling it just as much as everyone else, and because my son is feeling it I am too.

I do not think this Bill will do a great deal to improve the service to the public. The public is adequately served at present and if there are any anomalies within the metropolitan area it is quite within the powers of the Minister to fix them, and the fuel industry has indicated it will be very cooperative in this regard. It will increase the number of roster stations by 25 or 30 per cent immediately if the Minister asks it to and tells it in which areas the consumers are experiencing the most problems.

Mrs Henderson: The consumers are telling me it is everywhere.

Mr FRED TUBBY: That is a load of rubbish.

The next argument put forward is that this move will help rationalise the industry. Let me explain what "rationalise the industry" means.

Mr Clarko: It means strangling it.

Mr FRED TUBBY: Precisely – it means strangling the industry so that certain people are pushed out of retailing fuel. There are other ways for people to leave the industry without being forced into bankruptcy. The rationalisation of the oil industry is a very cruel way for companies to decrease the number of retail outlets they have. If they wish to cut back on the number of outlets in certain areas there is nothing to stop them from saying to a proprietor two or three years before a lease comes up for renewal that they will not renew the lease when it expires because the economic factors within the oil company do not allow them to continue to lease those premises as they are operating too many outlets. That is the humane way to rationalise the industry, rather than to extend the trading hours so that stations become unprofitable and are forced out of the industry through bankruptcy. That is totally inhumane and utterly callous and I cannot accept that as a good reason for extending the trading hours for fuel stations.

Another argument put forward is that the move will provide cheaper fuel. That sounds great, and it is a selling point that the consumers will pick up with relish in this economic climate. But who will cut his take? Will it be the Federal Government, which gets over 40 per cent of the fuel price? Has it said it will cut the Federal tax and thereby allow the consumers to receive cheaper fuel? No. Has the State Government said it will reduce the State fuel franchise levy and so provide consumers with cheaper fuel? No, because in every Budget it doubles the fuel franchise levy. That is not providing consumers with cheaper fuel; it is not looking after the best interests of the consumers. Just where does this Minister come from? She is trying to look after consumers, yet the Government comes in here year after year and doubles the fuel franchise levy.

Mrs Henderson: When was it doubled?

Mr FRED TUBBY: Last year it was doubled from the year before.

Mrs Henderson: Was it doubled in this year's Budget?

Mr FRED TUBBY: Was it not?

Mrs Henderson: No, it was not.

Mr FRED TUBBY: Was it not doubled last year? The Government keeps doubling everything and I lose track of the years. That is right – the Government doubled the financial institutions duty last year and redoubled it this year; it doubled fuel prices last year.

Mrs Henderson: Can you not tell the difference between the FID and the fuel franchise levy?

Mr FRED TUBBY: They are all imposts. Will the fuel companies reduce their profit margin per litre of fuel? No way. I asked the fuel companies where the cut would come from for the cheaper fuel and whether they would reduce their price to the retailer so that the reduction could be passed on to the consumer. They said, "No way. We are battling to make a dollar out of it as it is. We cannot reduce our costs." That leaves us with one party who can reduce costs, and that is the small businessman – the small retailer. What does he make out of the 83¢ or so per litre that he charges for fuel?

Mr Clarko: About 2¢.

Mr FRED TUBBY: He is allowed to make up to 6¢. For 18 months he was pegged at another amount. When was the last increase?

Mrs Henderson: Very recently.

Mr FRED TUBBY: Eighteen months prior to that the retail margin was set at 5.5¢. How much did the CPI increase in that time? How much did the small businessman's costs increase during those 18 months? I suggest his costs increased significantly. Although wages have not increased a great deal, they certainly have not remained static over that time. However, the retailers' margin was pegged by the Government at 5.5¢ a litre for 18 months. Recently it was increased to 6¢. What a magnificent gesture! Of that 6¢, how much does the retailer receive?

Mrs Henderson: How does it compare with other States?

Mr FRED TUBBY: It is about the same; some more, some less. I could give the exact figure.

Mr Clarko: Don't take any notice; she is yapping away like a Pomeranian.

Mr FRED TUBBY: That is not very kind.

Mrs Henderson: Actually, I liked the comment the other day about the Jack Russell dogs. I looked that up. Apparently they are famous for going after rats.

Mr FRED TUBBY: That is a significant contribution to the debate; it is up to the Minister's usual standard. In Sydney, the dealer makes 6¢; in Melbourne, 4¢; in Brisbane, 5¢; in Adelaide, 4¢; in Perth, 6¢; in Hobart, 8¢; in Canberra, 5¢ and in Darwin, 7¢.

Mr Clarko: That is gross.

Mr FRED TUBBY: That is the maximum margin.

Mr Clarko: What about net?

Mr FRED TUBBY: What about net? Members of Parliament possess fuel cards. The retailer at my local fuel outlet complains bitterly to me when I present a fuel card. I tried to make a deal with him the other day when I asked him to pay me $10 a week to not buy fuel from him; I would go elsewhere and send someone else broke. Retail outlets make 2.4¢ a litre from fuel cards. That is all that the oil companies allow retailers in profit.

Mr Clarko: That is a gross figure.

Mr FRED TUBBY: Yes, 2.4¢ a litre, although the maximum set by the Minister is 6¢. That figure does not cover costs. These retail operators must buy fuel in bulk from the oil companies; they do not operate on a 30 day account. They must provide up–front payments either before the tanker arrives or on delivery. Oil companies do not take personal cheques; they demand bank cheques. Can anyone imagine how hard it is to obtain a bank cheque when the banks are closed? Oil companies receive payments up–front. In many instances, the service station proprietor has a line of credit with a bank. He is charged interest on that line of credit. Therefore, proprietors use the bank's money to pay up–front for fuel which sits in the bulk storage depot, to be sold at 2.4¢ a litre on fuel cards. That 2.4¢ a litre would barely cover the interest costs on such an overdraft. We must also consider the running costs involved. Retail outlet proprietors go down the tube every time a fuel card is used. The oil companies, however, push the use of these cards and as a result the retailers suffer.

They suffer also in another way in that around the metropolitan area the oil companies have strategically placed commission and owner–operated fuel outlets. Such outlets have been drawn to my attention because they sell fuel to the consumer for around the same price as retailers purchase the fuel from oil companies. Oil companies are putting the squeeze on some retailers by keeping down prices. Taking all these issues into consideration, it is very difficult for a service station proprietor to make a profit of 6¢ a litre. Averaged out, the figure is far less. Those people are in a dire economic situation.

We are talking about rationalisation of the industry by forcing people out of the industry. As to the argument for extending trading hours on Saturday afternoons, the operators of service stations already open for 60 hours a week; considering the time spent before opening and post closing time, they probably work between 70 and 80 hours a week, without the additional roster hours. If we encouraged such people to open for another five hours a week, it would be a burden which small operators could not handle. The alternative is to employ someone to operate the service station during the five hour Saturday trading time. In that case, service station operators will pay penalty rates. The amount of fuel sold will not increase with the extension of trading hours because the same amount of fuel sales will be

extended over a longer time. Any student of economics could work out that the profitability margin will decrease as a result.

Mr Clarko: They will face higher labour costs.

Mr FRED TUBBY: Yes, and higher power bills. The higher labour costs are incurred as a result of penalty rates after lunch time on Saturday. A number of other factors reduce profitability. The industry is in a recession, and we are talking about forcing service station operators to pay even more as a result of rationalisation of the industry. I cannot go along with that, particularly at this time when the economy is in recession.

The Premier indicated that no review would occur before 1993, and the industry accepted that, but suddenly the industry faces a new proposal. Given the recession, given that the retail margin for service stations is pegged by the Minister for long periods; that oil companies are able to operate their own retail outlets and put the squeeze on small businessmen; and that they face penalty payments, the Opposition does not support the legislation.

To address the issue, rosters should be extended to provide more units and service stations out of hours. The retailers will accept that. If the Minister is serious about extending trading hours and the move towards further deregulation, she should do something about penalty rates. She should also consider a percentage margin rather than pegging the retail margin. A percentage margin will allow the figure to fluctuate and operators will make a profit.

Another alternative relates to credit cards. It is wrong that oil companies use credit cards to provide discounts to customers and glean the profits from retailers to provide such discounts. That issue should be addressed. Whether that comes about by discussion, agreement, legislation or whatever, the issue must be addressed. Before the Minister can move toward deregulation or the extension of trading hours, the issues must be resolved because the Government cannot deregulate or penalise one sector, namely the small retailer of fuel, without taking into consideration all other matters in order to make such operations profitable. Otherwise, there will be no point in their staying in business. We all know the significance of small business to the economy of this State. Small businesses employ around 50 per cent of the work force and 96 per cent of private enterprise in this State is small business. We must look after our small businesses.

Mrs Henderson: Don't you think that the price of petrol affects small business and the community generally?

Mr FRED TUBBY: It does.

Mrs Henderson interjected.

Mr FRED TUBBY: The Minister should reduce the levy. Let us look at the State levies, Minister: In Sydney it is 6.5¢ a litre; in Melbourne, it is 8.2¢ – that is a true Labor State – in Adelaide it is 4.5¢ – that is a generous Labor State; in Perth it is 5.7¢ – about par for the course; it is half way –

Mrs Henderson: What do you mean par for the course? You said –

Mr FRED TUBBY: In Hobart it is 6.2¢ a litre; in Canberra it is 6.5¢ –

Mrs Henderson: What did you say it was in Perth?

Mr FRED TUBBY: Hang on, let me read the whole list out. In Darwin it is 5¢; in Brisbane the Labor Government has not been in power long enough to do anything about this tax and as a result the levy is zero, zilch, nothing!

Mr Leahy: Is Sydney the highest?

Mr FRED TUBBY: No, Sydney is not the highest; Hobart is the highest – another Labor Government. If the Government were serious about reducing fuel costs to small businesses it would reduce the levy; that is why small businesses are booming in Queensland. One reason is that they make it attractive for small business. We can do the same here. We will pick up the taxes and charges in other ways once businesses get established and become more profitable. If the Minister is really serious that is one way the problem can be addressed.

Mr Clarko: That is how serious she is – she has gone.

Mr FRED TUBBY: Yes, the Minister has gone. I have no doubt she will be back. This

Minister has an answer for everything – half the time she is wrong, but that does not matter, she still has an answer for it.

Mr Clarko: The other half she does not know.

Mr FRED TUBBY: The last group of amendments to this Act concerns the Retail Shops Advisory Committee of which the Minister takes very little notice.

Mrs Henderson: That is a very sweeping generalisation.

Mr FRED TUBBY: I cited two instances a while ago –

Mrs Henderson: How many of their decisions have I rejected?

Mr FRED TUBBY: Did the Minister deny Christmas trading?

Mrs Henderson: Yes, that is one; how many?

Mr FRED TUBBY: Why did the Minister change that one?

Mrs Henderson: How many thousands more have I supported?

Mr FRED TUBBY: I do not know.

Mrs Henderson: You do not know, so what a broad generalisation to make.

Mr FRED TUBBY: It is the same sort of argument that the Minister uses.

Mrs Henderson: Why didn't you find out the facts before you made that statement?

Mr Clarko interjected.

Mr FRED TUBBY: I have cited two examples, both of which are recent; one concerns Christmas trading hours. What was the vote there? Was it 50:50?

Mrs Henderson: Yes, what else? What was the other one?

Mr FRED TUBBY: The vote was 7:1

Mrs Henderson: The committee did not recommend against Sunday trading, its first choice was Tuesday. The member is right, I did not select Tuesday.

Mr FRED TUBBY: Why?

Mrs Henderson: Because I am the Minister and I have that scope –

Mr FRED TUBBY: That is exactly why we will not give the Minister the power proposed under the amendments to sections 5 and 12; the Minister can make ad hoc decisions without accounting to anybody.

Mrs Henderson: If the committee could make decisions on everything there would be no point in having a Minister, would there?

Mr FRED TUBBY: The Minister has just confirmed our worst fears with regard to these amendments.

Mrs Henderson interjected.

Mr Clarko: Attila the Hun is like Joan of Arc compared with the Minister.

The ACTING SPEAKER (Mr Marlborough) Order! I am sorry but Hansard is having some difficulty hearing so please cut down the level of interjections and get on with the debate.

Mr FRED TUBBY: Thank you, Mr Acting Speaker. The Minister seeks to include a person from the Retail Traders' Association of WA (Inc) on the Retail Shops Advisory Committee. Under the current legislation the Retail Traders' Association and the WA Chamber of Commerce have one representative to represent their memberships. The committee comprises one person from the Western Australian Council of Retail Associations, two people from the Shop, Distributive and Allied Employees Association, three people representing consumers, and one representing the tourist industry. The amendment which the Minister seeks to move will increase the committee by three. It will give the Retail Traders' Association representation in its own right; it will increase by one the union representation; and a further increase of one will represent consumers. The Opposition proposes to amend that provision of the Bill to allow a further appointment of a representative of the small retailers – the Western Australian Council of Retail Associations.

The Opposition's reason for pursuing this amendment is because WACRA represents small retailers and small businessmen and the Retail Traders' Association and the Chamber of Commerce tend to represent the large retail outlets. Our attention has been brought to the differences between large retailers such as Myer, and small retailers such as the local deli, supermarket or clothing store. The claim from small retailers is that two representatives from the large chains will override and overwhelm their one representative. WACRA represents a large and diverse group of retailers and their representative is finding it very hard to provide adequate representation to all areas concerned. The association covers areas such as pharmacies, the motor industry - which has 1 500 members in its own right - licensed stores, meat and allied trades, jewellers, newsagents, the boating industry, hardware outlets and a body called the WA Retailers Association Inc which has 3 000 members in its own right. WACRA represent many thousands of small businesses throughout Western Australia and for it to have only one representative on the Retail Shops Advisory Committee is a bit uneven. It is therefore our view that small business representation should be increased and we will be seeking to move amendments in that regard.

In conclusion, the Opposition will not be supporting amendments which seek to extend the Minister's powers. The Minister has proved our point by her own statements this afternoon through interjection. We will not support the extension of filling station trading hours. However, we will support the extensions to the provisions for small retailers, and, with one minor amendment, we will support extensions to the Retail Shops Advisory Committee.

**MR TRENORDEN** (Avon) [4.18 pm]: I am experiencing some deja vu; the debate is not much different from the duck shooting debate yesterday. This Bill is all about warm feelings for the consumer, which is totally inappropriate in the current business climate in Western Australia. It is wrong and it is the National Party's view that it is inappropriate to impose a penalty on any section of business during the current economic climate. We will not accept any provisions of this Bill until certain requirements have been met. The National Party will not accept the community saying that it wants more services, but it does not want to pay for them. All services have a cost. In this argument about retail trading hours for service stations, the community cannot expect people to work for 70 to 80 hours a week for an annual return of minus $10 000, but in fact, that is what the community is asking this section of the industry to do. Before the National Party will agree to any of the provisions within the Bill we want to see some action in the areas which are causing pain to those retailers. The first area is the margin. Some service stations today are operating on a margin as low as 1.8¢ a litre, while the average is 4.5¢ a litre The service station operators' turnover on today's fuel price is eight per cent. They do not turn over mega dollars each day and it is very difficult for them to survive on that margin. Many members on this side of the House have been involved in retailing and most of them would have a fit if they returned to their old businesses and found they had to survive on an eight per cent profit margin. I know that a few members on the Government side of the House were involved in business.

Mr Shave: I bet the member for Balcatta did not operate on an eight per cent margin.

Mr TRENORDEN: That is right, and it is not appropriate. The Minister should not come to this House and suggest that Western Australians are paying through the nose for petrol because the petrol station operators operate on an eight per cent profit margin. I remind members that the eight per cent margin is the maximum margin and many of the service station proprietors are operating on an even smaller margin. The Minister is trying to tell the House that that margin is putting fuel beyond the reach of the normal Western Australian. We all know that is nonsense.

I am not sure of the figure, but the State and Federal Governments take 52 per cent of the price of fuel in tax. Is the Federal Government or State Government saying to Western Australians that they believe in the free enterprise system and that they will compete by reducing their amount of tax take from petrol. The Government is saying that the insignificant margin on which the retailers operate has to be attacked.

A survey undertaken in 1988 put the cost of running a service station at between 3.5¢ and 4.2¢ a litre of fuel. I have already said that the average service station is running on a profit margin of 4.5¢ per litre. The statistics show that 35 service stations have gone bust in the past couple of years and the Minister is telling us that there is a huge amount of fat in the industry and the Western Australian public is being ripped off by this section of the industry. It does not make any sense and the National Party will not support it.

If the Government wants to deregulate this industry – it has been very good at deregulating, it has deregulated three Premiers in my time in this House – it has to do something on the other side of the ledger to allow the service station operators to survive. I took part in the debate on the retail trading hours in 1988 with very little support from members on this side of the House, and I was told that Saturday afternoon trading was about giving service to customers. The truth was that Saturday afternoon trading transferred six per cent of the retail market from small business to big business. That is exactly what this Government wanted to do. The surveys undertaken in the retail area prove this. Who does the Government support? Big business!

Mr Leahy: Will you reverse that?

Mr TRENORDEN: Yes, I will reverse that decision if I can get the numbers in this House.

Mr Shave: I bet you will not get the numbers in this House.

Mr TRENORDEN: That is right, but my position has not changed.

This Bill has been directed by the fuel companies because under the private enterprise system they make the profit. Two groups gain from the fuel industry – the oil companies and the Government. We all know what fuel parity has done to petrol prices and the big winner has been the Federal Government. The other winner is the oil companies and they are telling us they want a 25 per cent reduction in petrol station sites and in Western Australia that would represent approximately 200 businesses. They want to do that by forcing the service station operators to the wall and that is typical of the attitude of big business. Most of the sites are leased by the oil companies which have the opportunity at the expiry date of each lease to purchase the property and to shut it down. Do they do it? I know that there have been one or two cases only. They do not want a rationalisation of the industry by their closing down sites; they want the Government, via the market, to squeeze the operators out of business. It is not a level playing field because the market is controlled by the oil companies and every member in this House knows that is a fact. The oil companies could buy out the lease of any petrol station site in Western Australia and shut it down, but they are not doing it. They want to use this Minister as a weapon to bludgeon the small operators out of business. That is exactly what will happen if this Bill is passed.

If there is a 25 per cent rationalisation of sites in Western Australia, will less fuel be sold? Of course not. The same amount of fuel will be sold and in time it will increase as a result of increased population and motor vehicles. Extra petrol pumps will be installed on the larger sites, not for the benefit of small business operators, but for the benefit of fuel companies. This Bill has been driven by a report presented by the oil companies.

Mrs Henderson: That is not true. How do you know what drives me?

Mr TRENORDEN: In the Minister's second reading speech she refers to the survey which was undertaken.

Mrs Henderson: I did not say that is what initiated this legislation.

Mr TRENORDEN: The Minister says the legislation was initiated by the consumers.

Mrs Henderson: That is right.

Mr TRENORDEN: Not one consumer representative on any of the advisory committees has made a complaint.

Mrs Henderson: That is not true. Is the member telling me that no consumer bodies have complained to me?

Mr TRENORDEN: I am talking about the advisory committees which are behind this legislation. I have no doubt that the Minister has received complaints from consumers.

Mrs Henderson: I have received thousands of complaints from consumers; is the member telling me I should ignore them?

Mr TRENORDEN: I am not saying that they should be ignored. Why is the Minister picking on the group which operates under the narrowest margin in this industry?

Mrs Henderson: It is not the narrowest margin. The member for Roleystone read out the margins and Western Australia is in the middle.

Mr TRENORDEN: How many retail outlets are operating on a margin of six per cent in this State?

Mrs Henderson: The food industry tells me it is getting not much more than that.

Mr TRENORDEN: How many fuel operators make six cents a litre on their fuel?

Mrs Henderson: A lot of people are getting less than a six per cent return.

Mr TRENORDEN: The whole industry receives less than six per cent. The Government receives 5.7¢.

The ACTING SPEAKER (Mr Marlborough): Order! If you direct your questions to the Chair we will get through this debate far easier and it will assist us all to reach the correct conclusion at the end of this process.

Mr TRENORDEN: The Government is not interested in and has not listed in any of its documentation the quality of life of small business operators. Several years ago I argued about that at great length in the original Retail Trading Hours Bill; my argument was not listened to then and it will not be listened to today. Trading hours is one of the few things that these traders hold dear to their hearts and one of the few things over which they have some control. This Government is trying to extend the hours for which they must open their doors. To give the Minister credit, she said in her second reading speech that there will be a limitation to 61 hours. However, that is not enforceable.

Mrs Henderson: Are you saying that if we make a law it is not enforceable?

Mr TRENORDEN: There is no way the Minister will be able to enforce that.

Mrs Henderson: The lease will be declared null and void. Are you saying that is not enforceable?

Mr TRENORDEN: Yes. The Minister has no chance of enforcing the legislation.

The ACTING SPEAKER: I know this debate has been going on for some time and that it is likely to go on for some more time, but it would be preferable if you could direct your questions to the Minister through the Chair, and it would be advisable and of great assistance if the Minister could wait for her turn as the appropriate time to give the answers.

Mr TRENORDEN: It does not matter what figure we put in the legislation; it will not be enforceable or capable of being policed. It is not that fuel companies will go to individuals and give them direct threats about how they should operate their businesses – they know they cannot do that – but no matter what sort of lease situation we are talking about, owners will always have the option of not renewing the lease or of enforcing options under the lease, so there will be implied threats. There is no law against making implied threats about performance, percentage of the market, etc; we all know that those things go on. There is no way this Bill will be able to enforce 61 hours. It is nice to have the rhetoric in the Bill but it will not happen.

In 1988 the margin was increased from five per cent to 5.5 per cent, and in October this year it was increased from 5.5 per cent to six per cent. There has been very little movement in the margin. The Minister told us that we need this Bill because these people are ripping off the State. It is just incredible that the Minister could bring that attitude to this Chamber. These provisions are oil industry driven and will benefit the oil companies, which have been proven over a long time to be merciless operators. The oil companies and the State Government will not be required under this proposed legislation to reduce their margins, yet the retailers will have to reduce their margins.

Thirty five retailers have become bankrupt in the last few years, and many more are on the list. Who will benefit from that? The poor people who go into this business put up on average $300 000 of their own money. Some 70 per cent of owner–retailers are small business operators who have put in their own money, and we churn them over like canon fodder. It is a bit like General Haig in the Battle of the Somme, who sent in his troops, and when they were slaughtered, he sent in some more. As long as the price of fuel can be kept down, it does not matter if some operators fail because some other clown will put up his $300 000 and will go broke a bit later. That is acceptable. However, it is not acceptable for the State or Federal Governments, or the oil companies, to drop their margins. This legislation will send these businesses over the cliff.

Mr Shave: It will increase their overheads, reduce their margins, and at the same time make them work harder.

Mr TRENORDEN: There is no question that the average cost of opening a business for an additional five hours will be $200. We are not talking about deregulating the labour market, divorcement legislation or lease regulation, or about increasing the margin. We are talking about the decimation of an important section of our community.

Mr Shave interjected.

Mr TRENORDEN: A Royal Commission may pick out a few of those things.

One thing that has not been mentioned is the number of apprentices which these small operators employ.

Mrs Henderson: Hairdressers employ apprentices and they open on Saturday afternoons. That has not sent them to the wall. They have not laid off all their apprentices.

Mr TRENORDEN: I am not saying that their employing apprentices will send these people to the wall. I am saying that a reduction of 200 sites in this State will lead to a reduction of X number of apprentices. The Government's objective is to reduce the number of sites that service the public.

Mrs Henderson: It is not and I have never said that.

Mr TRENORDEN: If the Government increases their costs, and refuses to touch their margins, how can anything else happen?

Mrs Henderson: Is that what happened in Sydney or in Melbourne? Why not quote some figures?

Mr TRENORDEN: Mr Speaker, I will not respond because I should be speaking to you. The point is that no matter in what a business may be retailing, if we increase its costs and do not do anything about its income, we will reduce its viability. That is all we are talking about. We are talking about doing nothing for these people's margins, labour or input costs. We are not talking about divorcing these people from the oil companies, although for a number of years the National Party has sought divorcement legislation so that people can buy their fuel from wherever they can get it at the cheapest price. We are saying that these people will be required to work longer hours and to increase their costs, and there will be no input on the income side; so what we are talking about is a rationalisation of this industry which will put people out of business. We can talk around it, but that is what we are really talking about.

In the Committee stage I will refer to other clauses of the Bill with which we agree. We believe it is appropriate to extend the small business qualification to two owners and four employees. We do not agree with clauses 5 and 12, which I will speak about at the Committee stage. The important point is that this industry has no control over its costs. The maximum price which it may charge is imposed upon it by regulation. The minimum price is determined by the price for which it purchases fuel from an oil company.

Mrs Henderson: Are you advocating that the retail price be deregulated?

Mr TRENORDEN: No.

Mrs Henderson: So you are just complaining about there being a ceiling on it?

Mr TRENORDEN: I am telling the Minister the history of this legislation. The maximum price is applied by Government and the minimum price is reached as a result of the purchase price of fuel. The real price is somewhere between the two.

Forty-two retail sites in the metropolitan area are owned by oil companies or run on a commission basis. Those 42 sites govern the price of fuel; that is, if a station a mile down the road is selling fuel for 2¢ a litre less, other stations will go out of business unless they meet that price. Oil companies can do a deal with the 42 stations to sell at a reasonable price. The operator on a commission does not need to worry because he receives a commission. However, the stations surrounding the 42 sites are governed by the price of fuel at those sites. A group of individuals are locked into the situation because market forces are not involved in the supply of fuel.

Consideration should be given to the cost of a 40 000 litre delivery of fuel; in February 1990

that represented $24 300, and the same quantity would have cost $30 700 over the past few days. In other words, extra costs have been incurred since the beginning of the Gulf crisis. Retailers pay $6 000 up front for the fuel before any profit is made. Of that $6 000 outlay, no profit is made because the margin cannot be expanded. As prices increase, people become price conscious and the profit margin is narrowed.

We are debating an industry in crisis; it is a pity that the Government does not recognise that fact. It would be a different matter if we were considering a boom climate with businesses in obvious good health and moves were proposed to change the modus operandi. However, we are not. The Government has introduced this legislation at a time of crisis in the industry. Many people face a desperate situation. Where is the concern of Government? The Government is driven by the same measures of the duck shooting debate yesterday; that is, when the polls reach 30 per cent the Government must seek a means to give the public a warm feeling.

The responsibility of this House is to treat people evenly. If the community demands "better service" from service stations the community must expect to pay for that service. That is fundamental to any economic equation. The industry can supply outlets if the consumers demand outlets; that is, if consumers want more rosters the industry can supply them. That would be a better situation because stations would be open on Saturday as well as Sunday. If stations are prepared to open that represents the provision of a service. The Minister does not acknowledge that argument; she is interested only in forcing this legislation on the industry. I wonder why.

Mrs Henderson: I will tell you.

Mr TRENORDEN: The Minister is driven by the oil companies.

Mrs Henderson: Do you reckon that you know and I do not?

Mr TRENORDEN: I do know. The Minister has mentioned a letter signed by ex-Premier Peter Dowding. I possess a copy of that letter; it is no big deal. The letter is dated 24 February 1989 and states that it is not intended that a review of the provisions relating specifically to the fuel industry will be included. That is clear. The next review will be in 1993.

Mrs Henderson: The letter does not state that there will never be another review other than the 1993 review.

Mr TRENORDEN: It would be interesting to hear what Mr Dowding would say were he still a member of Parliament. The Minister consulted a lawyer and received a lawyer's view of what Mr Dowding said. That is nonsense. Mr Dowding either encouraged something or he did not. People in the industry believe that he gave a clear indication of what would happen to the industry. The reason that the industry did not participate in the review in 1988 was that it was exempt and when we argued the retail trading hours it was not included. Why has the Minister now drawn the industry into a net?

The Opposition does not support the legislation. If the Government requires our support it should take the action to which I referred earlier. Retailers should be given the margin with which they can live. If their costs are increased we must also increase their chances of viability. The labour situation needs to be addressed. The labour situation was discussed when retail trading hours were reviewed in 1988. The unions took cover at the eleventh hour but still a sweetheart deal was agreed which reduced the input costs for labour. Divorcement legislation must be considered as a priority; that issue has been part of our platform for a long time.

If the Minister wants the Opposition to take the legislation seriously she should deal with all these issues because in this recession of 1990 we will not place upon any section of the community imposts designed to cripple it. The legislation is not designed to assist consumers; it is designed to cripple small business to the advantage of oil companies. We will not be part of that.

MR SHAVE (Melville) [4.47 pm]: I support the comments of the member for Avon because he has gone to the heart of the retail trading hours issue. I refer to the Minister's second reading speech in which she stated -

> Subsequent to the completion of the review it was concluded that the Government

> could no longer ignore the increasing community expressions of dissatisfaction with fuel trading hours.

No dissatisfaction exists in the community. The issue has been raised by the oil companies who desire the extension of trading hours. My electorate is a mixed one and in the past two years no–one has approached me regarding fuel trading hours. Out of 22 000 constituents, not one has come to me with a complaint about service station trading hours because people have nothing to complain about. Such services are perfectly adequate at the moment.

Further on, the second reading speech states –

> The Government has over a number of years received regular expressions of dissatisfaction with the current fuel trading hours from all community sectors.

That is wrong.

Mrs Henderson: How do you know?

Mr SHAVE: If the Minister says that is correct, and stands by her comment, she is being deceitful. The Minister knows, and everyone in this place knows, that not all sectors of the community or all sections of the fuel industry support her. I refer particularly to the traders who dispense the product. The Minister is being called to account by the oil companies. When they say jump, the Minister jumps. That is no different from the situation when the Government was dealing with Mr Bond and Mr Connell; when they said blink, the Government blinked; if they said the Government should shake its head, it did so. The Minister is doing exactly the same with the oil companies. The Minister made the comment –

> Members will be aware that, while improvements have been made to general retail trading hours, no substantial changes have been made to service station trading hours for nearly 30 years. Following consultations with the representatives from all sectors of the fuel industry, it was resolved to extend service station trading hours on Saturdays from 1.00 pm to 6.00. This is in line with previous arrangements when the Act resulted in general closure of retail outlets at 12 noon on Saturdays, and petrol retail outlets were permitted to trade for one hour longer until 1.00 pm.

I am glad that the Minister did not say it was unanimously resolved; at least she was half honest in what she said.

Mrs Henderson: I choose my words carefully.

Mr SHAVE: Yes, the Minister does choose her words carefully.

Mr Strickland: The Minister spoke with the representatives of the 20 per cent and forgot about the representatives of the other 80 per cent.

Mr SHAVE: Yes, the unfortunate thing is that the Minister makes different statements at different times and she gets herself into trouble.

Mrs Henderson: No, I do not.

Mr SHAVE: How hypocritical are these oil companies? In my area a service station which has been operating for 30 years is being closed by an oil company. It is surrounded by pensioner units, and pensioners use that station all the time, but the oil company decided it would rationalise and said that it did not need the site any more. At the same time, the oil companies are saying that not enough services are available.

Mr Kierath: Are they putting new service stations anywhere?

Mr SHAVE: No. They will open on Saturday afternoon because the public is not getting service. The service station companies do not give a damn about the public. The only thing they give a damn about is their shareholders. With this legislation the Minister will send many small business proprietors to the wall, because they will not be able to sustain the overheads the Minister is inflicting on them. The Minister is not satisfied with excessive Government charges for such things as electricity, which is turning businesses away from this State in droves, she is now trying to club these small businesses which have some chance of surviving given a bit of a deal. What is the Minister doing to them? She is saying the Government will force them to open, because the oil companies have sold her a story.

Mrs Henderson: There is no story at all.

Mr SHAVE: The Minister does not understand, she has no concept of the small business sector, of overheads, and what it takes to run a small business. I will give members some examples. I was in small business for 20 years. I used to run a bar in the Fremantle Markets which opened on Friday and half of Saturday. During that period we took in a certain amount of money; and it was not a bad business. The proprietor of the markets decided he wanted to open all day Saturday and Sunday. It transpired that the takings of the business did not increase. What did go up were the overheads, because people spread their shopping over a three day period. The Minister might say that that is good, as it allows the public to have more choice over a longer period. I will concede that she is partly correct, but the deal on Saturday afternoon trading has not been put to the public correctly. If it had been it would not have received the response it did. If the oil companies and those who did their surveys had told the public that they intended to force small businesses to open on Saturday afternoon, which would increase overheads, and that they would not give them any more margin on petrol and products that they buy, and that the Government would not drop its charges, and that electricity rates would increase because the power would be on for an extra five hours on Saturday afternoon, there would have been a different response. These businesses have only one alternative to avoid bankruptcy; that is, to try to recoup those costs in another area. Someone running a service station is limited in what he can do to recover those costs. I have many pensioners in my area. They have to go to those roster stations because they do not have enough money to put a full tank of petrol into their car.

Mrs Henderson interjected.

Mr SHAVE: The Minister can have her say in a minute. Every time I get on my feet the Minister goes yap, yap.

Several members interjected.

Mr SHAVE: The Minister suggests she cares about those pensioners, but she does not; she cares about the oil companies. Those pensioners go to the service station on Saturday afternoon; they think it is great they can get their petrol without having to go 500 yards down the road to the roster. However, the petrol station proprietor now has another $200 bill to pay each week, and the money must come from somewhere, so what does he do? Poor old Mrs Smith, who is on the pension and does not have enough money for a week's groceries because of this Government, is charged more for a lube job on her car. Of course, costs must increase, because the service station proprietor and the small business person, who the Minister says that she represents, have put up their prices. The service station proprietor does not display a large sign advising Mrs Smith that the new radiator that she could have purchased at $250, now costs $275 because Minister Henderson made his business unproductive; or that unless he does what Mrs Henderson says, he will go broke. That is the legacy of what the Minister is doing. The Minister's actions are no different from the supermarket chains. I can remember when there were many small grocery businesses around. They did not make a lot of money, but they were good hardworking people who worked 60 hours a week. The supermarket chains eliminated the butchers, the small business people and everything was centralised. What did the supermarket chains do then? They put up the price. They brought in young labour – 16 year olds – and when they turn 18 years the supermarket chains sack them because they do not want to pay the higher wages. The small family business on the corner is gone; someone else is on the dole queue. The Minister is supporting multinational companies that are kicking to death small retailers in Western Australia. Her Government is being lubricated by the oil companies. They have got to the Minister and it may well be that she is prepared to accept that.

Mr Kierath: That is surprising from a left–winger. I would not have expected her to be a champion of the multinationals.

Mr SHAVE: No; what members in this House do not realise is that the Minister is one step in front of all of us. The Minister knows why she is doing this. I will tell members what the Minister's assessment of the situation is. If service stations hours are extended from 1.00 pm to 5.00 pm, more service stations will be open and more people will be employed on Saturday afternoon on penalty rates. In these times when the Government is heading towards the worst employment record in this State for the past 20 years, the Minister has come up with a new system –

Mr Graham interjected.

Mr SHAVE: Members on that side of the House should stick around until next March, and we will see what they say when the farm crisis really hits Western Australia. The Minister thinks that she will create employment with this exercise. The oil companies have sat her down and said that they will create employment. However, the Government is also saying that it will rationalise the industry; it wants to cut out service stations. If the Government does not cut the number of service stations and force every business to remain open on Saturday afternoons these business proprietors, as they get into difficulty, will cut their services to the public. They will not have the necessary infrastructure to run their service stations properly. They will cut back on labour services and the price of labour will increase. How can the Minister say that she is interested in small business? The Opposition does not intend to be dictated to by the oil companies and for that reason this legislation will be rejected in another place.

A couple of weeks ago the Minister went to a great deal of trouble to explain how the Government supports small business proprietors. The Minister may not want to listen to what I am saying but she may like to tell the House how many of these small business proprietors who have been forced to open for business on Saturday afternoon have thanked her for what she is doing. Not one service station proprietor in my area has said that opening on a Saturday afternoon is a good idea.

The proposal by the shadow Minister is supported by the National Party to the extent that it believes the number of roster stations is adequate. In fact, it is sensible because roster service stations provide a service the public wants and, at the same time, do not provide an excess of services to the market. Every other sector of industry and other small business – they may not have spoken to the Minister – has been forced to open on Saturday afternoon in competition with the supermarket chains. This has had a negative effect on the industry. The Government is simply being dictated to by large business groups and accepts what those groups want. The situation is no different from what happened with the Burswood Casino when the Government gave its friends 15 year exclusive contracts on video poker machines at the expense of the rest of the industry. The Government also gave the casino 24 hour trading. The Minister can walk out because I, too, would be embarrassed if I was sitting on the Government benches. The Government gave favours to a group of people who funded it politically. I suggest that if it continues to do with the service stations what it has done with the retail trading hours by supporting multinational oil companies at the expense of the decent hard working proprietor in Western Australia the public will say exactly the same thing.

The SPEAKER: Order! It is improper to imply that sort of activity. While I do not want the member to withdraw I want him to be aware that what he is saying is improper.

Mr SHAVE: I will try to be more careful Mr Speaker. When the debate is concluded in this House and when the Bill goes to the other place I hope that members of that House will be sensible and realise what the Government is proposing. I hope they will realise that this Bill will have a negative effect on the industry. The public should realise that if they support extended trading hours they will pay for those services. They will pay for something they do not really need. It is like saying to a tennis coach who has a certain number of people working for him and who provides an adequate service three times a week at the local tennis club that he has to open for 24 hours a day and has to be on call to service the kids that want to learn tennis. The tennis coach may be prepared to do that. He is a small business proprietor and he will meet the market demand as long as it is being paid for. If that is the kind of service people want they have to pay for it. If this legislation is passed it will do nothing more than increase the burden and costs on ordinary Western Australians who are badly disadvantaged at the moment by the increases in charges and services over the past six or seven years.

**MR STRICKLAND** (Scarborough) [5.05 pm]: I support the stance taken by the Opposition. I have attended discussions with representatives of the oil companies and representatives of the motor trading associations and, most importantly, I have taken the trouble to talk to my local service station proprietor and other service station proprietors. That is the way to get to the bottom of the discussion; we must talk to the people who are affected by this legislation.

At present, the fuel crisis has caused a sharp fluctuation in the price of petrol. It is simple to

see what has happened. The people who buy petrol for their motor vehicles do not have any more money to spend on petrol. As the price of petrol increases the money that is spent on petrol stays the same but the volume of petrol sold decreases. People do not have any more money to pay for the amount of petrol they are used to purchasing and have looked at other ways of conserving petrol, including car sharing and cutting out the Sunday drive. This has had a major impact on the garage proprietor because he is paid 6¢ a litre if petrol is paid for in cash and 2.4¢ a litre if it is paid for by a card and if the volume of petrol he sells decreases his income decreases.

I asked my local service station proprietor to give me – and in fact I placed on the record – the financial details of his operation. I am not willing to repeat those now but he went from a marginal profit situation to a loss situation. More importantly, when his business was analysed there were three sides to his business: Repairs, the selling of petrol and the subsidiary side; that is, the sale of items in the shop. This service station proprietor needed to earn about $5 000 a month from his repairs so he could make a small profit. However, that was prior to the increase in the price of petrol. Subsequently, because no more repair work, other than the $5 000 a month, was coming in he was making a small loss. Three groups are involved in this equation: The oil companies, the retailers who sell the petrol and the public.

I understand that the volume of petrol sold is proportional to the number of cars on the road and, to a certain extent, to the cost of petrol because when the price increases people tend to conserve it. It is not incorrect to say that the oil companies will be selling that volume of petrol regardless of how many retail outlets there are because, if the number of outlets is reduced, in some way people will get the petrol they need. The oil companies are not worried about whether there is a reduced number of retail outlets; they would still make the sales and thereby the profits.

However, the retailers of petrol will be affected because the petrol side of their business does not pay its way. Other speakers have alluded to the reasons for that. Basically, the reasons can be either restrictions in the take off of 6¢ a litre or the volume of petrol sales because, if each station sold more petrol, it would make enough 6¢ per litre to make a profit. I cannot argue with that. However, I want to reflect for a minute on roster stations which are examples of the sorts of businesses which do nothing but pour petrol into cars that queue up down the street. Some people may appreciate queuing up at the petrol bowser to obtain their petrol. However, there are many people who do not want that sort of service. They want a different sort of service from their garage. The people who are not mechanically minded like to drive into their service station, get their petrol and talk to the proprietor about the problems they are having with their cars.

Mr Read: And he says that will be 60 bucks. How many service stations do you stop at and talk to the proprietor like that?

Mr STRICKLAND: Many people do when they have problems with their cars. They take advice. That is how the garage proprietor obtains many of his jobs.

From the customers' point of view, if the number of outlets is reduced, that local flavour which many people value will be lost. People develop a rapport with their local garage proprietors and sometimes, even when they move away from the district, go back because of their association with him or her and because of the advice that he or she was able to provide.

What we are considering is the whole question of rationalisation and its impact on two groups – the garage proprietors and the customers. If the number of petrol stations is reduced, the public will get a reduced service, not in the way petrol is put into their cars, but in the provision of many other services which people want. If trading hours are increased there will be fewer service stations. Other members have said that increased trading hours means extra costs which in turn means reduced margins and more people going broke. The loss of businesses is one way of achieving rationalisation. The oil companies indicated to me that they agreed with fewer outlets for petrol. In some ways it is no skin off their noses and it probably reduces their costs. Therefore, they would be happy if rationalisation was speeded up. I agree with the need for rationalisation. About 35 stations closed in the last two years.

Mr Graham: Why do not the gloom, doom and horror stories related by you and the member for Melville not happen in the north west where there are no restrictions?

Mr STRICKLAND: I do not live in the north west. However, I imagine that one aspect of that is that they are in country towns and have much local input and the other aspect would be that many people travel through those towns.

As I said, I believe the oil companies want to see an accelerated rationalisation program and extended retail hours will provide for that program. That is why it has the support of the oil companies. I do not deny that the fundamental problem for people selling petrol is that they cannot make a profit from those sales. The solution has to be some sort of rationalisation or increased margins. The challenge that has to be faced by the oil companies because they created the number of petrol stations that we have today –

Mr Clarko: One on every corner!

Mr STRICKLAND: That was the mentality. They were all competing with each other. Selling points for different brands were set up all over the place.

I believe in supporting the small businessman and one of the ways we can do that is to realise that, while rationalisation is necessary, there should be time for people to adjust. Oil companies should consider programs to assist the owners of these outlets. People have to be allowed to get out of those businesses without losing every cent of their life savings. Those people should not be at the mercy of the Minister who is the one person who can set the margins. She should re–examine the submissions on margins made to her by the Motor Trade Association of WA. It appears that the pricing should be fixed on a percentage basis rather than the figure being fixed at 6¢ a litre, so that the relativity of profit would be retained. That would help level the playing field and provide some opportunity for the petrol station proprietors to get by, as other people are trying to do, in these difficult times.

I conclude by indicating on a personal level that I always check my petrol gauge and when I need petrol I have no trouble getting it from a petrol station. Because I have a card with which to purchase petrol, as do other members, I go to a local service station and fill up my car once a week. I do not have to run around looking for roster stations very often, in fact probably once a year at most.

Mrs Henderson: You are on a higher income than many people.

Mr STRICKLAND: It does not matter how high a person's income is; that has no bearing on whether he needs to go to a roster station. I check my petrol gauge and if the level of petrol is getting low I go to the garage, usually every Friday morning, and fill up my car.

Mr Troy: Your orderly, mathematical mind allows you to do that.

Mr STRICKLAND: A lot of people do that and a lot of people check their petrol gauges regularly. The present system is satisfactory and I support the retention of it. I oppose the Minister's proposal on the grounds, firstly, that I do not believe it is a step in the right direction and, secondly, it will create hardship for a lot of hardworking people in an economic climate in which people are at their wits' end trying to survive.

MR KIERATH (Riverton) [5.22 pm]: My colleague, the member for Roleystone, has outlined the Opposition's position on most parts of the Bill, and I will confine my remarks to the retail trading hours.

I have asked myself what this Bill will achieve, and in short and simplified terms I surmise that it will increase costs, cause bankruptcies among small business, and hand that trade to the large national oil companies. A service station is open for a set number of hours and it has overheads and fixed costs. If the costs are increased by extending the trading hours I do not believe the sales will increase to a sufficient level to make it worthwhile. There is a heavy mark-up on the cost of petrol sold during Saturday afternoon trading because of the regulated wage structure which results in a pay loading of time and a half for staff working at that time. No–one in the industry, including the oil companies, has disputed the additional cost of $10 000 a year for extended trading hours, although the national oil companies have said it will be worth the while of some operators to stay open. As the figure of $10 000 has not been disputed we must take it as accepted.

The average cost of investment per site is between $250 000 and $300 000. When the oil companies approached the Opposition they said that there were about 500 sites in the metropolitan area and the optimum would be 300 sites; in other words, a reduction of 200 sites. If 200 businesses ceased to operate and that number were multiplied by the

average investment, the resulting loss would be approximately $50 million. That loss would not be borne by national oil companies but by small family businesses. Where will that money go? The oil companies are a virtual cartel and they will simply transfer the money to their profits. In the 1970s the report of a Royal Commission inquiring into this matter did not recommend any changes to trading hours. Approximately 85 per cent of service station sites in the metropolitan area are company owned. The commission agents are company owned and operated, and they invariably start the price wars. In many cases they sell petrol at prices lower than other operators can buy it.

If one considers the question of regulation and deregulation of retail outlets, and the oil industry in particular, it will be recognised that every aspect of the fuel industry is regulated. Even the sites are regulated. No-one can establish a service station on any site of his choice. Regulations cover the location of sites, the facilities provided, and the trading hours. The regulation of trading hours includes not only when the service station may open, but also when it may not open. I asked the Minister questions in this House about a person being threatened with a fine because he dared to serve petrol one minute before the specified trading hours.

Wages in this industry are highly regulated. The Government does not have the courage to deregulate the wage structure, or to tackle the hard issues. It fiddles around with the margins and messes around at the edges. The price of oil is regulated by all sorts of authorities, both Federal and State. Everybody has his or her finger in the pie. In fact, somebody said that there are so many fingers in the pie, there is hardly enough pie to go around. Every aspect of the service station industry is highly regulated. Even the supply of fuel is regulated, and payment for the fuel is regulated by the oil companies. No credit is provided, as with many other businesses, and sales are strictly on a cash on demand basis. Were the Government to seriously consider deregulation, surely at the very least, as it is prepared to deregulate trading hours, it should deregulate prices. In that way at least if the overheads of service stations increased as a result of the additional trading hours on Saturday afternoon, the proprietors would have an opportunity to recover the additional costs. That would be the case if the Government were half serious about freeing up the service station industry and trading hours.

That brings me to the question of why this Bill is necessary. In the area I represent it is never a problem to find a roster station at the weekend or after hours. In fact, the situation is better now than it has ever been. I remember when I worked in a service station, while putting myself through the Western Australian Institute of Technology, that queues at roster stations on Sundays extended a mile down the road. In recent months since this issued has surfaced, I have made a point of looking for the roster stations at weekends and after hours to see whether there are any queues. In the past four months I have not seen at a roster station in my area a queue which goes beyond the boundaries of the service station. Therefore, members should ask themselves the serious question: What is the justification for deregulating trading hours? One of the important aspects is the role oil companies play in this matter. I have a copy of a recent agreement that was negotiated and signed on behalf of one of the major oil companies, Caltex Oil (Aust) Pty Ltd, and I will read the condition of lease agreements and franchise agreements -

> (xiv) Carry on the Business and offer Caltex motor fuels for resale at the Premises during the trading hours specified in Item 1 of Schedule C (or such other agreed trading hours, or if none are specified or otherwise agreed, during a minimum of twelve (12) hours each day, seven (7) days per week, subject to any restriction, more limiting on trading hours, as may apply in relation to the Premises from time to time by force of law, in which case the Dealer's obligation, while the said restriction applies, shall be to trade the maximum number of hours legally permitted.

That is very important. First of all, the catch-all phrase is 12 hours each day, seven days a week. If nothing else applies the proprietors are tied to those hours. If as a result of legislation passed by this Parliament fewer trading hours are permitted, the agreement states that proprietors shall trade the maximum number of hours legally permitted. One of the furphies spread by the Minister and some oil companies is that proprietors will have the option of trading on Saturday afternoons. This agreement clause proves that that is a load of rubbish. The contract is so tight that the operators will have no choice about whether they open during those additional hours. In recent times we have seen lease agreements increase

beyond all recognition. We have seen an increase in franchise fees, which has been another attempt by oil companies to extract extra rent out of the petrol retailing sector. There has also been a substantial increase in oil charges.

**[Questions without notice taken.]**

*Sitting suspended from 6.00 to 7.30 pm*

Mr KIERATH: The oil companies have said they want to deregulate the trading hours. It is interesting to note from the contract which I read to the House that they want total control over the hours which a petrol retailer will trade. That is rather interesting because, on the one hand, the oil companies peddle the argument of deregulation while on the other hand, they are solidly working to try to regulate the hours during which petrol retailers can trade.

The oil companies have very tight control over lease agreements and also over franchise agreements, which has been a relatively recent initiative in the petrol retailing industry. There has been a growth in the number of franchise agreements and the conditions of those agreements are highly regulatory. In answer to questions the oil companies have said that they will strongly enforce those agreements. While I do not deny them their right to do that, I find it ironic that, on the one hand, the oil companies are arguing for deregulation and, on the other hand, they are fiercely trying to regulate every aspect of the petrol retailing arena. Oil companies also have a major input into the setting of the retail price of petrol. It has been stated that in order to have total control over the price of petrol service stations would have to be 10 kilometres apart. Company owned service stations, by creating price wars, could control the level of pricing in the area. They could start and finish the price wars.

I look at this legislation as it will affect my electorate. Within the Riverton and Willetton area there are eight petrol retail sites. The figures I have been able to obtain reveal that between 1.00 pm and 6.00 pm on Saturday the average quantity of petrol sold is 8 000 litres. If all those sites were open and they received the profit margin of 3.5¢ per litre, on total petrol sales of 1 000 litres per site the retailers would each receive a grand total of $35 gross profit for remaining open between those hours. From that gross figure must be deducted the labour costs for the afternoon's trading of $200, leaving each retailer with a net loss of approximately $165. I will explain to members how I arrived at that figure: An operator on time and a half costs a retailer $16 an hour. A service station operates for approximately 61 hours a week and to remain open for Saturday afternoon trading will result in a retailer, if he values his lifestyle, employing two people to man the pumps. The cost incurred would total $200. The net cost to the service stations in my area would be $1 600 and this proposal will drastically reduce the profitability of the service stations. If one station has a larger than normal share of the market it will be better off, but it will be at the expense of the other stations. I would not be concerned if they were able to trade when they wished because they could shut their doors if they found it was not profitable to remain open. I thought that was the basis of deregulation. However, the contracts drawn up by the oil companies require service stations to remain open 12 hours a day, seven days a week unless they are restricted by trading hours. They are compelled by the oil companies to trade the maximum hours allowed by law, and that is intriguing. On the one hand the companies want deregulation while on the other hand they are tightening the regulations, and the petrol retailer does not have any choice.

It is interesting to note that every State in Australia, apart from New South Wales, has one refinery. New South Wales has two, so there is not a hot bed of competition in this area. Some of the worst problems of the petrol retailing industry would be overcome if the wholesalers were taken out of the petrol retailing arena, but that subject is not before the House.

This legislation will result in people changing their buying pattern, and if that is the intention of the legislation it is something which should be given consideration. Unfortunately the Minister did not give that as a reason for this legislation in her second reading speech. The only advantage will be a change in buying patterns and one may ask, at what cost? If 200 sites close, the result will be that $50 million will be taken from the small business arena and transferred to the oil companies. The lifestyle of the families of petrol retailers will suffer. With the oil companies controlling the total market their total market share will remain the same.

I cannot see a demand for this Bill except that the oil companies may be given additional rights. However, I cannot stand by and watch small business in my electorate being destroyed. If I were to look at the question from a customer point of view I would ask which area could be improved. In my electorate people have no problem obtaining petrol after hours. I have not received any complaints in this regard. From a customer's point of view there is no advantage to be gained from this legislation. There may be an advantage for the proprietor of the service station. A proprietor whose service station is strategically located may receive some financial benefit as a result of the legislation, but the other seven service station proprietors in my electorate will not. The Government will not gain additional revenue and I cannot see that this legislation will advantage it. The advantage will go to the oil companies because there will be a reduction in petrol station sites.

I ask members to consider how we have arrived at this situation of oversupply of sites when 85 per cent of sites in the metropolitan area are owned or controlled by oil companies. The oil companies have been a major player in that over production, yet they are now turning around and saying they do not have a role to play and will not accept their share of that cost but will off-load that cost on to small business people. I cannot wear that. If the oil companies in other States were to say to me that they may consider some buyout arrangement, I think that would be a responsible attitude, because they have indulged in this over supply and they must address that problem.

One of the key elements of this legislation is to prevent that very thing from happening; to ensure that the pain is gained from small people, who really are in no position to stand up for their rights. I conclude with one line: This proposal has too much pain and not enough gain.

**MR THOMPSON** (Darling Range) [7.41 pm]: Mr Speaker, I believe I am probably the only person in this place apart from you – and I cannot comment on your position because you are impartial as the Speaker and I am sure you do not have a position on this legislation – who is true to his philosophy. I believe in free enterprise. The people who sit opposite do not believe in free enterprise. The people who sit on this side of the House believe in free enterprise but when they are given an opportunity to practise it, they run away from it. We often hear members opposite espouse their philosophical approach to matters like this, yet on this occasion they have introduced legislation which is generally against the way they do things.

This community would be a better place if we did not have regulation to control a whole range of things in the trading field. The member for Applecross, who was member for East Melville at the time, and I were the only two people in the Parliamentary Liberal Party room who supported the freeing-up of retail trading generally.

Dr Watson: Is this a Caucus leak?

Mr THOMPSON: No, just a statement of fact, but because some pressure had been applied to the Liberal Party from people who were in the business sector that it was against their interests to free-up retail trading, the Liberal Party chose on that occasion to not go along with its shadow Minister. I was the shadow Minister at that time, and I recommended to the party that in accordance with our philosophical position we should support the freeing-up of retail trading. That is a position I have now. I am no longer bound by the decisions of the Liberal Party. I am able to respond to the philosophical view that I have about a range of matters. I am a vigorous free enterpriser, and I believe that until such time as this country gets rid of the shackles of regulation, we will not see the economy emerge as it should.

The restrictions that apply to retail trading belong to an era that has passed. Indeed, I cannot understand why those restrictions were imposed in the first place. North of the 26th parallel there are no restrictions with respect to trading, but people seem to get by. I have some concern for people who are in the business of retailing petrol now because they bought into their businesses when the rules were one thing and the rules will now be changed. I accept that those people will be disadvantaged. However, as far as I am concerned that is not an argument against change. I believe we should change, and although that will be harsh on those people who are in that industry, I suggest that if they do not want to trade on the weekend they are not obliged to, and if they feel that they will lose so much of their business that they cannot survive, then perhaps they should simply sell their business to someone who is prepared to work on Saturday afternoons. If that means there will be fewer retail outlets for petrol, then so be it. Why should the system prop up more outlets than are required? I

believe that given a period of shakedown, people will adjust to this, just as people have adjusted to late night shopping on Thursday nights and to afternoon trading on Saturdays. Some people elect to open and others elect not to open, and what is the matter with that?

This morning as I was driving into the city I heard on the radio Bunnings, which apparently has recently taken over Alco, advertising that people can now buy hardware on seven days a week. That is good. There is nothing wrong with that. I believe that in every sphere of retail business, people should be able to shop at a time when it suits them; and businesses will adjust their trading hours to suit the convenience of their customers. That happens in many countries of the world without any great difficulty, and it is time we started to get rid of the shackles of regulation.

The party of which I was a member was always saying it would get rid of regulation and allow people the freedom to do the things they should be able to do, but the moment a piece of legislation comes along for them to implement that philosophy, they run away from it. That is a nonsense. I believe that in the same way as the people in towns north of the 26th parallel – and we are not talking about insignificant small towns but about Karratha, Carnarvon, and towns like that – have sorted themselves out, people elsewhere could do the same.

Mr Fred Tubby: They do. We have got the roster system.

Mr THOMPSON: If there is a roster system north of the 26th parallel it is because they work it out among themselves.

Mr Fred Tubby: Exactly the same way they do here.

Mr THOMPSON: Okay, but that is a decision for those free enterprise operators. The free enterprise operators in the metropolitan region and in zones around country centres should sort that out for themselves. They should not rely on legislation to do that.

I am concerned about the people who are in the industry at the present time because if this legislation survives some readjustment will need to be undertaken, but I am firmly of the view that not only in this area but also in other areas we should get rid of regulation. It is a nonsense that on a Saturday afternoon a person can buy a range of things at his local shopping centre but he cannot buy petrol to drive home his car. People say it is not profitable for them to stay open during the afternoon, but where is the legislation to state that we will close retail outlets on Fridays? If people could get by without being able to buy petrol on Saturday afternoon they could probably get by without buying petrol on Friday, and that would increase the profitability of businesses. However, no-one is suggesting that, but that is an extension of the argument that if we make people trade on Saturday afternoons their profitability will fall and there will probably be fewer outlets. However, the outlets that are there will provide a full range of services for six days of the week. In fact, it should be for seven days of the week, but that is not what is contemplated in this legislation.

It is because this legislation is strictly in line with my philosophical belief that I support it.

MRS HENDERSON (Thornlie – Minister for Consumer Affairs) [7.50 pm]: I thank members opposite for their contribution to the debate. This legislation highlights the predicament that the Opposition faces. On one hand, as the last speaker mentioned, the Opposition proposes and espouses a philosophy of removing restrictions on the capacity of business to trade. Opposition members claim to want to remove red tape and to free up opportunities for people to exercise some chance to expand and to ply their trade to the best of their ability, but when something like this is brought before the Parliament the sectional interests of one small group in the community are seen to outweigh every other interest in the community.

This legislation is consumer legislation, let us make no mistake about that. It is not legislation in regard to petrol station trading hours designed to assist one narrow sector of the population. It is designed to rectify an anomaly which means that consumers in Western Australia can buy almost all other products on Saturday afternoons but are restricted in their capacity to purchase petrol; so that we have in this State a strange situation where we alone stand on the Australian landscape as the State that has a roster system that has been intact, virtually unchanged, for almost 35 years. I would suggest that for consumers that is not good enough.

The Opposition put forward a wide range of views as to why I was bringing this legislation into the Parliament, the essence of which was that somehow I had been coerced by the oil companies into coming here and presenting this legislation on their behalf. Nothing could be further from the truth, and it is a measure of the way in which members opposite do not listen to what consumers in this State are saying that they are not prepared to accept the point of view that consumers want change. Not only have I received numerous telephone calls, letters and petitions –

Mr Fred Tubby: Not "thousands", only "numerous"?

Mrs HENDERSON: One petition had 3 000 signatures. Not only have I received these communications from consumers who want to see extended petrol trading hours, but also major organisations that represent groups in the community have sent me letters urging me to continue this action. For example, the Australian Tourism Industry Association (Western Australia) wrote to me in these terms –

> This Association, representing all elements of the State's tourism industry, strongly supports the abolition of the Petrol Roster system and advocates the introduction of a more realistic system of petrol and service station trading hours.
>
> The Roster system is outdated and operates, in our opinion, to the benefit of the station operators only.
>
> Your continued efforts to bring that element of the service industry into the Twentieth Century for the benefit of both resident and visiting motorists is appreciated by this Association.

Similarly, the Consumers' Association of Western Australia wrote to me saying –

> I know I have been sometime answering your letter seeking support for the extension of service station hours to include Saturday afternoon, but I wished to take it to a full meeting of the Association, which was yesterday.
>
> With the greater mobility of individuals and the extension of retail shopping hours to 5 p.m. on Saturdays consumers look to greater flexibility in other services. Many consumers would like to combine their Saturday afternoon shopping for household purchases with a visit to the service station. There may not be a much greater sale of fuel, but it would enable more orderly sales – at present Saturday morning is often a very busy time for service stations.
>
> Our members very much support your comment that you are . . "taking steps to ensure opening beyond a certain number of hours is voluntary". It is hoped that some co–operation and adjustments between the various service stations will provide more service to consumers with the Saturday afternoon extension. The increasing population of the State and number of cars on the road, the greater use of the car, with the resultant gradual reduction in public transport, means extension of service station hours would seem the logical way to go.

Mr Fred Tubby: Do you expect us to believe that those groups wrote to you requesting action? That letter said it was written in response to your letter seeking an opinion. That is a different ball game altogether.

Mrs HENDERSON: The member for Roleystone should allow me to continue. I read out a letter from the WA Tourism Industry Association which it wrote to me expressing its views, and I read out a letter from the Consumers' Association of WA.

Mr Clarko: How many people are in that association?

Mrs HENDERSON: I do not know; I do not have access to its membership list. I also have a letter from the Citizens Advice Bureau and I challenge anyone in this House to question the integrity of that organisation and the support and services it has been offering to citizens in this State for, I think, more than 30 years. That organisation wrote –

> I personally agree with the sentiments you have expressed with regard to the need for more flexibility in the trading hours of service stations, –

Mr Fred Tubby: So you were putting thoughts into their minds. Fair go, Minister!

Mrs HENDERSON: No, I had made public statements about service station trading hours at

the time this letter came to me, and that organisation has referred to the sentiments I had expressed about those trading hours. I am not surprised this makes members opposite wriggle in their seats, because one after another they have claimed that consumers do not support this measure. They are wrong. Consumers want this measure and these organisations have written to me to indicate the support of their members.

Mr Fred Tubby: You are putting thoughts in people's heads.

Mrs HENDERSON: If members opposite believe people are so stupid that they cannot make up their own minds in response to stories that appear in the media, they are underestimating these organisations.

The Royal Automobile Club of Western Australia wrote to me as follows –

> During the 1989/90 financial year, the RAC attended to 13,500 breakdowns in the metropolitan area due to the vehicles running out of fuel. This was 3.3% of the road service calls made in 1989/90. As a comparison, 1.2% of calls attended to by the RACV in Victoria are due to the vehicles running out of fuel.

Mr Clarko: Did you say one per cent?

Mrs HENDERSON: The key is that three times as many calls are received by the RAC because cars have run out of petrol in Western Australia as in Victoria, which has more than three times the population of Western Australia. The RAC has made a substantial number of statements to the media and elsewhere expressing its very strong support for a change to the roster system.

The member for Marmion may think that 1.2 per cent of all calls is minuscule, but that figure represents 1 100 calls per month, so that is 1 100 times trained mechanics go out in little orange vans to attend people whose cars have run out of fuel. If the member thinks that 1 100 calls a month are not worth worrying about, I do not share that view.

Mr Clarko: For a million people? You are not serious.

Several members interjected.

The SPEAKER: Order! I think the Minister listened in silence to the contributions by other members.

Mr Fred Tubby: No, she did not. She interjected the whole time, and Hansard could not hear.

Mrs HENDERSON: They were not the most substantial arguments I have heard in this House, Mr Speaker, and I could not resist interjecting on them.

The SPEAKER: Having made that faux pas, I would ask for some cooperation in respect of Hansard because we need to record what the Minister says.

Mrs HENDERSON: The Opposition put forward the ridiculous proposition that people would deliberately run out of fuel in order to have the RAC come and provide them with $3 worth of free petrol. Not only is that a ridiculous suggestion because people pay a membership fee to join the RAC, but also I am advised that the RAC bills people for that so–called free fuel. That view was put by more than one member opposite, and it is a very cynical view of the average motorist.

Mr Clarko: Are you aware that one person made 18 calls on that service in about a week and a half?

Mrs HENDERSON: I would say the fuel gauge on that person's car probably is not working and it is time he had it fixed. For members opposite to put forward the view I have outlined, and then to say that view supports the argument that we should do nothing about the system, is a disgrace. To suggest that the time of qualified mechanics should be used to run around the countryside filling up people's petrol tanks, and that that is efficient and practical in current economic times, is ridiculous.

Mr Clarko: People use the RAC as social welfare. One person has used that service 18 times in about a week and a half without paying the $54.

Mrs HENDERSON: Did that person deliberately run out of petrol?

Mr Clarko: What does the Minister think about that?

Mrs HENDERSON: I would say the car had a broken gauge.

The key argument presented tonight was that somehow the amendments in relation to petrol trading hours did not have the support of consumers. Not only do the organisations I have mentioned publicly support the legislation, but also the many surveys which have been conducted have shown that consumers overwhelmingly want longer trading hours in line with standard trading hours in other areas. For example, the Westpoll survey published in *The West Australian* on 7 July showed 64 per cent, that is almost two-thirds of Western Australians polled, stated they supported the extension of petrol trading hours to include longer trading on Saturday afternoons. That was a substantial poll showing support across all groups in the community. Although this evening members have decried that as a campaign organised by oil companies, the reality is that The Marketing Centre, an independent marketing agency in Perth, conducted an extensive review of consumers; that is, 600 consumers representing 300 in Perth and 100 in the country together with 100 business people –

Mr Fred Tubby: Who commissioned that? The oil companies!

Mrs HENDERSON: They commissioned an independent market agency. Is the member suggesting that agency would not act in an unbiased fashion?

Mr Fred Tubby: No, I am only making a point.

Mrs HENDERSON: The results show clearly that the vast majority of people supported some deregulation of petrol trading hours. The numbers varied between 64 per cent and 68 per cent.

Mr Cowan: Is that a deregulation of the retail margin?

Mrs HENDERSON: I will come to margins. The figures show that the argument by the Opposition that somehow this is a campaign run by oil companies finds no support among consumers. It has no foundation whatever. We are talking about lifting the shackles, giving more opportunity to consumers to purchase petrol at hours in line with other trading hours for other products, and to provide greater opportunities and a greater choice.

[Leave granted for speech to be continued.]

Debate thus adjourned.

[Continued on p 8009.]

## ROYAL COMMISSIONS AMENDMENT BILL

*Introduction and First Reading*

Bill introduced, on motion by Dr Lawrence (Premier), and read a first time.

*Second Reading*

**DR LAWRENCE** (Glendalough – Premier) [8.03 pm]: I move –

That the Bill be now read a second time.

This Bill seeks to amend the Royal Commissions Act 1968 to strengthen the powers of Royal Commissions to gather evidence and conduct inquiries. While the Government is mindful of civil liberties concerns, members will appreciate that for Royal Commissions to be able to produce comprehensive reports it is essential for the current legislation to be amended in the manner proposed. The amendments are not confined to the Royal Commission which I recently announced, but will apply to the conduct of all Royal Commissions.

The Bill has three principal aspects. Firstly, the Bill removes any privilege against self-incrimination. That is, it will remove the right to refuse to answer questions asked by the Royal Commissioner, or to refuse to produce books or documents required by the Commissioner, on the ground that they may incriminate the witness. Secondly, any refusal to attend the Commission when summoned, or to answer questions or produce documents or books, or the publication of evidence given or documents produced to the Commission, when the Commissioner has directed that they should not be published, will be treated, under this Bill, as a contempt of the Supreme Court and dealt with by the Supreme Court accordingly. This replaces the present provisions whereby such offences would be prosecuted in a court of summary jurisdiction with a specified penalty. There is no fixed penalty for contempt of the

Supreme Court. The Bill therefore recognises the seriousness of failure to comply with, or breaches or orders made by a Royal Commission. Thirdly, the Bill provides that the commissioner will be able to conduct hearings in private at his own discretion. This is particularly with a view to avoiding prejudice to court actions or other inquiries. The only exception to this is that a witness's legal counsel is entitled to be present while that witness is actually giving evidence.

The remaining clauses of the Bill are consequential drafting amendments to implement those three principal aspects which I have outlined.

The Bill will come into operation on the day on which it receives assent.

Mr MacKinnon: What about Ministers' claiming Crown privilege?

Dr LAWRENCE: That is a separate matter not written into this Bill but which I have given a commitment today will apply. No Crown privilege will be sought, and none will be allowed. I commend the Bill to the House.

Debate adjourned, on motion by Mr MacKinnon (Leader of the Opposition).

## RETAIL TRADING HOURS AMENDMENT BILL

*Second Reading*

Debate resumed from an earlier stage of the sitting.

**MRS HENDERSON** (Thornlie – Minister for Consumer Affairs) [8.06 pm]: Not only is this legislation related to petrol trading hours, and sought by consumers, but also it will be an example of microeconomic reform. I draw the attention of the House to the report of the Prices Surveillance Authority, a Federal body which examines fuel trading practices with a close eye to the position of consumers. That authority has produced a report which examined the Tasmanian system. Of course, Tasmania is the only other State which has a roster system similar to that in Western Australia. The inquiry into the Tasmanian petrol prices resulted in the following comments by the Prices Surveillance Authority –

> The inquiry confirmed that the main reasons for higher prices in Tasmania have been the higher unit costs of wholesale supply, less intensive competition between wholesalers and between retailers, especially with the influence of rostering, and the lower turnover per site, with resultant higher gross retail margins. Until recently higher State taxes on petroleum products also contributed to higher petrol prices in Tasmania.

And further on –

> The retail site rostering system in Tasmania was established nearly 30 years and had the effect of guaranteeing rostered sites a large proportion of late night and weekend trade. The Trade Practices Commission noted in its submission to the inquiry that guaranteed volume reduces the need for resellers to be competitive either on price or service and that smaller less efficient sites are able to continue to operate.

The Prices Surveillance Authority noted further –

> The most obvious policy measure to enhance competition at retail would be to immediately remove restricted trading hours and rostering.

And further on –

> The Trade Practices Commission (TPC) in its submission summed up the sentiments of most interested parties when it claimed the following concerning the roster:
>
> > ". . . guaranteed volume reduces the need for resellers to be competitive, either on price or service. Smaller less efficient sites are able to continue to operate. Thus economies of scale are not achievable to the extent they could be by the more efficient operator. Thus consumers and the larger sites lose. Normal industry rationalisation is impeded. If an oil company closes an uneconomic site, it loses that site's place on the roster and thus litres and market share. Such a closure is therefore rarely undertaken".

The Prices Surveillance Authority reached the conclusion that the roster system has had the

effect of guaranteeing roster sites a large proportion of late night and weekend trade. The authority went on to say that the additional revenue gained by a station from this trade may not involve much additional expenditure for an operator with excess capacity so that a significant boost to net profits may occur.

The report continued –

> Operators not open during the rostered hours lose sales but could benefit to the extent that they may not have to employ staff during this time at penalty rates.

It is clear from the extensive report by the Prices Surveillance Authority on the Tasmanian rostering system that, in keeping competition and a reasonable deal for consumers to the forefront of its deliberations, the rostering system was uncompetitive and that it resulted in higher prices to consumers for petrol. It was the authority's strong view that the rostering system artificially maintained prices at a level that would not otherwise be sustained.

Mr Clarko: You socialists don't support competition. It is the quintessence of your system.

Mrs HENDERSON: I indicated that the provision in the Bill concerning petrol stations is for consumers; it is designed to ensure that the price of petrol is not artificially inflated by a system which keeps open uneconomic sites to the disadvantage of the community.

Mr Fred Tubby: When did they stop the roster system?

Mrs HENDERSON: The Tasmanian Government won an election on the basis of its decision to abandon the roster system. As the member for Roleystone probably knows, legislation was introduced into the Tasmanian Parliament by the Liberals and the Greens reversing that situation and establishing a 15 month period over which the roster system will be phased out.

Mr Fred Tubby: They have gone back on their decision.

Mrs HENDERSON: They have not gone back on it. They are phasing out rostering over 15 months. When it has been phased out completely in Tasmania, Western Australia will stand alone with a roster system among Australian States.

Several members interjected.

The SPEAKER: Order! The House would make a lot more progress if the Minister addressed her remarks to the Chair and ignored disorderly interjections if possible.

Mrs HENDERSON: I would be very happy to ignore disorderly conduct. Some reference was made by members opposite to what they believed to be an undertaking given by the former Premier, Mr Dowding, when he was Minister for Consumer Affairs. I will read from the letter sent by the then Minister to the senior divisional manager of the Motor Trade Association of Western Australia in January 1989. The letter reads as follows –

> A you may be aware, following representation from your association and other interest groups it was decided to carry over the existing trading hour provisions for the sale of fuel under the Factories and Shops Act to the Retail Trading Hours Act 1987. The maintenance of the status quo for the motor vehicle retailing industry was also ensured by granting an order prohibiting motor vehicle dealerships and their associated spare parts operations from remaining open after 1 pm on Saturday

Mr Dowding made it quite clear that the section relating to the trading of fuel was moved as a block into the new legislation in 1987 unchanged. The letter continues –

> This interim review will address any problems or difficulties that have become evident in the implementation of the new legislation, but it is not intended that a review of the provisions relating to the fuel retailing industry be included.

The review of trading hours conducted in 1989 under the Retail Trading Hours Act did not include a review of fuel trading hours; it called for submissions of which it received dozens. The retail shops advisory committee studied those submissions and made detailed recommendations to me. That review did not include fuel trading hours. That undertaking was clearly given by the then Minister in his letter and it has been abided by. The letter continues –

> I can assure you the interim review is not intended to replace the review and report to Parliament that the Government is committed to providing within 5 years of the Act

coming into operation, nor is it intended to be an extensive review of the Act which will result in major amendments to the Act.

That has been complied with. A review was undertaken which covered the area that Peter Dowding said it would. He said that review would not replace the major review five years after the implementation of the Act, and it will not. A major review, as has always been the intention, will be undertaken. Nowhere is it stated in Mr Dowding's letter that no other attention will be given to fuel trading hours in this State, nor is that implied in his letter. It is stated in his letter that the 1989 review would not include fuel hours, and it did not. It states that a major review would take place five years after the implementation of the Act and that review will go ahead. Members opposite can take no comfort in referring to that letter as an undertaking or a commitment that has not been met.

Mr Fred Tubby: It is in line with the verbal discussions that took place. You have a moral obligation to abide by the letter written by the Premier of the day.

Mrs HENDERSON: It is not true that verbal undertakings were given.

Members opposite raised the matter concerning the return the petrol retailers receive from the fuel they sell on fuel cards. They are not aware that, as a result of the recent review conducted by the Prices Surveillance Authority, the report of which was recently released, that the oil companies have been charged forthwith to take action on the margin that is paid on fuel cards to petrol station proprietors. The pump price will be paid by The Shell Co of Aust Ltd, BP Oil and Caltex Oil (Aust) Pty Ltd in the first quarter of 1991. The Prices Surveillance Authority was categorical in its comments regarding those companies being ordered to pay the pump price on fuel cards. The legitimate concerns of the petrol station proprietors have been addressed by the Prices Surveillance Authority's report.

Mr Fred Tubby: That will be good news to retailers.

Mrs HENDERSON: The Opposition spokesman on consumer affairs referred to the powers of the Minister and he questioned the fact that I had not accepted the recommendation of the retail advisory committee on Christmas trading. He queried my use of power not to accept the recommendation. I remind him that the retail advisory committee is just that – an advisory committee to consider, to consult and to make recommendations. It does not make the decisions. Under the Act, that is clearly the role of the Minister.

Mr Fred Tubby: You listened to all the advice and in light of that advice you made a decision in the best interest of all parties?

Mrs HENDERSON: That is right.

Mr Fred Tubby: Who else was whispering in your other ear?

Mrs HENDERSON: I did not accept its recommendation because after considering the advice, I reached the conclusion that Tuesday night trading a week before Christmas would not achieve what we had hoped to achieve and would not satisfy those groups. It was a compromise.

Mr Fred Tubby: Did you reach that conclusion without taking any other advice?

Mrs HENDERSON: I carefully considered the arguments and debates which took place at committee level and it was clear that the adoption of Tuesday night trading was an unhappy compromise which satisfied nobody.

Mr Fred Tubby: It satisfied nobody with a seven to one vote?

Mrs HENDERSON: None of the parties achieved what it wanted to achieve and it was suggested as a compromise, but in many ways it was no compromise, because it was too far removed from Christmas. If the Opposition spokesman is suggesting that the Minister's role is to accept every recommendation from the committee without consideration, he has misunderstood the purpose of the committee.

The Opposition spokesman says he will oppose clauses 5 and 8 concerning the powers provided to the Minister under sections 5 and 12 of the Act. Section 5 of the Act sets out quite clearly the powers of the Minister.

Section 5 of the parent Act states that the Minister may, by order published in the *Government Gazette*, provide for exemptions from this Act. Section 14 is another section of the Act which gives the Minister fairly broad powers.

Mr Fred Tubby: The section you are amending is section 12, according to my Bill.

Mrs HENDERSON: I realise that. The amendments to the Act seek to clarify the powers of the Minister in regard to those sections and to ensure there is no lack of understanding about the situation the Minister has the power to make decisions on and on what circumstances the Minister shall consult with the Motor Trade Association. In my view the Act is very clear and it was certainly the view of the members of the Legislative Council at the time the Act was debated that the Minister's powers were extremely broad. The former Premier, Mr Peter Dowding, on introducing the legislation, said –

> Significant discretionary powers for exemption will be vested with the responsible Minister, ensuring flexibility and timely response to future developments or circumstances.

In the debate that took place in the upper House, the then Opposition spokesman, Hon Gordon Masters, said –

> There is a provision for the Minister to grant exemptions and make exceptions and the power is wide.

Hon Joe Berinson responded –

> The very fact that this clause is drafted in wide terms is an indication of the difficulty of attempting to specify what future conditions may produce. This clause provides the means by which Ministers can respond to changing or developing circumstances. One could not realistically define the position any closer than that. It is to provide a means of operating with flexibility, and that is regarded as important given the wide range of possible circumstances and also the developing nature of the industry which would no doubt need to be accommodated from time to time.

In other words, the Opposition and the Government agreed that the powers given to the Minister in the Act were very wide. However, those powers have been questioned from time to time. Recently, the Motor Trade Association expressed the view that it should be consulted in respect of the Act where it is not clear that the Act requires that. For that reason I have sought to amend the Act to make that clear. However, it is my view that, whether that amendment is carried or not, the Act is quite clear. I have received a legal opinion from a legal officer in the Ministry of Consumer Affairs which says –

> I have been requested to provide an opinion as to whether the Minister's exemption power as contained in Section 5(1) of the Retail Trading Hours Act can be used to exempt a filling station from the limitations imposed by Section 14(2) and (3) of the Act.
>
> Having looked at the Act I can find no provision either in Section 14 or elsewhere which restricts or otherwise limits the operation of the exemption power with respect to any other Section of the Act including Section 14.
>
> I understand that some concern has arisen over whether or not the exemption power contained in Section 5 applies to Section 14(2) and (3) which concern has arisen out the wording of Section 14(8) of the Act.
>
> I do not believe that the restriction on the Minister's power to make Orders under Section 14(8), namely the requirement that there be a recommendation from the representative body, in any way restricts the application of the exemption power as contained in Section 5 to Section 14(2) and (3).

That makes it quite clear that, in the view of that legal officer, the powers in those sections are very wide and that the concerns that have been expressed have no foundation.

Mr Fred Tubby: Therefore, you do not need to widen them any further.

Mrs HENDERSON: I am suggesting they are as broad now as it would be envisaged they would be under these amendments. The amendments are intended to make crystal clear any misgivings that people in the community may have about the intention of the legislation. I believe the power exists already and I have two legal opinions which clearly indicate that the power exists. I will come back to that in Committee.

The Opposition has foreshadowed changing the composition of the Retail Shops Advisory

Committee and talked about maintaining a balance between large and small retailers. When the principal Act was introduced, the balance the Government sought to maintain was that between the retailers, the consumers and the unions. The maintenance of a balance within the retail group by having two representatives each would result in an increase in all the other categories and the committee would end up being too unwieldy to be operative. I will again refer to that in Committee. The Opposition has lost sight of the initial balancing act that was undertaken in drawing up this Bill.

Question put and passed.

Bill read a second time.

*Committee*

The Deputy Chairman of Committees (Mr Donovan) in the Chair; Mrs Henderson (Minister for Consumer Affairs) in charge of the Bill.

**Clauses 1 to 4 put and passed.**

**Clause 5: Section 5 amended –**

Mr FRED TUBBY: During the Minister's second reading speech, she indicated this clause would make no difference to her powers. I suggest therefore, that it is not needed and I oppose it.

Mrs HENDERSON: It is my view – the view is reflected in the legal opinion which I read out during the second reading debate – that the Minister's powers are quite clear in relation to matters that are under discussion in this clause. Nevertheless, those powers have been questioned on a number of occasions by the Motor Trade Association which, from time to time, has indicated that, should a matter arise where that power should be exercised, it might seek to resolve it elsewhere. It would be tardy of any Government to ignore that. It may result in unnecessary litigation if the intention of the Parliament at the time of implementing the Act was not clear. I have read to the House the comments of the Minister of the day when introducing the legislation and the comments of the Leader of the House and the Opposition Leader in another place when agreeing with the legislation.

Nevertheless, I would also like to familiarise the House with an independent legal opinion I obtained which states –

> We have been asked to comment upon the extent of the power of the Minister to provide exemptions under the Act, particularly in respect of filling stations.
>
> The purpose of the Act is to control hours of trading. Generally the controlling provisions of the Act are stated prohibitively. Shops or filling stations must remain closed during certain hours. Where blanket prohibitions such as this exist in an Act it is necessary to allow a Minister controlling that Act a wide power to grant exemptions. That wide power is given in S5. It states "(I) The Minister may by order published in the Gazette provide for exemptions from this Act".
>
> The operative part of the Act is Part III. After setting out the categories of retail shops and their certification the Act specifies (S12) the days and hours during which they shall be closed. Special sections relate to various categories of retail shops. S14 specifies those times when a zoned filling station shall be closed and permits unzoned filling stations to be operated during such hours as the proprietor thinks fit.
>
> The effect of S14 SS(2) and (3) of the Act is to require a zoned filling station to remain closed except during ordinary trading hours or as required under SS (14). Those sub–sections impose restrictions on proprietors from which they may be exempted under S5 of the Act. There is no qualification under those sub–sections to the general power of the Minister to exempt. It is accordingly our view that the Minister may exempt proprietors from the restrictions imposed by SS (2) & (3) to enable zoned filling stations to open at other times.
>
> S14 SS 8–13 relate to the combined functions of the Minister and the representative body (the Motor Trade Association) in respect of filling stations.
>
> Under SS8 the Minister may specify certain filling stations in a zone to be open at certain times. The Minister can only act on a recommendation of the MTA. Once the recommendation and order is made it can be amended or revoked by the Minister.

> In respect of proprietors who are not members of the MTA the Minister can act alone (SS11). The Minister can also act alone if the MTA does not make a recommendation after notice to it by the Minister (SS12). But under SS13 where the MTA makes a recommendation under SS6 (zoning) or SS8 (specifying opening times for stations within a zone) the Minister may approve the recommendation or after consultation, modify it "in such a manner as he thinks fit". "Modify" it is suggested means to alter or change without affecting the essential recommendation. Thus in respect of SS8 modify would extend to include altering a recommendation as to hours, types of fuel sold, or even the number of filling stations, if more than one is recommended, but would not extend to rejecting a recommendation entirely.

I read that lengthy opinion because it clarifies an area of some contention. In my view the amendment to the Act is preferable to having some possible contention between the various parties as to the exact meaning of the section. I have no doubt about the original intention of the Act, and the legal opinion confirms that, but the amendment will clarify the situation and remove any doubt. I commend the Bill to the House.

Mr TRENORDEN: I appreciate the fact that the Minister has read that legal opinion to the Committee. I ask the Minister to either table the opinion or provide me with a copy to give me the opportunity of examining it. I will then express an opinion on the point she was making.

Mr FRED TUBBY: As I said during the second reading debate, one could stack legal opinions on one side and have an equal number of contrary legal opinions on the other side. That is the way the system operates. The Minister will table a couple of legal opinions expressing a particular point of view and I have no doubt that if I wished to pursue this issue I could find eminent lawyers to present an alternate case. I will not go down that path, but the industry, small business, and retailers are quite happy with the way the Act has been administered in the past few years. They are happy with the power that has been exercised by the Minister under the provisions of the legislation. However, they are not happy about those powers being extended in the way the Minister proposes by way of clarification, and which she claims by legal opinion that she already has under the principal Act. The industry is happy with the status quo. Some fear has been expressed that the widened powers will allow the Minister to make ad hoc decisions within the retail industry. The Minister has demonstrated that she does not always listen to the advice of her advisory committee, and that is representative of all areas of the industry, including consumers and unions. Sometimes she chooses to make ad hoc decisions without taking any advice whatsoever.

Mrs Henderson: How do you know what advice I take?

Mr FRED TUBBY: During the second reading debate I clearly asked the Minister whether, after receiving advice from the advisory committee, she had taken advice from any other group. She said that she went away, thought it over, decided they had made a mistake and would do it her way.

Mrs Henderson: It was not an ad hoc decision, and I did not say they had made a mistake. It was a well thought out decision. I looked very carefully at the minutes of the committee on the issue, considered it very carefully and made my decision.

Mr FRED TUBBY: The Minister decided to overrule the committee decision which was agreed to by seven votes to one.

Mrs Henderson: It was not a question of overruling. I made a decision and I have the power to make those decisions.

Mr FRED TUBBY: The Minister has the power to make ad hoc decisions which do not agree with decisions that have been made on a 7:1 vote of the advisory committee. The Minister did not take advice from any other body on that issue. She has the power already to do that and the industry is quite happy for her to have that power. The Opposition does not agree to the Minister's increasing her powers under the proposed amendment, powers which she claims she already has by the legal opinions she has presented.

Mrs Henderson: It is only in relation to filling stations that an industry body is claiming that the power is not as wide as it is in the Act. I am seeking to clarify that matter.

Mr FRED TUBBY: It is not only the filling station industry which has expressed the view

that it does not want the powers of the Minister widened in any shape or form. That view was expressed by small retailers and not by the service station industry.

Mrs Henderson: You have not read the appropriate section of the Act. That is the only organisation under the section being discussed where there is provision for me to consult it, and that is the only question arising in relation to this amendment. The power over everything else is absolute. Under some sections of the Act I am required to consult the Motor Trade Association. There has been some dispute about what happens after I have consulted that body. The legal opinions I read make it clear that the absolute power remains after the consultation has taken place.

The DEPUTY CHAIRMAN (Mr Donovan): Order! I suggest that in the Minister's interests as well as in the interests of the Committee she should lean forward and speak into the microphone because I suspect that her comments cannot be heard, and therefore will not be recorded, by Hansard.

Mr FRED TUBBY: That same situation has been explained to the retail representatives, and not just to the Motor Trade Association. They are adamant that they do not want that clause included in the new legislation. They are quite happy to have the matter tested in the courts, but they would prefer to stick with the existing legislation because they seem to think the new provision refers to them.

**Clause put and passed.**

**Clause 6: Section 10 amended –**

Mr TRENORDEN: I did not include this point during the second reading debate, but the National Party supports this provision. I shall not go into detail. It is obvious that the increase in the description will be welcome.

**Clause put and passed.**

**Clause 7 put and passed.**

**Clause 8: Section 12 amended –**

Mr TUBBY: The Opposition opposes the clause. This clause is seen as an enlargement of the Minister's powers. I shall not rehash the same arguments I presented before, but they stand for this clause.

Mrs HENDERSON: I would like to read a couple of paragraphs which relate to the provision we are now dealing with. This clause is inherently different from the clause I dealt with before. For the benefit of the Opposition spokesman, I indicate that the view of the independent advice I have obtained is that –

> Subsections 8–13 of Section 14 vary significantly from SS 2–3. They do not prohibit trading but rather seek to enforce filling stations to open and express a means within their provisions for a proprietor to seek exemption from the requirement to open (SS 11). In respect of S.14 SS 8–13 of the Act it is our view that S.5 does not apply to allow the Minister to exempt.

The document goes on – and this is the key –

> Therefore in summary it appears to us that;
>
> (a) the restrictive provisions of the Act in respect of retailing categories as defined under S10 and including filling stations, are subject to the Minister's power to exempt under S5, unless there is some restriction or qualification to that power and we are unable to find any such restriction or qualification under S14 (2) and (3) which set out the hours during which a filling station cannot trade.
>
> (b) S14 SS(8) of the Act contains provisions for filling stations to be required to be open during extraordinary trading hours and further provides (under SS(11)) for a proprietor to be exempted from meeting the obligations of SS(8). In our opinion S5 of the Act does not apply to these sub-sections as they themselves provide the exemption which the proprietor may seek and any attempt to exercise a power under S.5 would be inappropriate.

Mr Tubby: What does that have to do with section 12?

The DEPUTY CHAIRMAN (Mr Donovan): I was trying to get that clear myself. We are talking about clause 8 on page 6, which deals with section 12 of the Act.

Mrs HENDERSON: The Opposition seeks to delete all these sections which relate to the power of the Minister. It was my intention to explain and read the appropriate sections of the opinion in regard to section 5 and –

The DEPUTY CHAIRMAN: I see; and they all relate to clause 8?

Mrs HENDERSON: No, they do not all relate to this clause, but I shall not read any more of that opinion in regard to the next three amendments proposed.

Mr Tubby: I hope you will explain this when you get to the end of reading that document.

**Clause put and passed.**

**Clause 9: Section 13 amended –**

Mrs HENDERSON: I move –

> Page 7, line 4 – To insert after "local authorities" the following –
>
> > but where all the local authorities in question do not apply the application shall be deemed to have been made only in relation to the portions of the non-metropolitan zone within the districts of the local authorities that are applicants under that subsection and any order made by the Minister in relation to such application shall have effect only in the portions of the districts of those local authorities

This amendment is intended to provide an opportunity for non-metropolitan towns to apply for exemptions through their local authorities for Saturday afternoon trading for petrol stations. The proposal does not take account of those towns where there is more than one local authority. The clause would require each of those local authorities to agree to apply for an exemption together in order for the exemption to be granted. It is not my intention to apply that restriction. It is my view that if one local government area wishes to apply for an exemption, and its neighbour does not wish to, then the local authority should be able to get the exemption in its own right, although there might be two or three local authorities in one zone.

Mr TUBBY: I have no objection to the Minister's moving that amendment because we intend to delete the whole of that clause as it applies to the extension of trading hours on Saturday afternoon. Because it applies to section 14 of the Act with regard to trading in country areas, we will move to delete the whole clause in another place.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clause 10: Section 14 amended –**

Mr TUBBY: The Opposition opposes the clause. This is the clause which caused the most concern in the industry, and it took up most of the time during the second reading debate.

Mrs HENDERSON: This is the clause which provides the opportunity for filling stations to remain open on Saturday afternoons. It is my strong intention that that clause should remain in the Bill.

I draw attention to clause 10(c), where proposed subsection (21) provides protection to petrol station proprietors against the possibility of coercion about which the Opposition expressed concern. I maintain that is a very strong subsection, and its intention is very clear. Any clause in any agreement which seeks to coerce a petrol station proprietor to trade for more than 61 hours a week will be null and void and will have no effect in that lease agreement or any other agreement. I totally reject the suggestion put forward by a member opposite that it would not be effective.

Mr TUBBY: The proposed subsection makes no reference to verbal agreements. A chap drops past and says, "Your lease is up for renewal next year. I see you are not opening on Saturday afternoons. That could be a problem when we come to look at renewing your lease." There is nothing in writing to prove anything either way, but the person operating the retail outlet knows exactly where he stands with regard to trading on Saturday afternoons.

We cannot legislate against that sort of coercion. Coercion will take place and lessees will be at the mercy of oil companies. Neither this Parliament, nor anyone else, can do anything about that. That is the way businesses operate.

Mrs HENDERSON: General franchise agreements are for nine years. Unless a person has purchased a franchise agreement part way through a term, an agreement would run for nine years. The situation would be clear under any clause in any lease agreement, and any petrol station proprietor would have a written agreement. While it may be that at the point of renewal, any reason could be given for the lease not to be renewed. It would be difficult for either party to prove one way or the other what is the real reason. It would not be possible for an oil company to send a please explain letter to a petrol station proprietor requesting the reason a petrol station is not opening on Saturday afternoons.

**Clause put and a division taken with the following result –**

| Ayes (23) | | | |
|---|---|---|---|
| Dr Alexander | Dr Gallop | Mr Leahy | Mr P.J. Smith |
| Mrs Beggs | Mr Graham | Mr Marlborough | Mr Thomas |
| Mr Bridge | Mr Grill | Mr McGinty | Mr Troy |
| Mrs Buchanan | Mrs Henderson | Mr Pearce | Dr Watson |
| Mr Catania | Mr Gordon Hill | Mr Read | Mrs Watkins *(Teller)* |
| Dr Edwards | Mr Kobelke | Mr Ripper | |

| Noes (15) | | | |
|---|---|---|---|
| Mr Ainsworth | Mr House | Mr Mensaros | Mr Fred Tubby |
| Mr Bradshaw | Mr Lewis | Mr Minson | Mr Wiese |
| Mr Clarko | Mr MacKinnon | Mr Omodei | Mr Kierath |
| Mr Court | Mr McNee | Mr Trenorden | *(Teller)* |

| Pairs | |
|---|---|
| Mr Carr | Mr Blaikie |
| Mr Wilson | Mr Watt |
| Mr Cunningham | Mr Grayden |
| Mr Taylor | Mr Strickland |
| Mr D.L. Smith | Mr Shave |
| Dr Lawrence | Mr C.J. Barnett |

**Clause thus passed.**

***Clause 11: Section 16 amended –***

Mr TRENORDEN: The amendment does not relate to a retail shop under the principal Act. I believe a drafting error has occurred. The intention is to delete the words "lease or contract relating to a retail shop". In that case the words "the letting of" remain in the principal Act. That does not make sense. Some days ago a Minister stated that a Bill I had introduced should be thrown out due to drafting errors contained in it. The drafting errors contained in my Bill were not as serious as this error.

Mrs HENDERSON: This amendment relates to a complicated section of the parent Act. My advice is that the amendment will make clearer and strengthen the provisions and prevent the avoidance of them. My advice is that this is not a drafting error. I am happy to go through the relevant section with the member for Avon to work out the exact meaning of the words. My advice is that two sections correlate; for example the phrase "other than a filling station", at first sight may not make sense.

Mr Fred Tubby: That is not the part.

Mrs HENDERSON: I know. It is part of the same clause. I know that the member for Avon referred to the letting of a retail shop.

Mr Fred Tubby: Are the words "the letting of" to be retained?

Mrs HENDERSON: We are taking out those words –

Mr Trenorden: That is not stated.

Mrs HENDERSON: The provision inserts the phrase in place of "lease or contract relating to a retail shop" and continues. That makes sense.

Mr Fred Tubby: What about the words that remain?

Mrs HENDERSON: The words "relating to a retail shop" will remain.

The DEPUTY CHAIRMAN: I advise the Committee that the clause provides for the deletion of the words "lease or contract relating to a retail shop". I understand the Minister wishes to delete the words "lease or contract relating to the letting of a retail shop". Are those words to be deleted?

Mrs HENDERSON: That is correct. Therefore, I move –

Page 8, line 3 – To insert after the words "relating to" the words "the letting of".

**Amendment put and passed.**

Mrs HENDERSON: I do not intend to move the amendment standing in my name on page 21 of the Notice Paper. This is where the clause is complicated. If I moved the amendment, it would have a result which I do not wish to produce. I have since had Crown Law look at the amendment and I am told that if I delete that phrase I will create a contradiction between two sections of the Act. The "not filling stations" reference should remain to meet my intention.

Mr FRED TUBBY: What will happen if the amendment is not inserted? Does it refer to the amendment to trading hours? If it is, we will move to delete that in another place. If the Minister intended to move her amendment on the Notice Paper, I would not oppose the clause because the amendment removed the reference to service stations. Now that the reference is not to be removed the extension of trading hours will be applied to service stations; as we oppose that principle, perhaps we should oppose this clause as well.

Mrs HENDERSON: This is a fairly complex matter in that clause 10(c) will amend section 14 of the Act so as to preserve covenants that require filling stations to stay open for not more than 61 hours a week. In order for that amendment to have effect, it was necessary for clause 11 to amend section 16 as well by inserting the words "other than a filling station". However, if we delete the words, the proposed new section 14 will contain a special provision for filling stations. Clause 16 would include a general provision applying to all retail shops, including filling stations. Therefore, a covenant providing for a 61 hour opening will be enforceable under section 14 and would be unenforceable under section 16. I have been advised by Crown Law not to move the amendment.

Mr Fred Tubby: To do what we want to do, we should vote against this clause.

Mrs HENDERSON: This does not relate to the Opposition's intention; it relates to avoiding the possibility of coercion to make service stations open for more than 61 hours per week. It will continue the process of making null and void any contract which requires a service station to stay open for more than 61 hours. This is independent of the part of the Bill to which the Opposition took exception relating to trading hours.

Mr Fred Tubby: I accept that.

The DEPUTY CHAIRMAN: The Chair would like to express its appreciation to the member for Avon, the Clerk and everyone else for sorting out that typographical error.

**Clause, as amended, put and passed.**

**Clause 12: Section 17 amended –**

Mr FRED TUBBY: I advise the Minister that I intend to move the following amendments –

Page 8, line 9 – To delete "12" and substitute "13".

Page 8, line 12 – To delete "11" and substitute "12".

Page 8, line 28 – To insert the following paragraph –

(vi) by deleting "one person" in subparagraph (b)(i) and substituting "2 persons".

As I mentioned to the Minister during the second reading debate, these amendments are an

attempt to create a balance of representation on the advisory committee between the large and small retail outlets. The Minister's amendment gives the Retail Traders Association one representative and one person will represent the Chamber of Commerce and Industry, but no additional representation is provided for the small retailers' representative body, the Western Australian Council of Retail Associations, on the committee. The WACRA has a huge membership covering a diverse range of retail outlets. It is essential they are represented by more than one person on that enlarged committee.

Mr TRENORDEN: I support the amendments foreshadowed by the member for Roleystone. A further drafting mistake has been made in this section. Clause 12(b)(ii) proposes to delete the Retail Traders Association of WA (Inc.), but leaves in the words "joint written nomination". That would make that proposed section nonsensical.

Mrs HENDERSON: I think the member for Avon has misunderstood the matter. In the parent Act, paragraph (i) remains and paragraph (ii), containing the word "joint" is proposed to be replaced by the subparagraph in the Bill which states –

> one person shall be appointed on the nomination of the body known as the Retail Traders Association of W.A. (Inc.);

Therefore, under proposed subparagraph (i) will be listed the WA Council of Retail Associations; under proposed subparagraph (ia) will be the Retail Traders Association of WA (Inc); and another subparagraph is needed for the WA Chamber of Commerce and Industry (Inc).

*Sitting suspended from 9.15 to 9.23 pm.*

Mrs HENDERSON: I move –

> Page 8, after line 18 – To insert –
>
> (iii) by deleting "joint" in subparagraph (ii);

**Amendment put and passed.**

Mr FRED TUBBY: I move –

> Page 8, line 9 – To delete "12" and substitute "13".
>
> Page 8, line 12 – To delete "11" and substitute "12".
>
> Page 8, line 28 – To insert the following paragraph –
>
> (vi) by deleting "one person" in subparagraph (b)(i) and substituting "2 persons".

Mrs HENDERSON: These amendments were foreshadowed in the second reading debate and will increase the membership of the retail shops advisory committee representing the retail industry. The Government rejects the amendments because they will change the balance of the committee. Unless we increase the other categories of persons on the committee, for example the union and consumer representatives which would make the committee unwieldy, it would be the only –

Mr Fred Tubby: It would be increased to 14 or 15.

Mrs HENDERSON: The membership would be increased to more than 13; it would probably be 15. That would be the only circumstances under which I would consider the amendments.

Mr Fred Tubby: I would agree with that.

Mrs HENDERSON: I am happy for these amendments to be considered in another place, but to increase the number of retailers represented on the committee without changing the balance of the others would change the overall balance in a way which is not acceptable.

Mr FRED TUBBY: I accept what the Minister said. The feeling of the industry is that the smaller retailers have the least concern and the least number of problems on the committee with the unions and consumer groups. Their greatest concern with negotiations in committee appears to be with the larger retailers such as Myer Stores Ltd and the chain stores. What they do not want is for the larger retail chain stores to have two representatives and the smaller retail stores to have only one representative. If the Minister will give an undertaking

to amend the Bill in another place in order to provide a balance between the larger and smaller retailers I will be prepared to accept that undertaking. The Opposition will have no objections to the inclusion of an additional representative from each of the union and consumer groups on the committee.

**Amendments put and negatived.**

**Clause, as amended, put and passed.**

**Clauses 13 and 14 put and passed.**

**Title put and passed.**

*Report*

Bill reported, with amendments, and the report adopted.

*Third Reading*

**MRS HENDERSON** (Thornlie – Minister for Consumer Affairs) [9.31 pm]: I move –

That the Bill be now read a third time.

**MR FRED TUBBY** (Roleystone) [9.32 pm]: I point out to the Minister and to the Leader of the House, who is not here at the moment, that we have just witnessed an example of the problems which occur when the Government tries to push through legislation within the last few weeks of a parliamentary year. By rushing things, we make mistakes, and there were two drafting errors in this legislation which delayed the passage of the Bill through the House. I suggest to the Government that in future years it become a bit more organised so that Bills are not rushed into this place without proper regard to their drafting. Members are under enough pressure as it is with their sitting long hours and trying to deal with a great number of Bills, and they should not have to deal with mess ups in drafting such as we have seen in this legislation.

Question put and passed.

Bill read a third time and transmitted to the Council.

## JOINT SELECT COMMITTEE ON PAROLE

*Council's Message*

Message from the Council received and read notifying that it had agreed that the date for presentation of the report of the Joint Select Committee on Parole be extended from 30 November 1990 to 2 April 1991.

## MISUSE OF DRUGS AMENDMENT BILL

*Council's Message*

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

## BILLS (2) – RETURNED

1. State Supply Commission Bill
2. Totalisator Agency Board Betting Amendment Bill

Bills returned from the Council with amendments

## EDUCATION AMENDMENT BILL (No 2)

*Second Reading*

Debate resumed from 1 November.

**MR FRED TUBBY** (Roleystone) [9.35 pm]: The purpose of this Bill is to repeal the 1988 Education Amendment Bill, which was found to be too broad and possibly able to interfere with the day to day operations of schools. After the passage of that Bill in 1988, the Government did not move to proclaim the legislation and it still has not been proclaimed. Therefore, it has never been in force and I see no reason why a Bill which the Government has no intention of proclaiming should not be wiped off the Statute book.

The second part of this legislation seeks to provide a legislative basis or framework for school decision making groups, and will empower the Minister to make regulations prescribing the membership and functions of such groups. In other words, this Bill will replace the Bill which is to be repealed.

Over the last seven years the Government has espoused the virtues of community participation in schools. This was highlighted within both the Beazley report and the Better Schools report. The 1984 Beazley report defined "participation" as follows –

> The term refers to a process in which members of a school community have an active role in decision–making over a wide range of issues, including school policy, staffing and staff development, budget, grounds and buildings, management of resources, and the school curriculum.

The 1987 Better Schools report included the following policy directive –

> To ensure accountability to the local community, a more collaborative approach to school management needs to be developed. A formal decision–making group should be established in each school to represent the community and staff, and allow appropriate participation by students.
>
> It would be responsible for various matters including:
>
> * Setting the broad school policies and priorities, taking into account both Ministry policy and the particular needs of the school;
> * establishing a resource management plan for the school (including budgeting, and guidelines for supervising construction, maintenance and alterations to buildings and grounds);
> * overseeing the expenditure of school funds and the use of school resources and facilities; and
> * participation in defining the role of the principal and advising in selection and appointment of the principal.

As members can see, the expectation of the community is quite significant with regard to the anticipated level of participation by parents and community representatives. The problem of the Government for the last seven years and which I experienced when I was still in schools is the question of where we draw the line. If we go down the Beazley and the Better Schools line, we will end up with a completely different education system from the one which this State has come to know over its history. It is completely different – something more akin to the American system, or the New Zealand system; and it is very similar to the English system. It is a system completely foreign to ours. The Government, and I as a former principal, are trying to decide where to draw the line. That has been the problem of trying to negotiate this legislation through this place and it was the reason the 1988 Bill was not proclaimed.

Western Australia is a unique State. It has a huge land mass, bigger than many countries, and it has an insignificant population in comparison to its land mass. I do not know what percentage of the State's population lives in the metropolitan area but I presume around 70 per cent live within the confines of the metropolitan area and the remaining 30 per cent live in large regional centres, small country towns and very remote areas scattered across the length and breadth of the State. As a consequence, our school populations range from 1 700 or 1 800 students at the largest of our metropolitan senior high schools to the school at Sandstone, one of our smallest schools, where I think the number at the moment is eight. As well as those very diverse school sizes we have diversity in other areas, such as special Aboriginal schools in the Gibson Desert and in very isolated communities, and the School of the Air, which is unique to Australia. The State has the responsibility of providing an education to all of its children on an equitable basis.

From looking at those statistics I have just outlined it is pretty easy to surmise that the parent and community level of education and sophistication able to become involved in education across the length and breadth of this State will range from very basic education and sophistication right through to Churchlands, where many university lecturers and professors reside and send their children to those schools. We are trying to set up a legislative framework which will allow school based decision making groups to have a part to play in

all of these schools. The problem has been drawing the line, not only as to how much participation should be allowed, but also as to what sorts of groups to set up in order to cater for the huge range of schools and the huge range of sophistication in the communities they will serve.

All my life I have supported parent participation in schools and I do not think any of the schools at which I have taught or been a principal would disagree with that concept. I want to point out some of the ways in which parents can participate, and have participated, in schools. By far the majority of parents who want to participate in their children's schools want to do so in the classrooms. They want to go in where their children are being taught and to hear the children read, to help out with written expression work, to read stories to the children, and to be involved in their activity mathematics. They want a general involvement with the children, working in their classrooms. In my view this is the greatest contribution that parents can make to the education of their children, because children appreciate the interest of their parents. It boosts the children's self-esteem and therefore they learn a great deal more, and a great deal more readily. As well, it demonstrates to children the importance their parents place on education. If a child thinks it is important for Mum or Dad to give up their time to come along and work in their classroom they see education as having some value and therefore they will learn a great deal more and will be more conscientious in their studies throughout their school life. I can tell members that teenage children do not appreciate Mum and Dad having too close an involvement with the high school, and I think most parents of high school students realise that. Those students like to be dropped off in the morning as far away from the school as they can because it is not cool to be seen with their parents. However, the attitude which has been instilled in them through their parents' activities in their school in the primary years can be carried through because they realise education is important. That is a very significant factor.

Other parents take a more active role outside classroom involvement with the children and become involved in the day to day operations of the school, such as the parents and citizens' association. They run the school canteen and assist in the library, and some of them actually operate the library due to limited staffing. They become involved in the development of the grounds and a host of other activities on a more formalised basis outside the classroom and to do with the school as a whole.

Yet again, other groups of individuals – and these are becoming fewer – actually want to become involved in setting the policy directions of the school, looking into the future and asking, "Where will our school be this time next year or in two years' time? Do we want to develop special programs in mathematics? Do we want our school to be a music-type school? How will we get the funding and resources to set off in this direction?" This is a different level of participation and it is the one which is being addressed by this legislation. The Minister would probably agree with me that, of all of the parents who wish to become involved with their children's education, the number who wish to become involved in this latter aspect would be the smallest. To this end we must be very careful where we draw the line in regard to community and parent involvement.

I do not wish to malign any groups or individuals, but some people become involved in this aspect of education because they have a particular interest they wish to pursue through their school. That interest might not be in the best interests of the school community or the community as a whole, but they sometimes become involved at this level and can have a significant influence on the direction of the school if the other parents who are content to work in the classrooms and the grounds and operate the canteen are willing to sit back and allow them to have that participation. Therefore we must be more careful how we establish these groups. Personally I support all of those levels of involvement of parents in schools because unless they are involved our schools cannot operate to provide the best education possible for our children. However, they can operate at these levels only provided there is goodwill between the principal, the staff and the parents involved. I dare say that in the vast majority of schools there is goodwill and things do happen; many parents support their children's education and many good things go on in our State schools.

Although at times conflicts can arise, it is a pretty healthy environment where these can be resolved and where one can appreciate the differences of opinion that people have and then get on with the main issue, which is to provide the best education for our children. In other words, we do not become locked into a situation where we try to break up the whole

structure simply because we cannot get our way on a particular issue. Goodwill must exist and this legislation must be set up to cover all eventualities. I know that members of this House have been approached by various groups and various parents and citizens' associations within their electorates. Even some of the teachers have approached various members to try to have particular concerns addressed in this legislation.

I have a great deal of difficulty, as I know does the Minister, in trying to accommodate these points of view. The legislation at which the Minister has been able to arrive – after years of negotiation with parent groups, involving Western Australian Council of State Schools Association, the State School Teachers Union of WA and various principals associations – has been agreeable to just about all of those concerns.

I admit that some people in WACSSO held expectations, as a result of the Beazley and Better Schools reports, that these matters would be taken a great deal further, and more quickly, than does this legislation. However, it is a compromise and it is something with which most people will agree. It is a first step and WACSSO needs to consider it in that way. I would not like to see us go in too deep and destroy an education system which is unique and has been developed over many years. The State has the overall responsibility for that. I congratulate the Minister for addressing all those concerns. I realise that the provisions are rather vague and concerns are still held about the drafting of the legislation, but it does the best that could possibly be done at this time.

Expressions of concern have been voiced about whether we should regulate or legislate in deciding the composition, function and registration of the school based decision making group. My opinion is that prescription should occur within the regulations and not within the legislation. I am aware that some members in this place, particularly on this side of the House, hold the opposite view. However, the regulations should hold the detail and the legislation should hold the overall framework. The Opposition will support the Bill through both Houses with the view in mind that parents should understand that this is a first step. If we need to go further, we can do so at a later stage. Let us not go in at the deep end and drown in the process.

**MR AINSWORTH** (Roe) [9.54 pm]: When the 1988 Bill was introduced into this House it attempted to implement some of the philosophies and directions espoused by the Beazley and Better Schools reports. One of the problems with that legislation was that it was very wide ranging in its prescription of the decision making groups and their objects and operations. That has been one of the difficulties suffered since that time. The clause in the Bill was not specific enough as it allowed an interpretation to be made by the individual, and, consequently, created uncertainty in many minds. Because of some uncertainties and differences of opinion within school communities – that is, between the State School Teachers Union of WA and parents – the legislation was never proclaimed. That just added to the problem because some of the decision making groups were established in anticipation of the legislation being proclaimed and the whole process going ahead. This will ultimately happen. This Bill is an attempt to satisfy the various requirements of all of the groups involved in the process, and to reassure those who have concerns about the 1988 Bill that it will not be too wide in its scope and allow interference in the day to day operations of schools.

It is interesting to compare the two Bills. The Bill before us tonight has the same general description for the aims and objectives of the decision making groups. The major difference on the initial reading is that no specific mention is made in this Bill of the parents and citizens association bodies as being part of the school decision making group. This aspect is mentioned in the regulations attached to the Bill. This fact has drawn some criticism from school communities, particularly from parent bodies. These people have been very excited about the prospect of being involved in the decision making processes of the school. The vast majority of them would not envisage ever being involved on a day to day basis; they would not like to be involved in the hiring and firing of staff, the payment of staff or any of the things that it was believed the original Bill could allow in its scope. These people were seeking clear legislative guarantees about their involvement in school decision making processes up to, and including, a level at which we could all agree. That level is that the school decision making bodies would be involved in the setting of school development plans and deciding for each school the degree of emphasis to be placed in that school on various sections of the curriculum provided by the Ministry of Education. It was not intended for

parents to be involved in actually developing curriculum per se. They were to guide the direction in which the ministry curriculum would be applied to the school, to set a policy and to develop a school in a way that was relevant to the community. This policy was to be applied depending on the nature and the past history of the school.

The National Party has some concerns, as have been expressed to it by many constituents in country areas, that the Bill contains no clear definition of the extent to which parents and other community members can be involved in the decision making process. Also, it does not clearly specify where parents and citizens' association bodies stand and this should be part of the legislation. That is a minor concern held by parents and by the National Party. That is why during the Committee stage I will be moving amendments to the Bill to incorporate words to cover parent bodies and to clearly describe the extent to which their involvement in the decision making process can reach. Of course, this also involves the spelling out of areas in which they cannot be involved.

I recognise the concerns and fears of teachers in having undue parental interference in the classroom. However, I certainly endorse the remarks of the member for Roleystone regarding the desirability of parental assistance in the classroom. We would all agree that parents should not be involved or interfere with the actual teaching process and the implementation of policy on a day to day basis. That is clearly taken care of in the amendments I shall move later.

I have looked carefully at the industrial agreement drawn up earlier this year between the Ministry of Education and the State School Teachers Union. Various clauses in that industrial agreement referred to the involvement of parents in the decision making process. Those agreements do not conflict with what I intend to propose in the amendments later this evening. The main problem has been experienced in the parental involvement in decision making groups which have been operating outside the Act, because the Act was not proclaimed when those decision making bodies were formed. In some cases those bodies were not clearly defined.

Last night I was speaking with one of the members of a decision making group and he told me that when the Ministry of Education first started to set up these groups in an unofficial capacity, his parent body was told that it could do whatever it felt was comfortable. That may have been all right for most people but in many cases parents desire to become involved at a higher level and want to directly influence staff and unduly influence the day to day operations of the schools. It is disastrous if that occurs. Most people I talk to acknowledge that there is a clear delineation between what parents should be involved in, and the extent to which they should not be involved in the day to day operations of schools.

The National Party supports the general philosophy behind the original 1988 Bill and the philosophy in the Beazley report and in the Better Schools program. It also supports the general thrust of the main clause of the Bill; however it is concerned with the lack of provisions in the entire Bill. Therefore, the National Party will be moving amendments to counteract and correct the deficiencies in the Bill.

**DR GALLOP** (Victoria Park – Minister for Education) [10.02 pm]: I thank the member for Roleystone and the member for Roe for their comments on the Bill. As always they have made interesting and relevant contributions to the debate. The issue of school based decision making, or community participation in education as it was once known, is a matter that is of great interest to me. Both members mentioned the Beazley report. When the Beazley report was released in 1984 various implementation committees were set up to deal with its recommendations. When I was a member of the Fremantle City Council I was privileged to be invited by the Minister for Local Government to join that committee as a representative of local government. The implementation committee was chaired by Mr Jim Davies whom, I am sure, many members of the Parliament remember as being not only a distinguished sportsman in Western Australia but also a distinguished educator. That committee grappled with a number of issues over the years and I went from that committee into Parliament. I have a passionate belief in the role of decision making groups and my involvement on that committee also taught me that the interpretation of words and the impressions that people have about the intentions of other groups in the education business are important in determining whether a certain set of proposals are suitable. It also taught me that finding the right words is very important and that consultations with people about the final form which community participation and education is to take is important.

Of course, what followed was the process that came with the Better Schools report of 1987. We know that as a result of that report the area of reform in education was set back a number of years because there was uncertainty and disagreement about school based decision making. Indeed, only a few years ago an intense conflict developed between the Government and the State School Teachers Union of WA (Inc) concerning the issue of school based decision making. It was from that context that the previous Minister and then I had to try to find a new way of tackling the issue of school based decision making. Extensive consultation has taken place between the Government, represented by the Ministry of Education, and the State School Teachers Union, the Civil Service Association of WA Inc, the Miscellaneous Workers Union, the Primary Principals Association, the Secondary Principals Association and, very importantly, the Western Australian Council of State School Organisations. From those discussions this legislation was proposed and, as the member for Roe said, a set of regulations was also proposed.

Unfortunately, one group, the Western Australian Council of State School Organisations, feels that this proposal does not go far enough. It is my view, and I am pleased that the member for Roleystone shares that view, that we have a set of proposals with which most people in the business of education are comfortable. They are confident that we can create good results for our school system generally. More importantly, they are happy that those proposals will be supported by people involved in education. That is a major breakthrough in improving the level of parent participation in our school system. We have the support of the major actors in the business of education. Indeed, we have seen that the State School Teachers Union agreed with the Government in the Memorandum of Agreement ratified by the commissioner this year to support the concept of parent participation in the school system.

It is the Government's intention that the words that are embodied in this legislation, because of the wide range of support they have in the education community, be endorsed by the Parliament to enable a workable system of school based decision making in the school system to be established. Flexibility will be the key to this system, not only in terms of the legislation before the House but also in the regulations which will back up the legislation. I agree wholeheartedly with the member for Roleystone, and I am sure the member for Roe would also agree, when he made the point that a single pattern of school based decision making ought not to be imposed. That was one lesson I learnt when I was on the committee chaired by Jim Davies in 1984–85. It is also something that the Government has learnt from the experience in other countries and other States. We cannot have one model and impose that on the whole system. That is why we have allowed for some degree of flexibility not only in the legislation but also in the regulations.

However, we are saying that it is mandatory for our school system to have a school based decision making program that brings with it parental involvement in decision making. It is supported by the principals associations and for that reason we believe the State is on the threshold of witnessing greater development in this area in a manner which will be consistent with our history and tradition. That history and tradition will work to bring about changes that will be accepted by all. It is important that children are provided with equal opportunities and that the schools work within the policies and framework laid down by the Ministry of Education, rather than as a system made up of individual schools which are unconnected. We need a system in which individual schools can work within the overall policies and framework of the education system generally.

I thank the member for Roleystone and the member for Roe for their comments. As I said, I am very reluctant to change the words in this legislation because it has come to this Parliament after a very intensive and extensive process of consultation. It would be very destructive of the future processes of improving school based decision making if we altered those words. However, having said that, we need to listen to the points made by the member for Roe. Over time, as we adjust and we learn from the experience of this legislation, it may be that some of the points that he has made will become relevant. However, at this point I believe it is all important to stick with the agreements that we have reached with the unions and other associations and to take this legislation through the Parliament in the form in which it has been drawn up.

I have been involved in community participation and education movements both in terms of the Beazley implementation and my own involvement in parents and citizens' associations. It is with a great deal of pride that I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*Committee*

The Deputy Chairman of Committees (Mr Ripper) in the Chair; Dr Gallop (Minister for Education) in charge of the Bill.

**Clauses 1 and 2 put and passed.**

**Clause 3: *Education Act 1928* amended –**

Mr AINSWORTH: I move –

Page 2, after line 6 – To insert the following –

"parent" means a parent or guardian;

The amendment does not need much explanation. It describes what is a parent.

**Amendment put and negatived.**

Mr AINSWORTH: I move –

Page 2, line 27 to page 4, line 6 – To delete the lines and substitute the following –

**Membership of school decision–making groups**

21E. (1) A school decision–making group shall comprise –

(a) the school principal;

(b) representatives of the members of the staff of the school; and

(c) representatives of the association established under section 22.

(2) The number of persons elected to the school decision–making group under subsection (1)(b) shall be determined by the school principal.

(3) The number of persons elected to the school decision–making group under subsection (1)(c) shall be one greater than the number of persons elected under subsection (1)(b).

(4) Any member of a school decision–making group may be represented at a meeting by a deputy, providing that the deputy is not otherwise a member of the school decision–making group.

(5) Where an association is not established under section 22, the representatives elected to the school decision–making group under subsection (1)(c) shall be elected by the parents of children at the school.

**Functions of a school decision–making group**

21F. (1) The functions of a school decision–making group are–

(a) subject to subsection (2), to determine the educational policy of the school;

(b) to be responsible for the financial management of the school to the extent necessary to enable the function established under paragraph (a);

(c) subject to subsection (2), to advise the Ministry on the needs of the school in relation to –

(i) staff appointments, including the specific needs in relation to the appointment of a principal;

(ii) capital works, including, repairs or alterations to existing facilities; and

(d) to develop a school ethos that reflects the wishes of parents in the school community.

(2) A school decision–making group shall not –

(a) determine curriculum development within the school; or

(b) employ, terminate the employment of or exercise direct authority over a member of the school staff.

**Proceedings of school decision–making groups**

21G. (1) The chairman of the school decision–making group shall be elected at the first meeting of the school decision–making group and annually thereafter.

(2) Attendances at and decisions of the school decision–making group shall be recorded and such information shall be publicly available.

(3) A quorum shall be a majority of all members eligible to vote at a school decision–making group.

(4) The chairman of the school decision–making group shall have a deliberative vote and not a casting vote.

(5) Only those persons who are members of the school decision–making group under section 21E(1) or who are deputed to be members under section 21E(4) may vote at a meeting of the school decision–making group.

(6) (a) Subject to subsection (5), all members of the staff of the school may attend and participate in a meeting of the school decision–making group;

(b) Subject to subsection (5) and subject to the approval of the school decision–making group, any other person may attend and participate in a meeting of a school decision–making group.

(7) As far as is reasonably practical, all parents of children at the school and all members of the staff at the school shall be informed in writing within 14 days of decisions made by the school decision–making group.

**Regulations relating to school decision–making groups**

21H. (1) The Minister may make such regulations as are necessary for the purpose of giving effect to sections 21D, 21E, 21F and 21G.

(2) Without limiting the generality of subsection (1), regulations may be made –

(a) with respect to the proceedings of school decision–making groups;

(b) with respect to the liability of members of school decision–making groups;

(c) requiring the preparation of a school development plan by the school decision–making group;

(d) providing in specified circumstances for the dissolution of school decision–making groups by the Minister;

(e) providing for a method of reviewing a school's performance by the decision–making group in relation to the implementation of a school development plan.

The amendment seeks to place in the main body of the Bill a clear involvement of the parent body, that is, of the parents and citizens' associations where such an association exists, in the decision making process. In other words, it would guarantee in the legislation the basis for such a parent body's involvement in school based decision making. The amendment then outlines the method by which the various parties in the decision making body are to be elected. It specifies that school principals shall have automatic membership and refers to the principals' appointees. It states that the principal determines how many members of the staff of the school should be on the decision making body and it allows for an equal number of community people, be they parents or citizens, to be part of that school based decision making group.

As I outlined earlier, it is important for that to be included in the Bill because it would give all those parents who are concerned about their future involvement in decision making some

guarantee of their continued participation rather than their being subject to the whim of the Minister of the day.

A further amendment outlines the functions of the decision making group. I outlined those functions in my speech in the second reading debate and I will not go over them again except to say that the amendment very clearly defines the extent to which those decision making groups can influence the operation of the school and interfere with the staff. In particular, it precludes parents or members of the decision making group from determining curriculum development in the school and it states clearly that they shall not employ, terminate the employment of, or exercise direct authority over members of the school staff. That should be included in the Bill because they were major areas of concern and uncertainty about the first legislation that was introduced in 1988 and they certainly have been a bone of contention. It is necessary to be specific about the extent to which those bodies can or cannot be involved, particularly in employing or having other involvement with staff.

In addition, the amendment seeks to lay down some, but not all, of the framework of those groups to be included in the main body of the Bill. I take the Minister's point about the need for flexibility in these areas, but some basic guidelines are needed. That is the reason for the list of amendments which outlines the proceedings of the school decision making groups, how the chairman shall be elected, the quorum, the deliberative rather than casting vote of the chairman, and so on.

The overriding consideration in moving the amendments before the Committee was not to do anything contrary to the overall philosophy of school based decision making and parent involvement in that process. It was not intended to strengthen parents' involvement to the detriment of staff involvement, or vice versa, but rather to clearly indicate in the Bill the extent to which those two bodies will interact. I commend the amendments to the Committee.

Dr GALLOP: I respect the point of view expressed by the member for Roe and I also respect the fact that he is trying to find a different way of doing the same thing the Government is doing. I make three points about those amendments which at the end of the day lead me to the conclusion that they cannot be accepted.

Firstly, the whole framework of this Bill is based on the distinction between legislation which outlines in a very general way what the school decision making groups shall do. It says they shall be involved in the formulation of educational objectives and priorities for the school by way of the school development planning and review process. The objectives themselves, as outlined in the Bill, are quite specific but the Bill is pitched at a fairly general level in terms of the nuts and bolts of working out the process. The Bill goes on to establish areas in which regulations can be drawn up to provide the nuts and bolts. Of course, regulations must be taken to the Parliament. Therefore, I believe the comment by the member for Roe that somehow this would be subject to the whim of the Government does not stand up. One of the great problems with trying to build into legislation too many of the details required to carry out the intent of the legislation is that the Bill becomes too cumbersome.

The second point I make is that the regulations – which I believe the member for Roe has seen – have been agreed upon after consultation with all the interest groups, and in a sense they are in a similar position to the legislation. They have been agreed upon and a complex process was necessary to arrive at a conclusion with which all parties were satisfied. There was some degree of compromise on the part of different players in the game and, because of that, I would be very reluctant to change the conclusions reached by that consultative process. Indeed, parts of the amendments moved by the member for Roe include elements I find a little unclear and I believe they would be unacceptable to the educational community. For example, alterations to the proposed numbers of the various elements of school decision making groups may very well be unacceptable to some parties.

Thirdly, I believe the reference to staff appointments would be unacceptable. I note also that in the proposed new section dealing with school ethos the member for Roe refers only to the fact that the school ethos will reflect the wishes of parents. That seems to go against the notion that school decision making should involve a sharing of power and responsibility between the different groups.

To summarise, the outlining of a general framework of legislation in the Bill is backed up by regulations which are themselves quite specific but which are legitimised by that part of the Bill which describes the areas which can be regulated. That, of course, arises in proposed new section 21E. That is the best way to proceed with this issue. To filter into the legislation the amendments moved by the member for Roe would be unacceptable in the wider educational community. For that reason it would be difficult for the Government to realise its ambition, which is to see school decision making groups spread throughout the education system in this State. For those reasons I reject the amendments moved by the member for Roe.

Mr AINSWORTH: I hear what the Minister for Education says in relation to the general definition of decision making groups under proposed new section 21D. One of the major reasons for proposing to include some specifics in the Bill arose from the general nature of the definition, particularly in relation to the level of parental involvement and the extent to which it can go.

Dr Gallop: It is general with respect to the way those groups will be composed and operate, but it is quite specific in the sense of what will be the job for the decision making groups, which will be school development planning, and review of the implementation of those plans.

Mr AINSWORTH: I have no objection to the broad thrust of the proposed new section. As the Minister said, it outlines the objectives, priorities and other matters. I have no argument with that but it does not do what many parents require; that is, they want an assurance, through the legislation rather than by way of regulation, that parent bodies shall be involved and they want that level of involvement to be clearly defined together with the extent to which it can or cannot take place.

Likewise, the Minister spoke about the proposed amendments with regard to involvement in staff appointments. That was done for a very specific reason. I take the Minister's point about the sensitivity of mentioning these matters. It should not be a question of people's sensitivity. We want it to be clear that parental involvement does not extend beyond a certain limit.

The Minister referred to my proposed amendment relating to the ethos of the school. I have reread the sentence to which the Minister took some exception and realise that it contains an error. Proposed paragraph (d) should read –

> to develop a school ethos that reflects the wishes of parents and the school community.

It should not read –

> to develop a school ethos that reflects the wishes of parents in the school community.

That is an error which I did not pick up when moving the amendments. The amendment was not just to reflect the wishes of the parents specifically, but the whole school, including the staff, and in most cases also the students. This was a misprint.

What we have here is two different approaches to the same object. We all agree on the desirability of school based decision making groups comprising parents, teachers, students and certainly other community members as and when the opportunity is appropriate. Where we differ is how that should be outlined in the Bill. Parents perhaps do not have as much faith as the Minister in the process of regulation. I heard from anecdotal evidence that some regulations are introduced at a time which escapes the notice of the Parliament. Once the statutory period has elapsed, the regulations cannot be disallowed in the normal manner, therefore they become an attachment to the Bill.

Changes can be made and not picked up by the Opposition. I am not suggesting this Bill has been put together in such a way as to allow those things to be slipped in under the noses of the Opposition. However, parents have expressed concern about their involvement and how that is spelt out in the body of the Bill. Those are the reasons for the amendments before us tonight. The National Party agrees with the proposal that school decision making groups should incorporate those people I have mentioned, but we differ with the way those appointments are specified in the body of the legislation.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 4 put and passed.**

**Title put and passed.**

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by Dr Gallop (Minister for Education), and transmitted to the Council.

## WESTERN AUSTRALIAN COLLEGE OF ADVANCED EDUCATION AMENDMENT BILL

*Second Reading*

Debate resumed from 1 November.

**MR FRED TUBBY** (Roleystone) [10.36 pm]: This Bill seeks to change the status of the Western Australian College of Advanced Education to that of a university and to give a name to the new institution so formed. It also seeks to make the Bunbury Institute of Advanced Education a campus of the new university to become known as the Bunbury campus.

As members will be aware, the Western Australian College of Advanced Education is a multi campus, very large institution. In fact it is ranked thirteenth out of the 34 Australian higher education institutions. Curtin University of Technology is eleventh, the University of Western Australia is seventeenth and Murdoch University is thirtieth across Australia. I think something in the order of 15 000 students and just over 600 staff are connected with the Western Australian College of Advanced Education. It is made up of six fields of study, which include the arts, applied sciences, business, community and language studies, education, nursing, and the Academy of Performing Arts. By any yardstick it is an institution of some significance. Over the years it has developed an excellent reputation, and it has been ready to pursue advances into new areas of academic study and provide services for full fee paying overseas students. It is supported by a strong board and has a very influential alumni.

A few weeks ago Mr Acting Speaker (Mr Ripper), the member for Belmont, and I attended a very illuminating seminar which looked at the proposal to develop a technology park in conjunction with the Western Australian College, or what is to be called the Edith Cowan University. That was another example of the type of industrial activity which comes out of that university. It is forward thinking and very quick indeed to move into new areas. I wish the institution well in its endeavours. I am quite sure that if the technology park development comes to pass it will have a significant economic benefit for the university which will assist with future finances, and also will flow on into the economy of our State.

I now have some comments to make with regard to the proposed name of the university. Considerable speculation and debate occurred in the community about what should be the name of this new institution.

Mr Cowan: I was never in any doubt!

Mr FRED TUBBY: Some people considered O'Connor would be a good name. Some, particularly staff and students, considered the University of Perth would be a good name. As the Leader of the National Party has said, there was never any doubt that the institution would be called the Edith Cowan University. Everyone seemed to have some sort of input into the naming of the university, but not a great deal of significance was paid to the opinions and the comments of the staff and students. I find this difficult to understand, given that over the years the Western Australian College of Advanced Education has been so forward thinking and so innovative in moving into new areas. The major selling point which attracts overseas students to our tertiary institutions is a location name. Locally, the college is referred to as "WACAE" but overseas it is recognised as a college located in Western Australia. People in Asia know where Western Australia is located, they know it is a good place to visit. Many Asians travel here for holidays, and our economy benefits. If we

include a location name in the title of the new university it will attract immediate interest and more students will come to Western Australia, pay fees, and live in our beautiful State for the duration of their courses. That will benefit our general economy. The staff and students have pursued that aim with vigour. I congratulate them for their forethought in trying to introduce a location name in the title of the new university. I have difficulty comprehending why the Government has refused to accept such a request. Surely the Government should do all in its power to provide the university with every opportunity possible to attract as many overseas students as it can to pay full fees and in that way to contribute to the economy of Western Australia.

Perhaps the Minister can indicate why the Government refuses to include a location name. I can appreciate the wish of the Government to honour an eminent Western Australian. I do not dispute that concept. I readily accept the use of an eminent woman's name in the title of the university. However, I cannot understand why the Government is not willing to accept the inclusion of the word "Perth" in that title. We would be not setting any precedent to name the institution "The Edith Cowan University of Perth" because other tertiary institutions in Australia have adopted similar names, such as the Flinders University of South Australia, and the James Cook University of North Queensland. If the Government thinks that the Edith Cowan University of Perth is a mouthful, it possesses the same number of words as the South Australian university's title which contains larger words. The title I suggest contains one less word than the James Cook University of North Queensland. Those institutions tolerate a long name and they benefit from having included in the title both the name of a person of some eminence and a location. I cannot accept any argument about why we cannot have the same situation in this State. We could honour an eminent Western Australian woman, Edith Cowan, but we could also accede to the request of the staff and students of WACAE to include "Perth" in the title. This would prove to be a significant advantage overseas. I am aware that other institutions in Perth have expressed some disagreement with this point of view. I can only assume that the claim would be that an unfair advantage would be gained.

Mr Pearce: Why not call it the Murdoch University of Perth?

Mr FRED TUBBY: Exactly! Why not? If the Government introduced a relevant Bill, the Opposition would support it. If that would help bring in more overseas students to a university called Murdoch University of Perth, I would accept that title. We should be in the business of providing every opportunity for tertiary institutions to attract as many overseas students as possible to this State. I suggest a location name associated with Western Australia, which is acknowledged throughout Asia as a good place to go – notwithstanding the Government of this State and all the problems faced over the last few years. Western Australia has a beautiful climate and a fairly stable society – notwithstanding the Government.

We are left with the University of Western Australia. To my mind the University of Western Australia has a distinct advantage which it wishes to retain. I know that UWA lecturers and former lecturers feel that way – and some of them reside on this side of the House. They debate strongly against including "of Perth" in such a title. That is probably to protect the interests of UWA. I do not blame that university for trying to retain its protected location name.

Mr Pearce: Who are the members on that side of the House whom you are trying to protect?

Mr FRED TUBBY: We have held many debates on the topic.

Mr Pearce: Why are you so secretive about this?

Mr FRED TUBBY: I could ask a few questions of the Minister for Education, but I will not because I have said that I will not.

Mr MacKinnon: What about the debate in the Caucus room yesterday about the new university land endowment matter?

Mr FRED TUBBY: Did some disagreement occur?

I cannot understand why the Minister cannot accede to the request for a location name to be included in the title of the university. The Government should be doing everything it can to provide the best opportunity for tertiary institutions to attract full fee paying students to this

State from overseas. Not only will that boost the opportunities of such students at our universities but also it will provide better opportunities for our students as a result of widened courses. It will add to the economy of this State. I regard the acceptance of my proposition as a small compromise by the Minister. I hope he will reconsider the matter and accept the amendment we propose to move at the Committee stage.

Apart from that issue, the Opposition supports the legislation.

MR AINSWORTH (Roe) [10.47 pm]: The Western Australian College of Advanced Education, as the institution is still known, was considered for university designation for a couple of reasons, the main one probably being the abolition of the binary system. The size and status of the institution as a college of advanced education was such that it was a most appropriate institution to receive university status. The National Party supports the change of status of the college to university status. We are particularly pleased that the Bunbury Institute of Advanced Education will become a campus of the new university and will retain the most important facet of its operations; that is, the local advisory board.

Mr Pearce: I congratulate the member. Since becoming the Opposition spokesman for Education he has had a salutary effect on the National Party, because his party opposed Curtin University's becoming a university.

Mr AINSWORTH: I cannot speak about what has happened in the past.

The retention of the advisory board is extremely important for the campus at Bunbury. One of the fears related to the redesignation of the Western Australian College of Advanced Education to university status was that the Bunbury institution would become an isolated outpost of a city bound university and would lose not only its status but also its autonomy and local input which is so vital to the institution in Bunbury. I am pleased to note that this will not be the case and that the Bunbury campus – as it will be known – will retain its advisory board. Therefore, it will retain the important involvement of the local community in Bunbury and surrounding areas.

It is most appropriate that the name chosen for the new university be the Edith Cowan University. In reading the history of Edith Cowan, it is evident that not only was she an extremely interesting person with close connections with the parliamentary process, but also she was very much involved in education in her role as a member of the North Fremantle Board of Education. That was at a time when unfortunately women by and large were excluded from many of the decision making processes of education and many other aspects of community life. Edith Cowan, contrary to the norm, was very much involved in all of these aspects and was elected as the first woman member of Parliament, not only of this State, but also of all Parliaments in Australia. When one regards those achievements, and there were many others which I do not have time to outline here tonight, it is clear that she was a most remarkable woman. It is appropriate that a university, which seeks greater enlightenment, progress, and better things for the community at large in all aspects of life, should be named after a person who held those same aims and ideals over 90 years ago. The National Party is very happy to support the name as proposed. We believe that universities achieve their status not from the name they are given, but from the quality of the output of the institution. The new university's namesake had great qualities and she achieved many things. I am sure that as the years pass this new university will achieve national and international acclaim, not only because of its name but also because of its quality of output. On behalf of the National Party I support the Bill and the name chosen for this new institution, and wish the university well in its operations. I am sure that the faith this Parliament has put in the Edith Cowan University will be fully justified.

MR P.J. SMITH (Bunbury) [10.53 pm]: I could not let the opportunity pass without saying a few words about the new Edith Cowan University, mainly because of the Bunbury campus which will be a proud part of it. Most members have canvassed the history and career of Edith Cowan. She was a very famous woman, the first woman member of Parliament in Australia and now the first woman to have a university in Australia named after her.

Many members would have a connection with WACAE as many teachers come into Parliament. My wife and I both went through Claremont Teachers College in the 1950s, and we have a fond association with that campus. I am pleased that with its new university

status, although the Claremont college no longer will be part of the mainstream WACAE courses, it will continue as a centre for research. I understand that the Museum of Early Childhood will be relocated there – although I like its present position in Subiaco even if it is a bit crowded. It will be used as a centre for English language studies for overseas students, and later it will be converted to a conference centre for the Edith Cowan University generally.

I have been interested in the general comments made over the years about the qualifications of teachers. I remember that in my time it was necessary to have a wide range of qualifications for entry to tertiary education. In the 50s only a very small percentage of people who attended secondary school went on to tertiary education. I recall that acceptance into teachers college in those days required passes in only three out of seven leaving subjects; English of course being one. However, despite their low leaving results many of those people achieved greatness as teachers, because teaching is not a matter of TEE scores or how many subjects are passed in one's leaving, but how one relates to children in particular, and whether one wants to be a teacher. I echo what other members have said about the Bunbury campus. We in the south west, even though it is named the Bunbury Institute, look at it as a south west facility. It was built in 1985 and opened in February 1986. We in the south west are pleased that we will be allowed to continue with an independent advisory board comprising representatives from the local community. That will enable us to have a local interest and input in the university, and we hope to encourage the university to concentrate in the south west some of its courses which are relevant to the south west.

With the general controversy which surrounds the Notre Dame University land grant, it is relevant to note that the Bunbury campus was set up with a Government grant of 67 hectares of land. The State Government also invested approximately $8.3 million in buildings and landscaping. That was because the wise men from the east considered there was no need for a university or WACAE tertiary institution of that level outside the metropolitan area. I found that a little disappointing when one realises that the Labor Party has decentralisation as part of its platform. I was pleased to be a part of the Burke Government that worked hard to set up that branch of WACAE. When the Bunbury campus was opened it had four schools of study: Arts and applied science, business studies, community and language studies, which included Aboriginal studies, and education. It commenced with 350 students, which was more than anticipated, and about half of them were part time. The campus drew on a big pool of people, particularly mature aged students, mainly women, who had an aim to go on with their tertiary studies but had been prevented because, as many people will know, once one is in a rural area it is very difficult to get an education above secondary school level. This year the Bunbury campus has 550 students and, despite its size, it is having a problem maintaining growth, which I will address in a few moments.

The advantage of decentralisation and having a Bunbury campus and other branches like the School of Mines at Collie and Kalgoorlie is that it makes it possible for people to qualify for a tertiary education without going too far from their home. They can remain in the area, and then qualify for some of the tertiary level jobs that are available. It also provides educational opportunity for academics. I noticed when I was looking through the prospectus for next year that many courses offered opportunities for skilled academics, skilled artists and people with cultural skills to run courses. They would never have had the chance of passing on their skills to the local community had it not been for the institute. In 1989 the School of Nursing was introduced, and that has a good recruitment. Strong community programs have been introduced to provide tertiary level courses for the community.

Even more importantly there has been a joint project to build four houses for students wishing to live near campus and who come from outside Bunbury or near the south west. Those houses have four bedrooms and two bathrooms, and were erected by a joint community group comprising the Catholic diocese, the Anglican diocese and the Minnie Bairstow Trust stage one.

In talking to students, teachers and community leaders, I find that there is a need for more study programs to be set up at the Bunbury campus. There certainly is a need for graduate studies and I hope that now it is to be a university, students will be able to continue to masters degree level and carry out doctorate studies. In 1991 the university will commence with a graduate course in management studies. A range of studies should be available at the Bunbury campus including aviation studies as there is an airport and flying school close by.

Media studies are a big thing throughout the world today and should be available to students who attend the Bunbury campus. The opportunity also exists for tourism, marketing and environmental management studies. I was rather disappointed that the school of environmental management is located at the Joondalup institution. I have nothing against that institution and I acknowledge that courses of this kind are necessary and that each of the campuses tries to cater for different subjects. However, not only are large areas of the environment in the south west under threat, but also there is large program of land management. I believe it would be appropriate to set up an environmental management course at the Bunbury campus and I hope that some time in the future it will be.

The Bunbury campus is no different from other educational institutions in rural areas. It is faced with the problem of encouraging students to continue their tertiary education in Bunbury rather than in the metropolitan area. The figures I was given from the Bunbury campus indicate that there are a large number of year 12 students in the area, but not many of them continue with tertiary studies. In 1989 there were 618 year 12 students in the general catchment area and although 458 of them applied for tertiary entry only 244 gained a place. Almost half the students eligible and willing to take tertiary entry were not successful in gaining a place in a tertiary institution. I understand this is the case in most country areas of the State. These students are eligible to attend an institution such as the Edith Cowan University, but they do not have the opportunity to be accepted into a tertiary education institution. I would like the people involved with the new university to think about trying to decentralise more of their courses, staff and resources into the non-metropolitan areas to encourage rural people to attend tertiary institutions.

A major concern of mine is that the students in the Bunbury area are of the impression that administrators in Perth, and even those people pulling the strings in Canberra, are starving the Bunbury campus of its resources and concentrating on more heavily populated centres. I have been assured this is not the case, but it is one of those catch 22 situations. Many courses are not available in Bunbury and in the case of business management studies students complete the first year at Bunbury but then have to transfer to Perth to complete the course. Therefore, many students do not start the course at the Bunbury campus because they prefer to go to Perth for the full three years or they undertake other courses. As a result, there are not enough students to enrol in the courses in Bunbury and many courses do not proceed. I ask the senate of the new university to take this problem into consideration and to give the Bunbury campus some assistance in trying to set up additional courses and to keep them running even if numbers are low in comparison with metropolitan based classes.

I congratulate Australia's newest university. The people in Bunbury and the south west will be proud to be a part of it. I am sure that in the future it will be known as the Cowan University of Western Australia even though the general feedback from the campus is that the preferred name would have been the Cowan University of Perth.

MR COWAN (Merredin - Leader of the National Party) [11.05 pm]: With a name like mine it would be very difficult for me not to enter into this debate. My colleague, the member for Roe, canvassed the educational qualities of the Western Australian Colleges of Advanced Education. I do not think there will be any great change to the educational opportunities that will be offered by the new university as a result of its change in name. We will find those opportunities will remain constant, irrespective of whatever name is given to this university.

I take this opportunity to pay some tribute to a person who, although not a direct relative of mine, was married to a direct relative of mine. In fact, Edith Dircksey Cowan was my great aunt and, as a consequence, it is appropriate for me to spend some time paying tribute to her.

Mr Lewis: Are you going to declare an interest?

Mr COWAN: In response to the interjection by the member for Applecross I did read carefully the Standing Order which requires members of Parliament to declare an interest and I can assure him that it related to pecuniary interests rather than to interests of this nature.

In 1920 the Attorney General in the Mitchell Government, naturally with the support of the Parliament, introduced legislation which effectively gave women the ability to nominate for and contest a seat in the Parliament for the first time. Although women had been given the vote some time prior to that, women had not been eligible to nominate for a seat and, if they

were fortunate enough to win, take their place in the Parliament. Edith Dircksey Cowan's recognition of that was to say, "Thank you very much" to the Attorney General and take his seat from him at the following election. The seat of West Perth, which she won, was occupied by the very man who gave her the right to contest a seat in Parliament.

Another of my relatives, Peter Cowan, has for a long time been associated with the University of Western Australia and he is involved with the English faculty. He has a reputation for writing more accurately about the history of Dame Edith Dircksey Cowan, but some of the things he may not write about are the incidents which occurred in this Parliament. One incident attributed to her, and, Mr Speaker, you may have some interest in this, is that on one occasion she entered the Parliament wearing a hat. The Speaker of the day noticed the apparition, or whatever one would like to call it, and called upon the member for West Perth to remove her hat. She responded by saying she was a lady and was entitled to wear a hat anywhere. The response of the Speaker was something which I am sure will gladden your heart, Mr Speaker. He said, "There are no ladies in this Chamber, there are only members and would the member kindly remove her hat." Dame Edith Cowan did exactly that.

On a more serious note Dame Edith Dircksey Cowan had four interests: She had, of course, a great passion for women's interests; an interest in politics; an interest in the law; and, an interest in education. Her life reflects each of those interests. There is no doubt that she pursued women's interests in many different ways, not the least of which was her being at the forefront of breaking new ground and meeting new challenges for women. She was the first woman in Australia to enter Parliament. She also had some interest in the law and, while this might sound like name dropping, another one of her near relatives who is now the Chief Justice can attest to the fact that she took great interest in certain aspects pertaining to the law, particularly relating to the Children's Court, and, from memory, was appointed a justice of the peace to serve in the Children's Court. She certainly had a great record there.

I am very proud that this Government has seen fit to pay tribute to Dame Edith Dircksey Cowan because she has already been recognised in the history books for contributions to women's interests, to Parliament, and to the law. One of the first Bills she was involved in passing was a forerunner to much of the equal opportunity legislation that we see today. She had enacted a Bill entitled the Legal Status of Women Bill.

It is a very proud moment for me to see the recognition that has been given to Edith Dircksey Cowan for many things, not the least of which was her contribution to education. While my colleagues in the Liberal Party have a preferred choice for the title "Edith Cowan University of Perth" I would much prefer that they leave it as it is entitled in the Bill, "Edith Cowan University". I think somehow the students of that university will give it its own name after a period and it will not matter. It is appropriate that she be recognised in this manner and I hope that the proposal has the support of all parties.

**DR GALLOP** (Victoria Park – Minister for Education) [11.13 pm]: I thank the member for Roleystone, the member for Roe, the member for Bunbury and the Leader of the National Party for their contributions to this debate. It is a very important moment in this State's history when we can, via legislation, raise the status of the WA College of Advanced Education to that of a university. We are doing it not only because we think it is a good idea, but also because a very high powered committee of academics chaired by Emeritus Professor David Caro, former Vice-Chancellor of the University of Melbourne, concluded that the college warranted the status of a university. I hope that the Edith Cowan University will not lose its special character as a university that caters for vocational areas of education because there is no question that we need to have a university system that has variety and that caters for the wide range of students who wish to seek tertiary education.

The strength of the WA College over the years has been its ability to seek out new markets and to pursue those with vigour, and to provide a good educational service for those wishing to take advantage of it. Like other members, I wish the new university well. I believe the name "Edith Cowan University" is something of which we, as members of Parliament in this centenary year of responsible Government, can be very proud. There is no question about the fact that her life and career fit beautifully into the way the WA College has developed, with its interests in equity, women's studies, education and legal studies. It fits the Bill to have Edith Cowan's name recognised at that new university.

It is also a good idea that, in this centenary year of responsible Government, the Government recognises this very important person in our history, Edith Cowan, who was a true Western Australian and whose name will now become part of that great tradition of universities in the western world.

Question put and passed.

Bill read a second time.

*Committee*

The Deputy Chairman of Committees (Mr Ripper) in the Chair; Dr Gallop (Minister for Education) in charge of the Bill.

**Clauses 1 to 3 put and passed.**

**Clause 4: Long title repealed and a new long title substituted –**

Mr FRED TUBBY: I move –

Page 2, line 10 – To insert after the word "University" the words "of Perth".

I do not believe that adding the words "of Perth" will detract from the eminence of the name of the woman after whom the university will be named. The compromise will provide a suitable name and will also provide an indication of where the university is situated which will be a good selling point for attracting overseas students.

Dr GALLOP: I oppose the amendment. We should focus on Edith Cowan. By calling the university the Edith Cowan University, our attention is focused on the person after whom it is named.

The argument of the member for Roleystone about location as an important influence on the marketability of the university does not hold up. I have been interested in this area for some time. Universities seeking students from overseas do so on the basis of the quality of courses they offer, the vigour with which they pursue their marketing campaigns, and the general reputation they establish. The reputation of the Western Australian college, as developed, will not be lost in any way whatsoever as a result of the new name. It will take it on board and I am sure the college will market the new name in the community.

Also I make the small point that the university will have a campus in Bunbury. Knowing the degree of enthusiasm that the people of Bunbury and surrounding districts have for their region, I would not want to detract from the Bunbury campus by including in the title of the new institution the "University of Perth". It will be the Edith Cowan University with campuses in the metropolitan area and in Bunbury.

On the question of naming new institutions such as a university, I strongly believe that we, as Western Australians, should look into our own history and from that history find an appropriate name for these new institutions. I believe that strongly because it then enables us to attach the symbols of our society to our history. It also enables young people to reflect on that history, and in this case students will be prompted to ask the questions: Who was Edith Cowan, what was her career and what did she contribute to our history? For that reason the Government decided that rather than use the title of "University of Perth" – which was suggested by the staff and students – we should look to our own history. We ought to honour eminent Western Australians. That is the reason for looking into Western Australian history for a name.

I guess I am a patriot when it comes to things Western Australian, and our new university can start its career by being named after one of our eminent citizens from the past. Perhaps it will be known in future as ECU, in the same way that the University of Western Australia is known as UWA. Perhaps the focus will be on Cowan University. We can never know what the community will take as a popular name for the university. However, I certainly believe that it is correct to give the new institution the official name of Edith Cowan University.

**Amendment put and negatived.**

**Clause put and passed.**

**Clauses 5 to 22 put and passed.**

**Title put and passed.**

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by Dr Gallop (Minister for Education), and transmitted to the Council.

## DEBITS TAX BILL

*Cognate Debate*

On motion by Mr Pearce (Leader of the House), resolved –

> That leave be granted for the Bill to be debated concurrently with the Debits Tax Assessment Bill.

*Second Reading*

Debate resumed from 22 November.

MR MacKINNON (Jandakot – Leader of the Opposition) [11.26 pm]: These Bills are designed to transfer collection of what has universally been called the BAD tax – and, as my colleague on my right has indicated, that is an appropriate name – from the Federal Government to the State Government. In order not to change the relationship between the States, consequential amendments will be made to the distribution of funds from the Commonwealth Government. It is a sensible arrangement but it is about the only action that has been taken in recent times in this direction, despite the talk we have heard about changing the relationship between the Federal Government and the States. Much reference has been made to committees but no solid action has been taken. I hope that will change in the near future.

The Opposition will support the Bill but I would like to know, either from the Leader of the House tonight if he has the information or through the responsible Minister in due course, what is proposed with regard to financial institutions duty and the BAD tax. Is it proposed to amalgamate them in some way, or will they continue to be levied as two separate taxes? There is a strong argument in favour of avoiding duplication and amalgamating the two in an appropriate way. The Opposition supports the Bills.

MR COWAN (Merredin – Leader of the National Party) [11.27 pm]: Some time ago some publicity was given to the fact that the Federal Government had been examining ways and means of eliminating duplication between the Commonwealth and the States. The Commonwealth Government called for a number of actions to be taken that would clearly restructure the system of federalism in this country as we know it. The Commonwealth called a Special Conference of Premiers and as a token – I use that word advisedly – of its bona fides, it offered the States the right to collect the debits tax. I am not sure what the cost of duplication between the Federal Government and State Governments is, but I am sure it far exceeds $19 million, which is the amount of revenue gathered from this tax. There is no advantage to the State in the transfer of collection of this tax because, as the Minister pointed out in his second reading speech, the grants from the Commonwealth to the States will be reduced by precisely the same amount as the tax collected.

I will be very interested to see in future years what will happen with the rate of this tax and whether the State will seize upon the opportunity to increase the rate and thereby increase the revenue that is derived from it. It will also be interesting to see how the State manages to deal with the debits tax and the financial institutions duty, which it has collected since that form of taxation was introduced by a former Premier, I think in 1984 or 1983.

Mr Mensaros: It was 1983. If the Government increases the revenue the Commonwealth will reduce the grant.

Mr COWAN: It would do that in the first year but it is questionable whether it would do that in subsequent years.

Mr Mensaros: I will have a bet with you.

Mr COWAN: I assure the member for Floreat that his money is quite safe. I have no intention of taking him up on that wager.

I believe that as an instrument of good faith by the Commonwealth, the transfer of this tax can only be regarded as a nothing. It needs far more than that. The major thrust of future Premiers' Conferences will need to be to address the issue of duplication, which is so costly to the State and the Commonwealth.

I point out, for example, that local government is a delegated authority of the State. It is through this Parliament that we pass laws which allow or provide for local government. However, Canberra has a Department of Local Government which has no constitutional responsibility, yet it exists. The same can be said about health, education, the environment, and transport. I think I would have to confine my remarks about transport to land transport. The Commonwealth would certainly have some responsibility for sea or air transport. A great number of Federal departments have been created which have no constitutional right to exist.

If we are to address this very costly matter of duplication, we will have to do more than offer a token such as the transfer from the Commonwealth to the State of the debits tax.

MR PEARCE (Armadale – Leader of the House) [11.33 pm]: I thank members for their support of this legislation, although, as with any taxing measure, I guess their support was not exactly wholehearted.

In respect of the question raised by the Leader of the Opposition, can I say there is no intention at this stage to combine the bank accounts debits – or BAD – tax and the financial institutions duty. They are subject to separate legislation, and a legislative change would need to be made before they could be combined.

Mr Lewis: That would only give you another opportunity to crank it up further!

Mr PEARCE: That is possible. If I understand the member for Applecross, he is suggesting that we combine the legislation and crank up the rate. I am prepared to say that the Government will consider that proposition, and if we agree to it, we will put it out in the member's name and make it clear that the suggestion came from him. The Government has not considered that matter.

Mr Cowan: How could you combine them?

Mr MacKinnon: They are a little different, but you could combine them.

Mr PEARCE: They are both taxes on bank transactions, so it would be feasible, but the Government is not proposing to do that.

Mr Cowan: Tax people when they put in their money and tax them when they take it out. Is there any way you can get at it while it is still there?

Mr PEARCE: I am amazed that members are pointing the Government in the direction of possible taxing measures that it may undertake.

Mr Cowan: You do not need to be given any direction. You are pretty good at that.

Mr PEARCE: The Government does not propose to combine these taxes, and if it were to seek to do that, legislation would have to be passed to enable that to take place.

Question put and passed.

Bill read a second time.

*Third Reading*

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Mr Pearce (Leader of the House), and transmitted to the Council.

## DEBITS TAX ASSESSMENT BILL

*Second Reading*

Order of the Day read for the resumption of debate from 22 November.

Question put and passed.

Bill read a second time.

*Third Reading*

Leave granted to proceed forthwith to the third reading.

Bill read a third time, on motion by Mr Pearce (Leader of the House), and transmitted to the Council.

## CONSERVATION AND LAND MANAGEMENT AMENDMENT BILL

*Second Reading – Order Withdrawn*

Debate resumed from 2 November.

**MR PEARCE** (Armadale – Minister for the Environment) [11.36 pm]: I seek leave of the House to withdraw this Bill. This Bill has now reached the stage where there is such a range of amendments that they cover four pages of the Notice Paper. So, for the convenience of members, the Bill has been reprinted with all the amendments added in, including the amendments moved by the Opposition, with the exception of one amendment to which I cannot agree. So rather than our going through the stage of debating in Committee hundreds of amendments, we will be able to deal with a consolidated Bill. I propose to withdraw the Bill this evening and to reintroduce it in the morning in a consolidated form.

Mr Lewis: I thought you might be seeking to protect dugong!

Mr PEARCE: Dugong in this State are quite safe.

Leave granted.

Order withdrawn.

*House adjourned at 11.38 pm*

## QUESTIONS ON NOTICE

### CAPE PERON STUDY – FINAL REPORT

1731. Mr MacKINNON to the Minister representing the Minister for Planning:

(1) Has the final report on the Cape Peron study yet been completed and released?

(2) If not, when is it likely that it will be completed and released?

Mrs BEGGS replied:

(1) No.

(2) A review of public submissions is still being undertaken. A final report will be produced early next year.

### PROGRAM STATEMENTS – PRODUCTIVITY AND LABOUR RELATIONS
*Industrial Advisory and Inspection Services Subprogram – Programmed Inspections in Specific Industries*

1775. Mr TRENORDEN to the Minister for Productivity and Labour Relations:

(1) Which specific industries are targeted for programmed inspections in the current financial year?

(2) Have or will the department's inspectors be instructed to turn a blind eye to the practice of compulsory unionism and discrimination against non–unionists that exists at some workplaces?

Mr TROY replied:

(1) Restaurant and tearoom sector of hospitality industry and hairdressing industry.

(2) In respect to the use of these powers it is not this Government's policy to unnecessarily interfere in employee/employer relations. Legislation of this nature which was introduced by the Liberal Government is not beneficial to positive labour relations. The Government believes it is inconsistent to have a policing function in the Industrial Relations Act relating to membership or non–membership of organisations while the Industrial Relations Commission is prohibited from dealing with these issues. Since 1983 this Government has repeatedly attempted to pass legislation, which was supported by the Tripartite Labour Consultative Council, that would reinstate the authority of the Industrial Relations Commission in such matters. On each occasion the legislation has been rejected in the Legislative Council dominated by the conservative parties.

### PROGRAM STATEMENTS – EMPLOYMENT AND TRAINING
*Policy Development Program – SESDA Legislation, State Position on Tripartite Training Issues Development Requirement*

1778. Mr TRENORDEN to the Minister for Productivity and Labour Relations:

(1) Why will implementation of the State Employment and Skills Development Authority legislation require the development of a State Government position on tripartite training issues, as claimed on page 533 of the Program Statements?

(2) Is it still the Government's intention to exclude the majority of workers, who are not represented by the Trades and Labour Council, from the SESDA legislation?

Mr TROY replied:

(1) The Government will continue to develop skills formation policies and program strategies to meet both the current and future needs of all Western Australians. The establishment of the State Employment and Skills Development Authority will result in a coordinated, tripartite approach to

training issues, where employers, unions and Government bring their particular skills, knowledge and expertise to the SESDA forums. The establishment of SESDA will see the Government maintaining its responsibility for the State's major training provider, the TAFE system, and for administering the apprenticeship and traineeship system established under the Industrial Training Act 1975. The Government will also maintain its social obligations to ensure that all Western Australians are able to access employment and training opportunities. In this context, the Government will maintain a capacity to contribute to the development of training policy. The program statement for the Department of Employment and Training identifies that this will continue to be a function of the department under the subprogram policy development.

(2) The majority of workers are not excluded from representation under the SESDA legislation. The SESDA legislation provides for people who are nominated by employer and employee organisations. The member's illusion about the TLC and worker representation is not in accord with the latest figures supplied by the Australian Bureau of Statistics. Does the member have validated data that is contrary to the ABS figures? The latest ABS figures show that 81.9 per cent of all workers in Western Australia are covered by awards or industrial agreements. These awards and industrial agreements are the mechanism for defining work organisation and have unions as the sole employee representative respondents.

The Trades and Labor Council as the State's single peak union body is to have through the legislation, two positions on the 13 member authority and two positions on the 10 member Skills Standards and Accreditation Board. It is most important that people who are accountable to a representative organisation within our community are nominated to these bodies. Without that link to a broader group within the community, individuals could make decisions not in the best interests, and not supported by the very people who are affected by those decisions.

## EDUCATION – ADULT EDUCATION CLASSES
*Cut Back*

1814. Mr TUBBY to the Minister assisting the Minister for Education with TAFE:

(1) Are adult education classes to be cut back in 1991?

(2) If so, which courses are to be cut back and for what reasons are these cuts to be made?

Mr TROY replied:

(1)–(2)

There is no intention to reduce the total number of adult education class hours delivered by TAFE in 1991. As with previous years there will be changes relating to the provision of specific classes which is dependent on enrolment numbers in association with the availability of appropriate facilities and resources.

## YOUTH – CHALLENGE FOR YOUTH PROGRAM
*Objectives*

1832. Mrs EDWARDES to the Minister for Community Services:

What were the objectives of the challenge for youth program?

Mr D.L. SMITH replied:

The challenge for youth program was an alternative to the custody program approved under section 141 of the Child Welfare Act, targeting youth serving a sentence in a secure institution. The multiactivity outdoor adventure program was intended to minimise the effects of institutionalisation, to develop more positive attitudes and promote self-esteem.

## JUVENILE OFFENDERS – CHALLENGE FOR YOUTH PROGRAM
*New Program*

1833. Mrs EDWARDES to the Minister for Community Services:

Referring to question 1676 of 1990, who will now be providing the type of program previously offered under the challenge for youth program for those young offenders in the final weeks of a sentence of secure detention in 1990-91?

Mr D.L. SMITH replied:

The challenge for youth program was institutionally based and therefore involved taking institutional staff away from their normal duties. As a model it was considered to be too short and was also perceived by some people as being a reward for children who had been institutionalised rather than a truly preventative program. We are anxious to develop non–Government programs of this kind that are available to both institutionalised youth and other young people who are identified as seeking self–development and self–esteem programs. No final decisions will be made on this until the Select Committee reports.

## LOCUSTS – UNCONTROLLED PLAGUE CROP LOSS
*Spraying and Miscarriage Statement*

1852. Mr KIERATH to the Minister for Agriculture:

(1) In Western Australia, what is the maximum percentage of crop loss an uncontrolled locust plague is estimated to be able to inflict on –

(a) grain crops;

(b) pastures;

(c) other crops (please specify)?

(2) (a) Did an Agricultural Protection Board officer state that "women were more likely to have a miscarriage or a deformed baby through worrying, rather than from the effects of locust spraying" as reported in the *Sunday Times* of 28 October 1990;

(b) if so, what is the scientific basis for the officer's statement?

Mr BRIDGE replied:

(1) Individual grain crops, pasture and forage crops can be severely damaged by uncontrolled swarms of Australian plague locusts. Maximum percentage of damage is difficult to quantify but given the right conditions could be 100 per cent in individual cases. If the insects are not controlled losses could amount to many millions of dollars.

(2) The quote from the *Sunday Times* of 28 October 1990 is not exact. The statement made by an APB officer was based on a Health Department media release which says, "Health Department information and statistics clearly show there is no evidence supporting claims that fenitrothion spraying causes miscarriages . . . If pregnant and lactating women prefer to leave the area during spraying we would encourage them to do so for their own peace of mind, but it is not a matter of necessity."

Note: Full media release given below.

EVIDENCE DOES NOT SUPPORT MISCARRIAGE CLAIMS

Health Department information and statistics clearly show there is no evidence supporting claims that fenitrothion spraying causes miscarriages.

Claims that the chemical caused miscarriages have resulted in undue concern amongst pregnant women in the State's southern region.

Principal medical officer for the Health Department, Dr Paul Psaila–Savona stressed that local residents should not fear locust spraying planned by the Agriculture Protection Board.

"It is unfortunate that pregnant women are unnecessarily worrying about the safety of their babies after hearing claims that are not supported by World Health Organisation evidence or Health Department statistics," Dr Psaila–Savona said.

"There is no evidence to support the claim that the chemical causes miscarriages or birth defects.

"Nor do Health Department statistics show a significant increase in miscarriages after the 1982 spraying of fenitrothion in the area.

"If pregnant and lactating women prefer to leave the area during spraying we would encourage them to do so for their own peace of mind, but it is not a matter of necessity."

## HOSPITALS – GRAYLANDS HOSPITAL

*Psychiatric Patients – Private Hostel Transfer and Antipsychotic Medication*

1855. Mr MINSON to the Minister for Health:

(1) Is the Minister aware that psychiatric patients from Graylands Hospital are being moved into private hostels where drugs are administered by persons without psychiatric medical qualifications?

(2) Is the Minister aware that in these hostels these psychiatric patients are administered large amounts of antipsychotic drugs to render the patients easier to look after?

(3) Are antipsychotic drugs used in much higher doses in Australia than in America or the European Economic Community?

(4) Is the Minister aware the administering of these drugs necessitates trained observation?

Mr WILSON replied:

(1) Yes. These hostels are licensed by the Health Department. Graylands Hospital patients – and other people – are referred to the community psychiatric division – part of the Health Department – whose staff assess the patients' suitability for hostel care. The hostel staff who handle medication are approved by the Health Department as hostel supervisors. They do not require formal qualifications as their role is restricted to supervising the taking of medication as prescribed by the resident's own doctor.

(2) Patients who reside in a psychiatric hostel receive only the amount of anti–psychotic medication deemed appropriate by the person's treating doctor.

(3) No.

(4) The system of licensing for these psychiatric hostels has operated since 1 February 1977. The system was set up by the then Mental Health Services who laid down regulations under which the hostels operate. The hostel licensee or approved supervisors do not prescribe or dispense medication. They distribute it to the residents at certain times, making sure that correct medication is given to each particular resident.

## SURROGACY – NEW LEGISLATION

1857. Mr MINSON to the Minister for Community Services:

When does the Government propose to introduce surrogacy legislation?

Mr D.L. SMITH replied:

This partly depends on progress towards a national consensus on the issues involved between the various community service Ministers. I am still hoping it will be in the autumn session of 1991.

## HOMESWEST – GOVERNMENT EMPLOYEES HOUSING AUTHORITY
*Newman Home Building Statistics*

1862. Mr MacKINNON to the Minister for Housing:

(1) How many homes will Homeswest be building in Newman during the year ending 30 June 1991?

(2) How many homes will the Government Employees Housing Authority be building in Newman during the year ending 30 June 1991?

Mrs HENDERSON replied:

| | | 90–91 Dwellings to commence |
|---|---|---|
| (1) | Homeswest | 6 |
| (2) | GEHA | 12 |

## MARINE AND HARBOURS DEPARTMENT – MARINE SURVEYS BUDGET
*Increase Details*

1908. Mr McNEE to the Minister for Transport:

With respect to marine surveys, as this year's Budget papers indicate a 40.4 per cent increase in revenue over last year –

(a) how is this increase made up;

(b) would the Minister justify such a large increase?

Mrs BEGGS replied:

(a) The increase is mainly due to a restructuring of the marine survey fees, including the radio survey fees, which in the past were charged as a separate fee.

(b) The increase is not 40.4 per cent but five per cent and is justified on cost recovery grounds.

## MARINE AND HARBOURS DEPARTMENT – CORPORATE SERVICES BUDGET ALLOCATION
*Public Services – Deficit Payment Source*

1910. Mr McNEE to the Minister for Transport:

With respect to this year's Budget papers concerning the Corporate Services Division of the Department of Marine and Harbours –

(a) what services are provided to the public or industry by this section;

(b) where is the deficit of over $4 million paid from;

(c) (i) is the interest on loan funds included in this figure;

(ii) if not, where is the interest on such funds shown;

(d) where are depreciations of assets shown?

Mrs BEGGS replied:

(a) The corporate services allocation of $4.6 million provides for administrative support for the department's marine, harbour management and coastal management programs. Specific services to the public include counter services for inquiries, boat registrations, chart sales and receipting services.

(b) Consolidated Revenue Fund.

(c) (i) No.

(ii) The department's interest on the General Loan and Capital Works Fund forms part of the total overall amount paid by Treasury and is shown in Treasury's accounts.

(d) Depreciation on departmental assets is not funded. Nominal depreciation figures are provided in the department's annual report.

METROPOLITAN TOWN PLANNING SCHEME ACT – AMENDMENTS

1939. Mr MacKINNON to the Minister representing the Minister for Planning:

(1) Is the Government planning to amend the Metropolitan Town Planning Scheme Act?

(2) If so when will those amendments come before the Parliament for debate?

Mrs BEGGS replied:

(1) All existing planning legislation in this State, including the Metropolitan Region Town Planning Scheme Act, has been reviewed and work is well advanced in the preparation of drafting instructions for a new consolidated and improved planning Bill, which if approved by Parliament will result in the repeal of almost all existing planning legislation.

(2) 1991.

STATE ENERGY COMMISSION – DOMESTIC CUSTOMERS
*Non–payment of Bills – Power Disconnection and Rebate Qualification*

1996. Mr COURT to the Minister for Fuel and Energy:

(1) How many domestic customers of the State Energy Commission of Western Australia have had their power disconnected for nonpayment of bills in the financial years for –

(a) 1987–88;

(b) 1988–89;

(c) 1989–90?

(2) Of these people, how many were low income consumers who qualified for SECWA's rebate?

(3) How many of these qualify for the dependent child rebate?

Mr CARR replied:

(1) (a) 1987-88 = 7 264
(b) 1988-89 = 5 274
(c) 1989-90 = 8 563

(2) (a) 1987-88 = 1 369
(b) 1988-89 = 943
(c) 1989-90 = 1 800

(3) (a) 1987-88 = N/A
(b) 1988-89 = N/A
(c) 1989-90 = 1 632

HEINE, MS ANNE–MARIE – STATE ENERGY COMMISSION EMPLOYMENT

2003. Mr COWAN to the Minister for Fuel and Energy:

(1) Is Ms Ann–Marie Heine still employed by the State Energy Commission of Western Australia?

(2) If yes, in what position; when was the position advertised and was Ms Heine's appointment made solely on the criterion of merit?

Mr CARR replied:

(1) Yes.

(2) Manager training and development services. Ms Heine was originally appointed chief manager personnel resources. The position was advertised internally and externally in May 1987 and she was appointed solely on the

criterion of merit. Following the reorganisation of the human resources division in October 1988 the position was retitled manager training and development services.

## QUESTIONS WITHOUT NOTICE

### ROYAL COMMISSION – GOVERNMENT MINISTERS AND MEMBERS
*Legal Support*

509. Mr LEWIS to the Premier:

(1) Will the Government be offering legal support via the Crown Law Department or by funding legal counsel for Ministers, ex Government Ministers or members presently living in Western Australia, interstate or overseas, should those persons be required to appear before the WA Inc Royal Commission?

(2) If so, on what basis will the legal advice or support be given?

Dr LAWRENCE replied:

(1)–(2)

The member will know, since it his party which has placed it there, that there is a question on notice of exactly that description. Members will be aware that a policy document has been circulated. I shall answer the question carefully so as to leave no doubt in the minds of members.

Mr MacKinnon: The question does not talk about ex Ministers.

Dr LAWRENCE: At the time that they were involved, it does. That is what it talks about. From time to time members opposite have raised the question whether they might be represented, so in order to be careful I shall answer the question on notice, and if members are still dissatisfied we can debate the question further in the House.

Mr MacKinnon: Can we have an assurance that you will answer that question before Parliament finishes?

Dr LAWRENCE: Yes.

### UNIVERSITIES – PRIVATE UNIVERSITIES
*Public Funding*

510. Mr KOBELKE to the Minister for Education:

In the light of some public criticism expressed about the Government's decision to provide an endowment of land to the University of Notre Dame Australia, is the Minister aware of any other private universities which are publicly funded in Australia?

Dr GALLOP replied:

I was surprised and indeed somewhat annoyed to read in *The West Australian* this morning the comments of the Federal Minister for Education concerning the decision of the State Government to provide a one off land grant to Notre Dame University – a decision, incidentally, which has the support of the Liberal Opposition in this Parliament. I would have thought that great journal of record, *The West Australian*, could have focused a little more directly on that very significant bipartisan support for this move.

I was also irritated by the fact that an attempt was made to downgrade the proposal I have put forward in respect of block funding of capital works in the higher education area. I was irritated and annoyed about this intervention by the Federal Minister, because the premise on which he put forward his comments was that there should be no public funds available for private institutions.

Mr Speaker, you may be aware of the fact that four former Catholic teachers'

colleges in the eastern States situated in Brisbane, Sydney, Canberra and Melbourne have recently been amalgamated to form the Australian Catholic University Limited, and that is a private company. The chancellor of that university is none other than the Archbishop of Sydney. It is a Catholic university, and it has been formed by the bringing together of those four teachers' colleges. That new university has become part of the unified national system of higher education.

Before the amalgamation took place, Federal funding went into those teachers' colleges. In 1988, $28 million of Federal funding went into the Catholic College of Education, Sydney, the Institute of Catholic Education, Melbourne, Macquarie College, Brisbane, and Signadou College, Canberra. If we look to the future of the Australian Catholic University we can see that between 1989 and 1991 the Federal Government will create 415 new places at that new Catholic university.

To support that growth, a total of $4.1 million was allocated for additional capital facilities. That indicates that there is not only recurrent support for that university but also capital support. Indeed, if we look forward to capital funding in 1992, the Commonwealth will provide an operating grant of $26.9 million to fund a total student load of 4 325 equivalent full time student units, and those figures come from Higher Education Funding for the 1990–92 triennium.

*Point of Order*

Mr MacKINNON: If the Minister wants to make a ministerial statement there are plenty of opportunities to do that. I do not think question time is the appropriate occasion.

The SPEAKER: I remind members in respect of that point that the Standing Orders Committee made its best endeavour to obtain a special period of time during the parliamentary sitting where short parliamentary statements might be made. That opportunity was declined in this place. I said at that time that it made it rather difficult to make judgments on this sort of matter. Having said that, it is important that answers from Ministers to parliamentary questions be as short as possible. I am not inclined to think that this reply is in the category of a ministerial statement.

*Questions without Notice Resumed*

Dr GALLOP: To draw my answer to a close, significant grants are being made of a recurrent nature and of a capital nature to an existing and private institution, the Australian Catholic University. It is unfortunate that the debate in the papers over the last few days has focused on what other universities believe may or may not be their rights in the matter. This State Government provides more per capita research funding for our State institutions than any other State Government in Australia. The debate has focused on what impact this development of our State Government may or may not have on the implications for future Commonwealth/State relations. What is not being focused on is the development of a new institution in this State with significant economic and educational benefits for the State.

## ROYAL COMMISSION – TERMS OF REFERENCE
*Announcement Date – Royal Commissions Act Amendment*

511. Mr COWAN to the Premier:

(1) When will the Premier announce the terms of reference of the proposed Royal Commission?

(2) Will it require an amendment to the Royal Commissions Act and/or a special separate Bill.?

Dr LAWRENCE replied:

(1)–(2)

The terms of reference will be announced fairly soon.

Mr MacKinnon: You announced that yesterday.

Dr LAWRENCE: And the day before, and the day before that.

Several members interjected.

Dr LAWRENCE: If members opposite think care should not be exercised in this matter they are being totally irresponsible. The Bill which will ensure a change to the Royal Commissions Act will be sufficient to allow a range of matters to be discussed and presented before the commission. It will come into the House this evening.

## WHITFORD JOBLINK PROJECT – EMPLOYMENT EQUITY PROGRAM FUNDING

512. Mrs WATKINS to the Minister for Productivity and Labour Relations:

Can the Minister advise whether the Whitford Joblink project has been approved for funding under the employment equity program?

Mr TROY replied:

I am pleased to advise the member that the Whitford Joblink program has been funded under the employment equity program.

Mr Court: What about the Nedlands one?

Several members interjected.

Mr TROY: While all this high interest flows from the other side of the Chamber, this is one of the rare occasions where they are interested in people who are unemployed. I take the opportunity to advise members that of the 28 projects applying for funding under the employment equity program, 26 have been funded at a cost of $1.396 million.

Several members interjected.

The SPEAKER: Order!

Mr TROY: No projects have been given the chop. If members listen carefully they will see that two which are still in doubt are being reconsidered. The remaining two projects have been asked to discuss their submissions with the Department of Employment and Training before I make a final determination. One of those is Newman and the other concerns the BPW group of mentor projects.

Members may also be interested to know that the employment equity program which commenced in January of this year has achieved a very good record in its first year of operations, which is in contrast to the previous approach of equity programs. It works very closely in consultation with the Commonwealth Employment Service and its SkillShare program. In the first six months of operations 4 443 unemployed people from disadvantaged groups have been assisted by this program. Funding for the 1991–92 financial year will be dependent on the outcome of the special Premiers' Conference to review the role of the States and the Federal Government in this area. I can indicate that discussions with the Commonwealth Government and the Western Australian Government are advancing quickly.

## ROYAL COMMISSION – OPPOSITION REPRESENTATIONS

*Legal Support*

513. Mr LEWIS to the Premier:

(1) Will the Premier ensure that the Opposition is given legal advice or support to fund appropriate representations and presentations to the proposed Royal Commission into WA Inc?

(2) If not, why not?

Dr LAWRENCE replied:

(1)–(2)

I thought I had made it clear in my previous answer that what was being

considered was precisely that set of questions: Whose legal costs should be met, according to what criteria and what tests. The general principles that have been outlined may not prove to be sufficient to the task, but I take on board the proposition the member has made. I have to say that it would be most unusual for an Opposition party to be represented. It may well be that it is possible, and I am seeking advice on this matter and looking at the precedents. It may well be that individual members might need to be represented, particularly in relation to the Stirling bribery case.

## ABALONE – PROTECTION

514. Mr P.J. SMITH to the Minister for Fisheries:

Given the widespread public concern about the extent to which the abalone is being fished, what steps is the Government taking to protect stocks of abalone?

Mr GORDON HILL replied:

There can be few members of this House and of the wider community who are not aware of the fast-growing popularity of abalone fishing off the metropolitan reefs. Fisheries officers have been reporting the presence of thousands of people on each of the popular northern beaches. Unfortunately, some people have not been obeying the regulations, which state that only 20 abalone can be taken per person per day, and that only abalone 6 cm or longer can be taken.

I have inspected two different abalone fishing areas in the past week, including a dive off Trigg this morning. These inspections have confirmed the claims that reef tops are being denuded of stock due to widespread pillaging. I have therefore decided to close the season immediately. There is no doubt that many people are taking more than their daily limit of 20 abalone and also taking under-size specimens. The season was scheduled to end on 23 December.

People need to realise the importance of conserving abalone so that future generations can also enjoy it. The community must understand that in future seasons everybody must abide by the rules and ensure that only full size abalone are taken from the reef. This will ensure a catch for future years. I am considering the possibility of a closed season next year in a bid to replenish stock.

The decision to close the season at core metropolitan locations today has the widespread support of professionals and others in the industry. It follows an urgent meeting with community and recreational fishing leaders which I called to express my concerns about the take of small abalone off suburban beaches. It is very disturbing to witness – as I have done – the unlawful practice of taking excess numbers, sorting out the 20 largest specimens and throwing the rest back into the water. The indiscriminate taking of abalone without first measuring them is senseless, due to the high mortality rate when under-size abalone are returned to the reef.

It is possible that some communities are unaware of the delicate ecology of the abalone population, and of other reef shellfish, or of the severe fines faced by people who take more than the individual bag limit, or who take under-size abalone. Some people of non-English speaking backgrounds may also have less access to information about the law, and to community attitudes, or alternatively seek to ignore them.

A change in community attitudes by recreational abalone fishers is essential for future maintenance of abalone stocks. The Government simply cannot pay for Fisheries enforcement officers to be on every beach. A licensing option for abalone fishing may need to be considered. I also draw to the attention of the House to the growing numbers of reports of illegal smuggling of abalone out of Western Australia. The Department will be asked to investigate ways of verifying these stories.

I intend to have all aspects of this year's recreational abalone season carefully reviewed, and I will initiate appropriate actions to overcome similar problems that could arise in the future.

WAGE–TAX TRADE–OFF – GOVERNMENT SUPPORT

515. Mr KIERATH to the Minister for Productivity and Labour Relations:

Will the Minister advise this House –

(1) Whether the Government supports the controversial wage–tax trade–off agreement with the Federal Government despite strong criticism by WA unions?

(2) Whether the Minister is aware of comments in today's *The West Australian* which were attributed to the Trades and Labor Council which state –

> The Government's Budget surplus was being used to foot the cost of a pay rise that should have been met by employers.

(3) If so, does the Minister support these comments or does he align his policy with the views of the Australian Council of Trade Unions?

Mr TROY replied:

(1)–(3)

The Western Australian Government supports the wage–tax trade–off as a means of continuing the process of lower levels of inflation. It is important to look at the benefits that the average worker will gain from this process rather than the increase that was locked into the September quarter of the CPI of 0.7 per cent. The difference is somewhere between the $1.90 for the lower level of the metal trades wages compared with a benefit of $4 to flow from this wage–tax trade–off. One of the difficulties of the process was the inability in the very short time available to have a full detailed discussion and involvement with all elements of the trade union movement and in particular the TLC in WA. However, clearly today's media coverage indicates that despite some debate on this area yesterday the ACTU fully supports the process that has been followed.

WATER RESOURCES – KIMBERLEY–PERTH PIPELINE PROPOSAL

516. Mr GRAHAM to the Minister for Water Resources:

Given the continuing public interest and inquiries from some of my constituents, can the Minister inform the House about any advances in the progress with regard to the proposed Kimberley to Perth water pipeline?

Mr BRIDGE replied:

I thank the member for Pilbara for his foresight in asking such an important question. We are talking about the provision of water supplies for the generation that will come into this country in the year 2050 onwards. Following presentation of the report –

Several members interjected.

The SPEAKER: Order! I am very keen to hear this answer.

Mr BRIDGE: Following the announcement I made on the matter earlier this year, and after receiving the final report of Infrastructure Development Corporation – a Sydney based firm – a number of measures have been proposed. These have been principally looking at the question of funding possibilities; that continues to be central to the process. Some interesting developments have occurred along with that. For example, WAWA, as an authority in its own right, has chosen to include it along with a number of long term options as part of its twentieth century strategy. That is a significant approach as it has included the visionary–type project, which is based on a requirement which society has placed on it, and it has developed an appropriate attitude. It is important that the public understand this.

The other matter which needs to be understood is that we are now looking at the possible development of a project that is not unlike many projects of this kind around the world which have been up and running for many years. It is fortunate that the question should be asked of me today because the latest edition of *Time* magazine contains a story called "The Last Precious Drops". This article refers to the emerging problems faced by the world, not just nations, in the provision of water into the future. Clearly, that summary includes countries such as Australia as our water supplies are starting to diminish. That is as a result of population growth placing strains on the limited sources of water available to us. It stands to reason that when we have a huge untapped quantity of water endlessly running out to sea, it would be remiss of us in this modern generation to not look at such a visionary project in a sensible and constructive way. We should not do so in a foolish manner.

In conclusion, I remind the House that there is little opposition to this project in this Parliament; one of the exciting features of the project is that it has bipartisan support. We must remind ourselves that such constructive attitudes must prevail for other projects to be developed around the country. It is a new approach with a massive project which will be a pathfinder for the way by which the nation may pick itself up. That is what the leaders of this country are saying about other projects. An article in *The Australian* newspaper of last Thursday stated that "there is potential for the kind of symbols Australia needs at the moment as the Snowy Mountain scheme was in the 1960s". It can be seen that we have a responsibility as a Government and members opposite as an Opposition to support this proposition in a bipartisan manner. We must explore all the options available to us in pursuing the project.

## FOOTROT – ERADICATION PROGRAM
*Animal Health Section Funding*

517. Mr HOUSE, to the Minister for Agriculture:

(1) Is he aware that an extra $323 000 approved for the footrot eradication program is to come from the animal health section of the existing Department of Agriculture allocation?

(2) Is the Minister aware that this will mean a further reduction in the animal health section of the department?

(3) Is he also aware that the footrot eradication scheme is falling behind schedule due to a lack of funding?

Mr BRIDGE replied:

(1)–(3)

I am not aware of those matters.

Mr Omodei: We discussed them in the Estimates.

Mr BRIDGE: If the member is talking about the drop back in the time frame and strategy regarding that program, I am not aware of this. However, I give an undertaking to the deputy leader of the National Party that I am prepared to examine those matters canvassed today.

## KEYSTART HOME LOAN SCHEME – GOVERNMENT GUARANTEE

518. Mr C.J. BARNETT to the Minister for Housing:

(1) Is any form of Government guarantee or indemnity provided for the Keystart home loan scheme?

(2) If yes, could the Minister provide the relevant details?

Mrs HENDERSON replied:

(1)–(2)

This question has been asked on several occasions in this House of several Ministers, and on each occasion the Minister has explained that the money for the Keystart scheme has been raised in the private marketplace through bonds and other medium term or short term instruments. These funds are provided

to persons who wish to purchase a home. The early indications were that the scheme was underwritten and insured and as a result the funds have been paid out for that insurance. The scheme continues to be underwritten. As members would be aware, the scheme is multi-layered, consisting of a trust company which is underwritten by another. Although it is a complex structure, it is firmly secured. As indicated in response to a question asked of a former Minister for Housing, the Government does not now provide a direct guarantee, but the scheme is fully underwritten by the trust and its funds are secure.

## SCHOOLS – SECONDARY SCHOOLS
### *Performing Arts Course Support Cut Back*

519. Mr FRED TUBBY to the Premier:

In view of the Premier's commitment to the public of Western Australia that there would be no education cuts in this year's Budget, could she please explain why support for performing arts courses in secondary schools has been severely cut back?

Dr LAWRENCE replied:

I know that we can expect members of the Opposition to play fast and loose with the truth, but I would not expect that of the member asking the question as he seems to have a high regard for the truth, at least in his rhetoric. In relation to education, I said that we would seek to ensure that the standard of education provided in the class room would not be affected. Of course we have cut back some areas of health, education and housing. I cannot comment on that particular area to which the member refers because I am not the Minister for Education; however, the cut in the education budget in real terms was very small indeed compared with other departments not involved in service delivery. If members examine such things as the staffing formula they will find that the schools at the beginning of next year will be in the same position as they were at the same time last year. Members opposite cannot have it both ways.

Mr Fred Tubby: You said that there would not be any cut in the Budget.

Dr LAWRENCE: At no stage did I say that.

Mr McNee: You are suffering from Alzheimer's disease.

Dr LAWRENCE: I could give the member a dissertation about Alzheimer's disease, and that is not from looking in the mirror but from looking across the Chamber! I made it the subject of a considerable study I conducted before I became a member of Parliament. I know a great deal more about Alzheimer's disease and the early signs than should be comfortable for members opposite. Some members opposite are showing evidence of the symptoms, particularly in their loose regard for the truth and their forgetfulness. It is important that members understand that when Budget cuts are made, they are made sensibly to ensure that certain areas of service are preserved – as they have been. Members opposite will complain about Budget cuts on the one hand, and on the other they – as has been the case during my four years in Parliament – constantly complain about getting the Government off the back of the people by reducing the size of the public sector. I have heard that refrain on many occasions from members opposite who have been shadow Ministers for Education, or from members expressing an interest in this subject.. One element in that refrain has been the size of the head office, the size of the administrative structure and the size of the support staff rather than what is in the classroom. That is what has happened and it is very much in line with the proposals the Opposition has put in this place and with what every sensible economic commentator recognises is a prudent way to approach this Budget. For members to suggest otherwise is, frankly, to bury their heads in the sand.