

Legislative Council

Wednesday, 13 November 1991

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

MOTION - BUILDING AND CONSTRUCTION INDUSTRY TRAINING FUND AND LEVY COLLECTION REGULATIONS 1991

Disallowance

HON E.J. CHARLTON (Agricultural) [2.35 pm]: I move -

That the Building and Construction Industry Training Fund and Levy Collection Regulations 1991 published in the *Government Gazette* on 28 June 1991 and tabled in the Legislative Council on 20 August 1991 under the Building and Construction Industry Training Fund and Levy Collection Act 1990 be, and are hereby, disallowed.

The motion sets out to this Parliament the severe impact the regulations will have upon many people, if they are implemented in the way proposed. It is one thing to impose a levy for a training fund; it is another thing to apply it to a whole range of activities. The National Party is concerned that effect of the regulations will be extremely detrimental if they are allowed to remain.

Clause 3(a) of the regulations says that work up to a value of \$6 000 is excluded. We want to know how the Government has arrived at that figure. In many ways that figure is too low. Clause 3(b) refers to maintenance and repairs of a routine or minor nature. If an employer who is not substantially engaged in the building or construction industry builds something costing more than \$6 000, how will that be assessed as minor? That question needs to be answered. If maintenance and repairs of a minor nature are carried out by a person who is substantially engaged in the building industry, that will be subject to the levy, although it is of a routine or minor nature. It seems that provision will involve a whole range of anomalies if we allow it to stand without clarification.

Clause 98 sets the penalty at 100 per cent of the unpaid levy. That leaves no scope for taking into account the circumstances of a case. It is one thing to say that the penalty is to be 100 per cent of the unpaid levy, but some flexibility to take account of only minor negligence should be permitted. Surely it would be better if the clause provided that the penalty shall be a maximum of 100 per cent of the unpaid levy. Also, perhaps a right of appeal in respect of the penalty might be introduced. This seems to be a very hardheaded application of a penalty. When we compare these heavy financial penalties with the slap on the wrist penalties that are handed out to people causing severe damage, it is outrageous. We have seen this again today where damage has been done and there is no possibility of restitution. In those circumstances it is outrageous to provide a penalty of 100 per cent with no right of appeal.

Was local government or any other potential agency consulted when drafting the regulations, especially those relating to remitting the levy collected to the fund no later than the tenth day of the following month? It appears that a collection of bureaucratic decisions has resulted in these regulations. Schedule 1, clause 2 of the regulations includes every type of farm building costing more than \$6 000, such as shearing sheds, piggeries, poultry sheds, machinery sheds, grain sheds, shade houses or hothouses. What is the intention of the regulations? One would assume that the levy would assist with a training program; but to apply the levy over a whole range of capital investments - investments meant to earn a dollar or two for this nation at a time when it needs that more than ever - is not only ludicrous but also most unfair.

Clause 3(a) of the regulations refers to a farm or a station road, an airfield, etc, which could be on a farm or on a station. How can a levy be applied to a road or an airfield on a property? This situation indicates that very little thinking has gone into the regulations. The regulations demonstrate - as with so many other Government decisions - that the idea was that the levy would be applied in the public sector, not in the private sector. For such a levy to be placed on the value of any activity above \$6 000 is totally out of order. Clause 3(b) could affect the fishing industry because it could cover jetties, piers and wharves.

Subclause (c) relates to the storage or supply of irrigation water, and that would include irrigation dams and possibly pumps and piping used for irrigation purposes. Subclause (d) refers to the disposal of sewage and effluent. This provision could affect dairies and piggeries which require effluent ponds, and so on, and could also include the associated piping and pumps used for effluent disposal. It could also affect abattoirs - some of which are going out of business one after the other in country areas. Subclause (f) refers to bridges, and bridges are often constructed on farms. Subclause (g) would affect many farms which use silos for grain storage. Subclause (h) refers to pipelines. Both farms and stations could be affected if pipelines are used to pipe water around properties. The value of those pipelines would be well in excess of \$6 000; these are capital investments. Subclause (j) refers to structures for the drainage of land. This could include contour banks, interceptor banks, drainage channels and the like.

All these activities are undertaken in country Western Australia. I am certain that the people who framed the regulations have not driven around country areas and seen capital investments of this kind over the last 10 years or even, more importantly, over the last two or three years. Such capital investments are not being undertaken currently because the money is not available. I hope that such activities will occur again, not only for the sake of the people undertaking capital investment but also for the sake of the future of the whole nation. The regulations will place a levy on capital investment.

Clause 3(k) of the regulations refers to the storage of liquid, and this could include many farm or pastoral station tanks, concrete or steel, used for water storage. Subclause (n) refers to swimming pools on farms or stations. Subclause (o) could affect both farms and stations which must supply their own farm electricity. It could also include powerlines either connecting the State Energy Commission supply to the farm or transferring farm generated power from one point to another. We must consider these issues because once the regulations are implemented they will remain in force until amendments to the Act are made.

We seek some clarification on these aspects of the regulations. Members of the National Party have discussed the issues in some detail and believe that the regulations should not be allowed to apply until we receive some explanation on the questions raised.

Debate adjourned, on motion by Hon George Cash (Leader of the Opposition).

MOTION - STATE ENERGY COMMISSION (ELECTRICITY AND GAS CHARGES) AMENDMENT BY-LAWS 1991

Disallowance

HON E.J. CHARLTON (Agricultural) [2.47 pm]: I move -

That the State Energy Commission (Electricity and Gas Charges) Amendment By-laws 1991 published in the *Government Gazette* on 28 June 1991, together with the erratum published in the *Government Gazette* on 5 July 1991, and both tabled in the Legislative Council on 20 August 1991 under the State Energy Commission Act 1979 be, and are hereby, disallowed.

I will outline the reasons that I intend to withdraw the motion. Since the tabling of the by-laws a great deal of activity has occurred within the State Energy Commission of Western Australia as to the domestic allowance of nine units per day where one meter applies for both domestic and commercial use. We are all aware that over a significant period the rate of nine units per day is a burden on people who have suffered the consequence of using more than nine units and are then forced to pay 50 per cent more for the use of power for every unit in excess of nine units. Under the contributory scheme the same people, in most cases, have paid for the construction of powerlines into properties around country Western Australia. The bureaucrats who do not seem to understand the situation apply a domestic use rate of nine units per day when we all know that research has demonstrated that the more appropriate rate would be nearer to 17 or 18 units per day as the average use at domestic points. As a consequence of that, some weeks ago the National Party gave notice of a motion to disallow the by-laws that deal with the State Energy Commission's domestic allocation of nine units a day. It was the intention of the National Party to have the allocation increased to 20 units a day. We congratulate the Government on the fact that during the period since we gave notice to disallow the by-laws it reached the logical

conclusion that the domestic allocation should be increased to 20 units a day. If this is a forerunner of other similar activities to come, we can look forward to more equitable living costs applying to our country people who are carrying the burden of imposts arising from recent Government decisions. Although the Government took a long time to make that decision, I suppose that, like a lot of other things in life, it is better late than never. If the Government had not decided to increase the domestic allocation to 20 units we would be pushing this disallowance all the way. It is National Party policy that within the agricultural region of Western Australia all SEC charges should be at the domestic rate. The country community comprises a range of very small service industries, particularly those which use cold storage units, whether they be hotels, grocery stores, vegetable markets or butchers, and they are subject to horrendous SEC charges. Not only must they pay 19¢ a unit, but also they are forced to pay an up front capital charge to the SEC as a surety against any discrepancy that might occur if they did not pay their accounts or their business went to the wall.

Hon J.M. Brown: That has an interest component.

Hon E.J. CHARLTON: That component is a burden on those businesses. Why are they forced to pay an up front capital charge? In Mukinbudin the new proprietor of the supermarket was required to come up with \$4 000 immediately for the SEC. The commission came back and said the proprietor did not have to pay it up front, but could get a guarantee from the bank. However, banks charge for that kind of surety to the SEC. Whichever way one looks at it, it is another financial burden.

Hon J.M. Brown: Hon Eric Charlton has missed the point.

Hon E.J. CHARLTON: I have not missed the point. Hon Jim Brown can say what he likes, but the facts are that any extra burden imposed can only be recouped by applying extra charges on the retailing of their goods.

Hon J.M. Brown: The SEC board pays an interest component.

Hon E.J. CHARLTON: No matter which way one dresses it up and rearranges it, it is a burden on small business in the country. The National Party believes that the Government's decision came almost as a direct consequence of a country trip that a number of members of all parties made during the year. Power charges are a burden on the operations of small business. Increasing the domestic unit allocation will provide a significant boost to the capacity of these country small businesses to operate. As a consequence of my having moved for the disallowance of the by-laws the Government has increased the domestic allowance to 20 units a day, so I seek leave of the House to withdraw this disallowance motion.

Motion, by leave, withdrawn.

MOTION - WATER AUTHORITY (CHARGES) AMENDMENT BY-LAWS 1991

Disallowance

HON E.J. CHARLTON (Agricultural) [2.56 pm]: I move -

That the Water Authority (Charges) Amendment By-laws 1991 published in the *Government Gazette* on 28 June 1991 and tabled in the Legislative Council on 20 August 1991 under the Water Authority Act 1984 be, and are hereby, disallowed to the extent that by-law 6 inserts a new schedule 2 in the principal by-laws.

The National Party will not be seeking leave to withdraw this motion. The Government demonstrates a total lack of appreciation of rural conditions when it applies regulations across the State. As from 1 July 1991 these by-laws applied to a range of small businesses. A fee of \$97 was applied to carry out operations for the discharge of industrial waste. The charge is supposedly to deal with the cost to the Water Authority of Western Australia of treating that waste so it can be discharged into the sewerage system. That charge applies in the metropolitan area and that is fair because it is necessary to specifically treat large volumes of waste containing chemicals so it can be discharged into the sewerage system. However, the waste is not treated in country areas, so there is no cost to the Water Authority for its treatment. In the past the waste has gone into the system, but because it is such a minute amount it does not require any treatment. However, because of the by-laws, which have been applied across the State, the Government has subjected country small businesses like butchers and hoteliers to an impost even though the volume of waste is insignificant and

is not treated. No grounds exist to apply a levy for the treatment of waste on small business operations in country towns.

Some people might ask why argue when the fee is only \$97 a year, which is only a couple of extra dollars a week. The fee is totally unjustified because there is no capital input to treat the waste. If this \$97 were the only impost placed on small business it would probably go unchallenged, but it is only one of many charges imposed on small business operators in country areas. That is how the Government has drawn in extra funds while at the same time Ministers have been saying that rates and charges for different services have not increased above the inflation rate. It sounds all very plausible and acceptable to the wider community, but the Government has hit small businesses in the country with a range of specific one-off charges that have increased the Government's income.

Officers of the country division of the Water Authority have me told that the fee is not justified when consideration is given to the income the State will receive as a consequence. This charge will not mean the difference between a profit and a deficit for the Water Authority; however, it will have a significant bearing on small businesses, which will cop another bill in the mail for another \$97. The by-law states that the fee is \$97 plus \$48.50 for each fixture, or a major permit of \$311.50. It may not end at \$97. The National Party intends to ensure that these by-laws are disallowed and it calls on all members to remove this burden currently imposed on rural small businesses.

Recently land taxes were increased. Everyone knew that would occur, but the increases have not ended there. The Western Australian Water Authority has now installed new meters across the State which are so efficient they can record every drop of water that passes through them. However, the Water Authority did not inform us that those meters would record between 50 per cent and 100 per cent more in water consumption. As a consequence the bills being sent to some people have doubled in the last year. If the Water Authority was aware that such increases would occur it should have reduced the rate.

Hon Mark Nevill: It has been giving free water away for years.

Hon E.J. CHARLTON: I am pleased Hon Mark Nevill interjected on that point. The Water Authority is about covering its costs. It does not receive Government assistance and receives only enough income to run its operations. It will now receive a windfall by having installed these new meters because it will be collecting extra income as a consequence of the new recordings. At the end of the day the Water Authority will receive an extra several million dollars it did not expect to receive initially.

Hon J.M. Berinson: I do not think the Water Authority ever has had a bonanza. An increased charge for service in one area allows a reduction in the cost subsidisation that is otherwise applied.

Hon E.J. CHARLTON: That is a typical comment.

Hon J.M. Berinson: You agree to substantial cross-subsidisation, and nobody is suggesting that it should be removed completely.

Hon E.J. CHARLTON: Yes, but that is always brought in to balance the argument. It is one thing to water gardens and make grass grow - Western Australians are proud of their gardens - however, it is another thing to use water for the production of a primary product which will bring in income for every Australian. I am not saying that the Water Authority should not install these new meters - it should. However, when it intended to provide itself a bonanza in the form of an increase in water charges it should have done a complete reassessment and reduced the rate charged for that water. The consumers I am talking about are not pouring water on gardens; they are primary producers and they cannot withstand these increases. These people are being hit by 50 per cent increases at a time when the cost structure - according to the Government - is nothing more than the inflation rate. Thankfully the inflation rate is not 100 per cent.

In this motion I am referring specifically to the \$97 charge, which has been in place since 1 July, for industrial sewerage waste water. I mentioned the new meters installed by the Water Authority in order to demonstrate to members the significant impact of financial decisions on certain consumers. People in rural areas have been subjected to increased taxes and charges over the past few years and if those increases were removed those businesses would be able to operate better and possibly employ some of the 10 per cent of unemployed

people. Every time those rural businesses are hit with another \$100 increase that is another \$100 they cannot pay out in wages. That point should not be ignored and it should be homed in on if we are to turn this State around. I urge all members to support this disallowance motion so that extra burdens placed on small business operators in the country are removed.

Debate adjourned, on motion by Hon Fred McKenzie.

STANDING ORDERS COMMITTEE - STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS AND STATUTES REVISION

Work Review

Debate resumed from 12 November.

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.07 pm]: Normally Hon Bob Pike is a very predictable member in his contribution to debates. However, his reply to the motion we are now considering did come as something of a surprise. Even now I find it hard to understand why he should have been so aggressive and defensive all at the same time. The only suggestion I can offer for his contribution is that he anticipated a speech from me which was quite different from the one I made and then decided to deliver his prepared reply anyway despite its virtual irrelevance to any of my comments.

A reading of *Hansard* will confirm how restrained my approach to this question was. I did not condemn nor, for that matter, did I criticise the work of the committee or the performance of Hon Bob Pike as chairman. Again, I am unable to understand his apparent extreme sensitivity on the issue. All that I suggested in the course of my own comments yesterday was that the committee's apparent lack of activity and the relative uselessness of its only substantial report of which I am aware seemed to justify an external review. The issue is as simple and limited as that and, I would have thought, almost self-evidently right.

I add only two further comments in reply to Hon Bob Pike's implied accusations on my motives in moving the motion in the first place. If I understood him correctly, he suggested that I was out to nobble him and or the committee because of their interest in an inquiry into the Women's Information and Referral Exchange. In answer to that I simply point out that I gave notice of my intention to move this motion on 17 October and that was well before I ever heard of the committee's interest in WIRE.

Hon R.G. Pike: You were here when the petition was lodged and you knew it had to be dealt with by the committee.

Hon J.M. BERINSON: I did not have the faintest idea when the petition was lodged.

Hon R.G. Pike: You did not take any notice of the petition?

Hon J.M. BERINSON: No, I did not.

Hon R.G. Pike: It was referred by the Standing Committee on Estimates and Financial Operations.

Several members interjected.

Hon J.M. BERINSON: I have no doubt that since his appointment to the prestigious position of chairman of this committee, which seems to have met twice in 12 months and has produced one useless report, Hon Bob Pike is all ears when any petition is read and he immediately knows the sort of petition that will lead him or the other members of the committee to suggest an inquiry. He might be very sensitive to that, but I am not. I repeat that I gave notice of this motion on 17 October and that was well before I heard anything about an interest by the committee in conducting an inquiry into WIRE.

Hon Mark Nevill: It was before it was raised in the committee also.

Hon J.M. BERINSON: There we go - before it was raised in the committee.

Hon R.G. Pike: You know it was referred to the committee and neither of you can dodge that fundamental fact.

The PRESIDENT: Order!

Hon J.M. BERINSON: I would not want to do that; I have no interest in dodging anything from Hon Bob Pike.

Hon R.G. Pike: We have heard this from you for years.

The PRESIDENT: Order!

Hon Mark Nevill: You have been caught out.

Hon R.G. Pike: Yes, he has been.

Hon J.M. BERINSON: I do not know why Hon Bob Pike wants to lead us into a discussion about the merits of the performance of various members in this House because he would not come out of any discussion too well. I indicated that I deliberately refrained from any such discussion yesterday and I am prepared to refrain from it now, but Hon Bob Pike must take care not to force us into that position.

Mr President, I was making the point, and I am sorry I have to do it a third time but it is necessary for some continuity of my argument, that, firstly, when I moved the notice of motion I was not aware of any interest by the committee in conducting an inquiry into WIRE. Secondly, and perhaps more importantly, if my aim in moving this motion was indeed to nobble the committee to prevent its inquiry into this or any other matter, why on earth would I suggest that the review should be conducted by the Standing Orders Committee? That committee has a majority of Opposition members, as Hon Bob Pike well knows. Therefore, one has to ask whether he is seriously suggesting that his own colleagues would do him in to protect either me or the Government. I can well imagine his colleagues being interested in doing him in for any number of reasons, especially given his performance the last time he chaired an inquiry, but that surely is another matter. Certainly, on whatever rational basis one approaches the motion which I moved for a review of this committee there is nothing in it to justify the sort of allegations and conspiracy theory which Hon Bob Pike engaged in.

Hon Bob Pike also attacked me for not referring to his committee's report on the sexual assault of children. He was very proud of that report and he went into some length to discuss it and he seemed very upset that I did not mention it at all. I would have thought that Hon Bob Pike would have thanked me for that omission. In moving the motion I indicated that one of the reasons for it was the waste of money, time and effort involved in the committee's pursuit of that subject on the basis of a petition. Any reference to the report can only highlight the futility of the committee's exercise. Every major recommendation in that report was not only anticipated by general Government propositions, but was anticipated by positive Government announcements that those very matters were to be included in legislation, the drafting of which had already been approved. I have mentioned that many times, both in this House and in public, and there is nothing that the committee arrived at, or could have sensibly arrived at, in its report which was not a matter of existing Government commitment, and in a highly specific way by way of legislation. The long and short of that report is that it involved an exercise by the committee in reinventing the wheel. If members and the chairman of the committee are interested in that sort of exercise, that is their privilege.

The point of my motion is to have a review of the Standing Committee on Constitutional Affairs and Statutes Revision conducted by the Standing Orders Committee to ascertain whether the time and effort that goes into that committee organisation might be better applied elsewhere. I did not suggest that the matters included in the terms of reference of this committee should not be addressed in a proper way. I was suggesting that, on the face of it, the sort of performance from this committee and the results of its work suggested that its terms of reference might readily be accommodated in one of our other committees. That is all that was involved. I was not looking for some sort of witch-hunt or any condemnation of anyone; I was simply saying that after a period during which our general Standing Committee system has been operating for the first time, it is worth having a review if one aspect of it seems to emerge as requiring attention more than others. In a way, I regret that the discussion went off the rails and away from my original objective which was as simple as I have put it.

In summary, I repeat that the justification for this review is self-evident. The nomination of the Standing Orders Committee as a suitable place for that review to take place is self-evident and nothing we have heard to the contrary should discourage any member from supporting this motion.

Division

Question put and a division taken with the following result -

Ayes (14)		
Hon J.M. Berinson	Hon Kay Hallahan	Hon Tom Stephens
Hon J.M. Brown	Hon Tom Helm	Hon Bob Thomas
Hon T.G. Butler	Hon Garry Kelly	Hon Doug Wenn
Hon Cheryl Davenport	Hon Mark Nevill	Hon Fred McKenzie
Hon John Halden	Hon Sam Piantadosi	(Teller)
Noes (14)		
Hon J.N. Caldwell	Hon P.H. Lockyer	Hon R.G. Pike
Hon George Cash	Hon Murray Montgomery	Hon W.N. Stretch
Hon E.J. Charlton	Hon N.F. Moore	Hon Derrick Tomlinson
Hon Max Evans	Hon Muriel Patterson	Hon Margaret McAleer
Hon Peter Foss	Hon P.G. Pandal	(Teller)

Pairs

Hon Graham Edwards
Hon B.L. Jones

Hon Barry House
Hon D.J. Wordsworth

The PRESIDENT: The voting being equal, I give my casting vote with the Noes.

Question thus negatived.

STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS

Patterson, Hon Muriel - Appointment

On motion by Hon J.M. Berinson (Attorney General), resolved -

That Hon Muriel Patterson be appointed as a member of the committee in place of Hon Reg Davies, who resigned on Tuesday, 22 October 1991.

SELECT COMMITTEE OF PRIVILEGE

Select Committee on Evidence Supplied to Select Committee on Burswood Management Ltd - Appointment

HON N.F. MOORE (Mining and Pastoral) [3.22 pm]: I move -

That -

- (1) A Select Committee of Privilege of five members be appointed to inquire into and report, not later than 31 March 1992, on whether material or evidence supplied to the former Chairman of the Select Committee on Burswood Management Ltd, and referred to in the special report of that committee presented to the Legislative Council on Tuesday, 14 June 1988, discloses an improper attempt on the part of the person or persons who compiled or supplied, or caused to be compiled or supplied, that material or evidence to influence or intimidate the committee, or any of its members, in contravention of the privileges of this House;
- (2) the committee have power to send for persons, papers and records, and to move from place to place; and
- (3) the quorum of any meeting of the committee shall be three members.

On Tuesday, 14 June 1988 the Chairman of the Select Committee on Burswood Management Ltd, Hon Tom McNeil, in a special report to the House stated -

As Chairman of the Select Committee on Burswood Management Ltd I feel obliged to express my serious concern at the Committee's continued operation with its current membership.

I refer in particular to the position of Hon Neil Oliver.

Information has been drawn to my attention which indicates that, even since the Committee's establishment, Mr Oliver has held discussions with individuals who have been associated with earlier complaints on related issues and who could be expected to appear to be called as witnesses before the Committee.

On the material available to me I believe that the nature of Mr Oliver's discussions must cast serious doubts on his impartiality. That, in turn, has serious implications for the conduct of the Committee's inquiries and the acceptability of its conclusions.

In these circumstances I wish to record my objection to Mr Oliver's continued membership. I also place it on record that I have asked him to withdraw but that he has declined to do so . . .

In his minority report to the special report, Hon Neil Oliver stated -

I must express my utter and total amazement at the lengths to which certain individuals are prepared to go to frustrate the clearly expressed decision of this Chamber in my appointment to the Select Committee on Burswood Management Ltd. . . .

I should say at this point that this whole episode is but the latest attempt over the last few weeks to ensure that I do not sit on this Select Committee.

The allegations and smears that have been circulated through this latest attempt to denigrate my integrity and remove me from this Committee are contemptible. They are also false and, further, they constitute a contempt not only for the established privileges of Parliament but for the parliamentary system itself.

As a result of this special report and the comments of the President the Attorney General moved on 16 June 1988 for the establishment of a Select Committee of Privilege to determine whether the matters raised by Hon Tom McNeil constituted a breach of the privilege of this House. The Privilege Committee was established and reported to the House on 24 June 1988. The report contained a majority report, a minority report signed by me, and an addendum signed by Hon Tom Stephens.

To refresh the memories of members and to assist those members who were not here at the time, I will relate some of the history of this issue before asking members to support my motion which is, in effect, an endeavour to reconstitute that Select Committee of Privilege. On 25 May 1988 Hon Tom McNeil moved to set up a Select Committee of this House to inquire into matters surrounding the cost overruns being experienced by the operators of the Burswood Casino and other matters relating to the issuing of a prospectus by the company. His motion was amended by a motion moved by Hon Eric Charlton to include reference to the disclosure of a report from the Corporate Affairs Commissioner. Part (A) of the motion was further amended by a motion moved by Hon Phil Lockyer before the House resolved to agree to the establishment of the Committee of four members - two Labor, one Liberal and one National Party.

Essentially, therefore, the committee was given the role of investigating allegations which were being made at the time and which related to the cost of building the Burswood Casino, the contents of its prospectus and the resultant action, or inaction, of the Commissioner for Corporate Affairs. The Liberal member on the committee was Hon Neil Oliver, now a former member. I am aware, and was aware at the time, of considerable efforts being made to ensure that he was not elected to the committee. However, that knowledge did not lessen my surprise when I saw the comments of Hon Tom McNeil in the special report of the Select Committee presented just three weeks after the committee commenced its deliberations. As I have said, the special report led to the formation of a Select Committee of Privilege of which I was a member. Essentially, the role of the Committee of Privilege was to ascertain whether the evidence referred to by Hon Tom McNeil in his special report and supplied to him by persons unnamed represented an attempt to influence him and other members of the committee as to the propriety of Hon Neil Oliver's continued membership of the committee; in other words, was an attempt being made to influence or intimidate any of the committee's members.

During the deliberations of the Committee of Privilege evidence was given that the information provided to the Chairman of the Select Committee relating to Hon Neil Oliver was contained in transcripts of taped telephone conversations involving Mr Oliver. The

transcripts were given to Hon Tom McNeil, Hon Mark Nevill and Hon Fred McKenzie, three of the four members of the McNeil committee. Interestingly, they were not provided to Hon Neil Oliver. Evidence was provided that showed that the transcripts were given to the members by Mr Craig Coulson, company secretary of Burswood Management Ltd. Mr Coulson gave evidence that the transcripts and the tapes were given to him by an unknown person. Further evidence was given that suggested to the committee that Mr Robert Smith, a private investigator, should be questioned by the Privilege Committee in relation to telephone tapping.

In evidence Mr Smith denied that he had been involved in telephone tapping. The effect of his evidence was such that the committee was left with no other obvious avenues of inquiry. Also, it did not have the resources or capacity to investigate the phone tapping allegations. Evidence was given that the matter was being handled by the Federal Police. It is now history that Robert Smith was tried and found guilty on charges relating to the tapping of telephones which resulted in the supplying of tapes and transcripts to three of the members of the McNeil committee. Further, Mr Smith has now been found guilty of perjury in that the evidence he gave to the Committee of Privilege was found to be false. In the belief that Mr Smith has been properly prosecuted and properly found guilty, it is now my view that he should again be asked a number of questions in relation to the provision of material to the McNeil committee. It was necessary for the Committee of Privilege to determine whether an attempt was made to influence or intimidate any or all of the members of the McNeil committee. It was also necessary for the committee, if it believed that such an attempt was made, to find out why. It is my view, and this is amplified in my minority report, that Mr Craig Coulson's actions were in breach of the privileges of the House. However, as the reasons why Mr Coulson took the action he did were not, in my opinion, properly and thoroughly investigated, I did not recommend any penalty other than a public apology.

[Resolved: That the motion be continued.]

Hon N.F. MOORE: I thank the House. Now that we know that Mr Robert Smith taped the telephone conversation and presumably provided the tapes to Mr Coulson, it is possible for a reconstituted committee to complete the inquiries. Mr Smith should be called by a reconstituted committee to explain his motivation for tapping the telephone conversations. Once we know his motivation it will be possible to reconsider the question of a breach of privilege. Indeed it may be found that Mr Smith was engaged by others to tap the telephones, and if this were the case, the motivation of those people would be of interest to a Committee of Privilege.

It is my belief that serious attempts were made to ensure that Hon Neil Oliver was not elected or allowed to remain a member of the McNeil Select Committee. I do not know why these attempts were made. If Parliamentary Select Committees are not able to function properly, and members of Parliament are therefore threatened in the carrying out of their duties, a serious problem exists in our Parliament. It is my strongly held view that the events of May/June 1988 represented an attempt to prevent a member of Parliament from carrying out his duties. It is incumbent therefore for this House to support the establishment of a Committee of Privilege to find out once and for all the real story behind this matter. I seek the support of the House for this motion.

Debate adjourned, on motion by Hon J.M. Brown.

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (NMRB) BILL

Receipt

Bill received from the Assembly.

Standing Orders Suspension

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.33 pm]: I move without notice -

That Standing Orders be suspended so far as will enable this Bill to pass through all stages at today's sitting.

The purpose of this motion is to allow the consideration of the Bill to be completed today, following the same approach being taken in the Legislative Assembly, in order to meet the

urgency of the contents of the Bill. It has been agreed with the Leader of the Opposition that after the second reading speech is completed, an adjournment will be moved to a later stage of today's sitting to allow the Opposition time for some further consideration of the Bill. The present motion is simply to allow the House to complete consideration of the Bill if that is agreed.

Question put and passed with an absolute majority.

First Reading

On motion by Hon J.M. Berinson (Attorney General), read a first time.

Second Reading

HON J.M. BERINSON (North Metropolitan - Attorney General) [3.36 pm]: I move -

That the Bill be now read a second time.

The purpose of this Bill is to supplement the principal legislation in Victoria which provides for the vesting of the undertakings of National Mutual Royal Bank Ltd (NMRB) and National Mutual Royal Savings Bank Ltd in the ANZ Banking Group Ltd and ANZ Savings Bank Ltd. The NMRB and the ANZ trading and savings banks are all incorporated in Victoria. The supplementary Western Australian legislation is necessary to the extent that the banks also operate in this State. Similar supplementary legislation has also been prepared in other States and Territories where the banks operate. On 2 April 1990 the NMRB trading and savings banks became wholly-owned subsidiaries of ANZ following the purchase by ANZ of all of the issued share capital of NMRB. The merger was approved by the Federal Treasurer under the Banking Act. The Reserve Bank of Australia required that steps be taken as soon as possible to integrate the operations of the two groups and for the NMRB trading and savings banks to then surrender their banking licences. It has been agreed between the Reserve Bank and the ANZ that these licences be surrendered on 15 November 1991.

The PRESIDENT: Order! I will not say it again. The audible conversation is out of order and I shall take a continuation of it to indicate a deliberate defiance of the Chair. The Attorney General is endeavouring to explain a piece of legislation, and it is important that we should hear what it is.

Hon J.M. BERINSON: Consequently the ANZ is seeking the passage of all necessary legislation giving effect to the integration, including the Western Australian Bill, by that date. The legislation will give effect to the integration of the two groups by transferring customers' accounts and borrowing arrangements from the NMRB trading and savings banks to the ANZ and the ANZ Savings Bank. Assets such as real estate and shareholdings will not be transferred.

The merger could be effected without legislation by means of separate transactions between the banks and their customers. However, this would involve, for example, authorities from each customer to transfer accounts from one bank to the other and fresh security documents for some customers' mortgages. The work involved for bank staff in preparing documents and contacting customers to obtain signatures would be extremely onerous and the procedure would also be tedious for customers. Consequently, this legislation is consistent with the current emphasis on promoting an efficient and streamlined regulatory system for Australian business, saving considerable time and administrative costs for businesses and their clients. The saving in documentation from effecting the integration of the banks by legislation will not deprive the State of any revenue. The ANZ has negotiated with the Commissioner of State Taxation for a payment in lieu of the stamp duty which would otherwise have been incurred. There is ample precedent for both the legislation sought by ANZ and a payment in lieu of stamp duty, including the mergers of the Commercial Banking Company of Sydney Ltd with the National Bank and the Commercial Bank of Australia with the Bank of New South Wales, both in 1982.

The Bill has been prepared in consultation with the ANZ's solicitors as well as relevant State Government departments. The Bill contains no provisions dealing with employment as all NMRB employees' rights, including entitlements to superannuation and long service leave, have been fully protected under private arrangements between the ANZ and the employees.

I commend the Bill to the House.

Debate adjourned until a later stage of the sitting, on motion by Hon Max Evans.

[Continued on p 6563.]

CRIMINAL LAW AMENDMENT BILL

Report

Report of Committee adopted.

ROAD TRAFFIC AMENDMENT (POWER ASSISTED PEDAL CYCLES) BILL

Introduction and First Reading

Bill introduced, on motion by Hon Graham Edwards (Minister for Police), and read a first time.

Second Reading

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [3.42 pm]: I move -

That the Bill be now read a second time.

I apologise, Mr President, for my distraction, but I was contemplating how this type of power assisted pedal cycle might be fitted to a wheelchair.

This Bill seeks to introduce legislation which will allow the use of power assisted pedal cycles on the road without the necessity of either the rider or the cycle being required to comply with the normal licensing requirements. The purpose of a power assisted pedal cycle is to provide a limited source of auxiliary power, via a petrol fuelled motor attached to a pedal cycle, thus greatly assisting elderly and incapacitated riders, or riders carrying a child in a carry seat. Tests conducted by the Police Department have found the modified pedal cycles, which have a maximum speed of 25 kilometres even when being pedalled, are safe and suitable for use. In the interests of road safety it has been decided that, although power assisted pedal cycles will not be classified as a motor vehicle, they should be restricted to persons over the age of 16 years.

I commend the Bill to the House.

Debate adjourned, on motion by Hon George Cash (Leader of the Opposition).

MOTION - SELECT COMMITTEE ON LIMITATION OF PROFESSIONAL AND OTHER OCCUPATIONAL LIABILITY

Appointment

Debate resumed from 6 November.

HON PETER FOSS (East Metropolitan) [3.44 pm]: With some qualification, the Opposition supports the establishment of this Select Committee. The open ended nature of professional and occupational liability has been a matter of concern to me for a considerable number of years. My concern is shared not only by professional communities but also by people engaged in other activities which may result in those people being sued for professional and occupational liability.

It is interesting to note the differences between professions which are able to be incorporated and those which are not. A number of occupations are not protected by law; engineering is an example of this as engineers are not prevented by their professional rules from incorporating their practices. This has been done, but it is only partly useful.

Sitting suspended from 3.45 to 4.00 pm

Hon PETER FOSS: Having a limited company to carry out one's business helps one only so far. If a company is found guilty of negligence, the company and the director guilty of negligence can still be sued. That is still an advantage because the personal assets of the people who own the company are protected. All they are hazarding is their business assets; they are not liable for other people's negligence. The problem is that in most occupations a person is liable for negligence of not only himself and his partners, but also for his employees. If a person is carrying on business as a company, he will at least hazard only his professional assets and his own personal assets if he is negligent. That is still not a

satisfactory state of affairs. A person cannot rest on the basis that as long as he is careful he cannot be sued or he will lose only his business. For a start, from time to time everyone falls below the best standards. It is human nature to err and people will be guilty of occupational or professional negligence. Sometimes it may be accompanied by improper or wrong behaviour. However, on many occasions people have merely committed oversights and failed to meet the high standards required. The consequence is a matter of the law deciding that the business director bears the loss rather than the client.

It is often a matter of considerable concern to people in business that they are exposed to professional or occupational liability. Even though the situation is improved by having limited liability companies, that is still not the answer. It goes further: Many occupations do not permit the use of limited liability companies; for example, lawyers and others who are not permitted to incorporate their practices. Whenever suggestions have been made that people in those professions should be entitled to incorporate their practices, they seem to include the masochistic suggestion that directors should remain personally liable, as if some great advantage is served by that. All in all that is missing the point that people will try to retain their professional or occupational reputation. They will always face a degree of inconvenience, personal loss and business costs if they do not maintain the highest possible standards. They must keep in mind that they may be subject to a large claim. Unfortunately, for a number of reasons, claims have become larger as the years have gone by. The complexities of modern life have meant that we are building and designing and agreeing on more complex and expensive ventures. Therefore, the possibilities for loss are greater. In addition, the courts have been extending the degree to which one can be liable for loss and have also been extending the circumstances under which one may be found liable for loss. Also the populace have become more prone to bringing action.

Professionals and other occupations are becoming more concerned that they face this exposure to liability. What have they been doing about it? The most common action has been increasingly to resort to insurance. That enables one to balance the liabilities. People pay an amount of money in order to prevent them being liable to an unknown larger amount of money. That provides them with peace of mind. For some time when amounts for which people were liable were fairly predictable, insurance worked. It has become clearer over time that the insurance coverage has become increasingly inadequate, because one can never have sufficient cover.

The other extraordinary contradiction is that by taking insurance coverage one can make oneself a target to be sued. Before entering into action to sue, people ask whether the liable party has the wherewithal to meet the judgment. Therefore, the fact that some people have insurance can quite often encourage someone to bring action against those firms, professionals particularly. That results in a snowballing effect: The courts become aware of the insurance, litigants become aware of it, people sue more often, and the judgments become higher. Therefore people need more insurance. Consequently indemnity insurance has become increasingly expensive and increasingly difficult to obtain. Although it has fluctuated a certain amount over the years, the market has contracted because fewer people are willing to involve themselves in that form of insurance. In Australia I think only one person in the legal profession is involved in indemnity insurance. Most of the insurers are overseas companies and they are cutting back their involvement considerably. Furthermore, the rules relating to capacity to insure, the increasingly larger amounts for which people want to insure, and the greater number of people who wish to insure has led to the fact that the available capacity does not exist.

Over the years I have been very much involved in professional indemnity insurance. I helped draft the professional indemnity policy for the Western Australian Law Society and have been involved in drafting policies for many other occupational groups. I have also been involved in trying to get cover for people who want peace of mind; the main reason people take out insurance. It has become quite clear that peace of mind is becoming more difficult to obtain and more expensive. It is so expensive now that professional indemnity insurance in some occupations is becoming one of the major costs for those occupations. It is so expensive now that professional indemnity insurance in some occupations is becoming one of their major costs, even then without any guarantee that a practitioner will not be bankrupted should a really large claim be made. I remember that my firm at one stage was able to obtain \$100 million worth of PI insurance. A couple of years later it had significant

difficulties finding sufficient capacity to obtain \$50 million worth. Some of those things have moved on since then. However, that gives the House an idea of the contraction in the market and the sort of figures one has to consider.

The other problem for Australia is that, because the capacity is not available, large quantities of money are going overseas to the extent that people are making a profit on insurance, which is always the intent of insurance. Australians are not making the profits because significant amounts of money are going out of our economy into overseas economies either in the first instance with insurance or with the inevitable re-insurance arrangements that have to be made. Therefore, if we take all of this together, it is becoming a significant burden on industry in Australia. It is becoming significant because of concern in professions and occupations and it is having a significant economic effect on our Western Australian economy.

All of those things put together indicate that we need to see whether the balance between litigants and people providing services should be struck in a slightly different way than at present. When looking at this, we have to recognise that ultimately the cost of paying out litigants comes back into the overall cost to the community. In the same way that there is no such thing as a free lunch, nobody is paid damages which come out of thin air; they must come out of the pockets of real people. If that is one of the costs that must be met, that cost will go onto the cost of those services every single day, especially now with PI insurance being as expensive as it is. That cost is being built into the very fabric of the cost structure that leads to what people charge. It means either that those services are provided at a greater cost or that economic activity that would otherwise take place ceases.

One of the problems in Australia is the difficulties that we have in encouraging economic activity. Much of that comes from Government regulation. However, a good deal of it comes from the increasing obligations placed on people, not only by Statute law, but by the common law. Therefore, it is very much a significant aspect. If one talks to people involved in the professions or in occupations whose members are likely to be sued for negligence, one will find it is a significant occupation in their minds and a significant figure in their balance sheets. I do not know that the public are necessarily benefiting from it because the big problem with such a potential liability is that it often costs far more to insure for it than will ever be suffered by way of liability. If we obtained \$100 million worth of PI insurance, we would sincerely hope that we would never have a claim for \$100 million. However, an insurer somewhere will take the premiums for the insurance. So much of the cost of insuring is due to the fact that people cannot sleep at night without knowing that that liability is covered. It has been suggested in many places that something be done to try to give some certainty so that one knows how much insurance one must take out because one's liability is limited in some way. That has been done overseas. I believe Germany has had a professional liability limitation for many years. New South Wales has introduced similar legislation.

Hon Max Evans: Has it been passed?

Hon J.M. Berinson: I do not know.

Hon PETER FOSS: I was sufficiently interested in this that soon after I entered Parliament I tried to draft such a Bill as this. I got so far and stopped, mainly because of a lack of knowledge about what had been tried already and what facts and statistics were involved. I am pleased to say that this proposed Select Committee will deal with each of the problems that I struck when trying to draft a Bill and wanting to know the answers in order to be able to continue with the drafting of the Bill. It is one thing to have an idea; it is another thing altogether to try to invent the wheel anew. This path has been trodden in other places. There has already been a tremendous amount of research and information on it and it would be silly for the Parliament of Western Australia to seek to deal with this matter - although I believe it should - without trying to answer some of the questions raised in this motion. Subparagraph (a) states -

the number and quantum of civil claims against members of professional and occupational groups in Western Australia.

That is an important statistic, but it is not the most important one. The whole point of where the cost has been coming in has been the concern by professional and occupational groups

that they may be liable to claims. Of course, if one has a disastrous claim, that is a disaster. However, it would be wrong to think that the only cost to professional and occupational groups in Western Australia has been those claims. The biggest cost has been professional indemnity insurance and the biggest concern is the inability to give oneself peace of mind to get on with the job properly.

Although that is an important part of the inquiry to set some of the background to this, it is also important to know what people see as the possible exposure to liability that they may have. Subparagraph (b) states -

the extent to which the existing mandatory and voluntary professional indemnity insurance coverage of members of the professions and other occupational groups is adequate to protect the interests of their clients;

Again, that is an interesting area of inquiry about whether there should be mandatory professional and indemnity insurance. The imposition of mandatory insurance has always been defended. The justification for introducing mandatory professional insurance schemes has been that it is in the interests of the clients and the public, although I think the motivation more frequently has been that it is cheaper to have a professional indemnity scheme because one gets the benefits of bulk buying both in premiums and in policies. However, I think that has taken root as an idea for one of the reasons that professional indemnity insurance should be made mandatory in some areas. I am not convinced that it should be one of the traditional reasons for having some sort of limitation on liability. However, it certainly is a matter that has been canvassed over the years. Subparagraph (c) states -

the availability and cost of professional/occupational indemnity insurance;

That is also important. However, perhaps the emphasis on that should be not only the cost to the individual in Western Australia, but also the cost to Western Australians of much of that insurance both in the first instance and on re-insurance going overseas. It is covered in the terms of reference. However, for the public interest it is important that we consider the cost to the Western Australian economy of both premiums going outside Western Australia. Subparagraph (d) states -

whether there should be a system of limitation on liability of professional and/or occupational groups linked to any one or more of -

- (i) maintenance of mandatory minimum capital reserves;
- (ii) compulsory mandatory minimum professional indemnity insurance cover;
- (iii) the fee charged for the work done;

The first two deal with the question of limited liability of companies and with the concept of mandatory professional insurance, which I have mentioned already. The fee charged for the work done is the situation that exists in Germany, but it has a total limit of liability or 10 times the amount of the fee, whichever is the greater. That certainly has some commercial reasonableness to it. It means the reward and the liability are linked. Therefore, the more money one gets, the more one should take by way of liability. Subparagraph (d)(iv) states -

the cost of the project;

I do not know whether that has been used elsewhere. However, it is something that should be considered. Subparagraph (d)(v) states -

the existence of a representative self-regulatory professional or occupational body which imposes adequate controls on entry to membership, training -

[Fire alarm. Chamber evacuated.]

Sitting suspended from 4.23 to 4.32 pm

The PRESIDENT: I understand that was a trial of the emergency procedures, which was designed to ensure that if the real thing ever happened, none of us would be cooked alive. I hope the drill went off well and I also hope that this Parliament has some insurance cover!

Hon PETER FOSS: I mentioned as we evacuated the Chamber that I hoped this place would not burn down because if it did so, it would be the last straw for the State Government

Insurance Commission. Some interjections have been made on my speeches from time to time, but that is probably the most difficult with which to deal.

Before the fire drill I was speaking about paragraph (1)(d)(v) of the motion which deals with other adequate controls in place to protect the public. Again, that is a factor that should be considered and it is obviously an important element of inquiry by the committee to determine how much emphasis should be given to that. Obviously, it could exclude certain people if that became the touchstone to obtaining this limitation of liability. Subparagraph (d)(vi) deals with greater Government regulation. Even the thought of greater Government regulation sends a shudder through my spine, and substituting greater Government regulation for the cost of the insurance must be a terribly difficult choice. It would be hard to know whether it would cost more to allow for greater Government regulation or to pay for professional indemnity insurance. There may be a way of having greater Government regulation which does not cost a lot of money, but I have yet to see such a Government regulation.

The final subparagraph picks up all the things that may have been left out in earlier paragraphs. Subparagraph (e) refers to an examination of the desirability of the New South Wales Bill as a legislative model. Obviously this should be considered, although the committee should not confine itself to that. I do not read the terms of reference as confining the committee to looking only at the New South Wales legislative model, but more as directing the committee to look at that legislation as the starting point. Obviously, if it is necessary to consider other legislation, the committee should do so. Other legislative models exist which the committee should examine. The remaining paragraphs of the motion are fairly standard.

The substance of the motion is contained in subparagraphs (a) to (e) and I have no quarrel with that. It is an excellent motion and it is well worth pursuing for the benefit of Western Australia. However, I have some difficulty with the opening words of paragraphs (1) and with paragraph (5). I deal firstly with paragraph (5). It provides for a Joint Select Committee to be established with the Legislative Assembly. A number of speeches have been made in this House as to why in principle the Opposition does not agree with Joint Select Committees. It seems to be against the basic idea of our bicameral Legislature to have Joint Select Committees unless those committees are dealing with matters that are joint so far as the Houses of Parliament are concerned; the Joint House Committee is one example and, perhaps, the Constitution Committee is another, because in many ways that committee considers the interaction between the Houses. In some cases a Joint Select Committee is called for because the essence of the matter dealt with is a joint one. However, if the matter dealt with is not joint, it is against the idea of a bicameral Legislature to establish a Joint Select Committee.

There is another more practical reason against joint committees; that is, if the committee has a number of members from both Houses it will have more members, and the larger the committee the more cumbersome it becomes because of the extra number of members. I do not think a larger committee is better able to inquire; it is perhaps less able to inquire. Secondly, because the two Houses, which have different sitting hours, have moved so far apart in procedures and they tend to operate independently, it is harder to bring members together in order to meet and despatch business. The common reaction of people involved in Joint Select Committees is that a large amount of effort goes into getting the committee on the road, as opposed to doing something worthwhile in that committee. For those reasons I oppose the concept of a Joint Select Committee with the Legislative Assembly.

The other matter with which the Opposition is not happy is the proposal that the Select Committee consist of four members. I would prefer the membership to be three. It is not the sort of committee that needs a large number of members, and it seems that many of these committees, if not kept small, become as cumbersome as committees involving both Houses. Each additional member is another person who must go around with the group, it increases the logistical problems of the committee, and it is harder to deal with the multitude of problems faced.

Hon Sam Piantadosi: What do you propose - two Liberal and one Labor?

Hon PETER FOSS: At this moment I am proposing only that there be three members. We have a large number of committees in this House, and they are doing good work. Every time

we increase the number of members on a committee, we increase the burden on members. If this committee can discharge its duties with three members, then it should discharge them with three members.

Hon Sam Piantadosi: If that were accepted, which members would you suggest?

Hon PETER FOSS: I am keen to be on this committee, and I know that Hon Max Evans is also keen to be on it, and we are both very appropriate people to be members of it. However, I leave it to the House to make that decision. If the House were willing to select us, we would be happy to serve on the committee, but I would not want to presume to anticipate the decision of the House. That is another matter. There is also something to be said for having an uneven number of members on a committee.

Hon Sam Piantadosi: What about two Government and one Opposition?

Hon PETER FOSS: It depends upon whether the Government has the talent. It is advantageous to have an uneven number of members on a committee because it means that things can definitely happen. I admit that this committee is not likely to have any dispute between the members. I do not even think there will be any difference of political ideology. It will be very much a fact finding and working committee rather than a committee dealing with what could be termed a political matter. However, notwithstanding that, the most efficient method for a committee is to have an uneven number of members so that there will be no possibility of a stalemate on the committee. The committee will always go forward and will not need to come back to this House to have any matter resolved; nor will there be a possibility that there will not be a decision on a matter. Accordingly, I have pleasure in indicating the Opposition's support for the motion.

Amendments to Motion

Hon PETER FOSS: I wish to move two amendments to the motion. I move, first -

That the word "four" in line one of the motion be deleted and that the word "three" be substituted.

HON J.M. BERINSON (North Metropolitan - Attorney General) [4.44 pm]: I oppose the amendment, and I do so keeping in mind particularly the suggestion by Hon Peter Foss that we should have a House committee only and not a joint House committee. On the latter question, something can be said on the grounds of practicability and the difficulty of drawing together members from different Houses in a convenient way, and, when we come to that question, I would leave the decision to the House. However, that will depend to a considerable extent upon what we decide now. Everything that can be said favours the view that we should have four members from this House, as the motion proposes. That would obviously lend itself to equal numbers from the Government and the Opposition.

Precisely in a situation where the Opposition members who have spoken or interjected have indicated that this committee is not likely to be an ideological or even contentious battleground, I cannot for the life of me understand the reason that we should not have four members and that there should be this concern to have an odd number, which will inevitably give rise to a resolution. The argument for an odd number so as to arrive at a definite decision is, in any case, very weak in respect of any committee, since there is nothing to prevent members of a committee, where a decision agreeable to them has not been reached, from appending a minority viewpoint. I would not expect that to happen here, and it would hardly happen on any committee, with the exception of those most highly political and contentious committees that we have seen the House engage in over the last couple of years. The truth is that if we give a committee a decent sort of job to do, it will do it with even numbers or odd numbers, and if we give it a job which is not realistic or appropriate to the committee system, it will not work irrespective of whether it has odd or even numbers. That is the reality, and surely we have learnt that, if ever we did not know it, during our experience of the last couple of years.

I might just anticipate the later debate on the virtues of a joint versus single House committee -

The PRESIDENT: Order! I suggest you do not.

Hon J.M. BERINSON: I was going to say only to the extent that it is relevant to the present decision. The reason that it does become relevant is that the motion before the House at the

moment is looking for a membership of eight members; half from this House and half from another place. There is a reason to justify eight members and two Houses, and it does not go to the question of joint House interests, since I have to say that both Houses are interested in all the business that comes before the Parliament. The question of joint House committees - just as the question of a committee with eight members versus three or four members - goes to different considerations, dealing mainly with, firstly, the importance, and, secondly, the complexity of the issues to be dealt with. The more important and the more complex the issues, the greater the advantage that is to be gained from having a larger rather than a smaller number of members participating.

Hon W.N. Stretch: It is very difficult to sustain that argument.

Hon J.M. BERINSON: I do not see how the member can suggest that the contrary argument can stand. At the end of the day, irrespective of what a committee says, a decision has to be made in both Houses of the Parliament. I would be interested in Hon Bill Stretch's contrary view but I cannot for the life of me see how the later consideration in the two Houses is not assisted by at least having a core number of members, preferably cross-party but also I would say cross-House, who understand what is involved. They may even have differing views, and it is helpful to the House to have those differing views as well.

The present subject is not an easy one. There is no self-evident, easy remedy to the very difficult problem that I think nearly everyone now recognises. In these circumstances I believe that it pays us to make sure that a reasonable number of our members, and certainly a reasonable number of members from both sides, can come to any subsequent proposition with a better understanding of the issues than one can possibly get from a straightforward parliamentary debate, or even from a parliamentary debate that has been through one of our Standing Committees. In theory we could just introduce a Bill about this, send it off to the Legislation Committee or some other committee, and have it lie there for whatever time it takes. That would not be appropriate with the current subject matter because it is so discrete and involves such concentrated work if some resolution and recommendation is to be achieved in a reasonable amount of time.

We need a committee that is not being drawn off into other directions by the reference to it of different questions altogether. That is why we still have a need for Select Committees in spite of our Standing Committee system.

Hon W.N. Stretch: I just question whether a big committee is necessarily beautiful.

Hon J.M. BERINSON: Hon Bill Stretch might be interested to know that I am increasingly a convert to the "small is beautiful" concept, especially as I shrink with age. However, I must say that even in broader fields going to legislation I am much more ready to join the "small is beautiful" ranks than I might have been at an earlier stage of my career. That having been said, though, the fact is that an issue like this is still having a very small number of people applying itself to it if we are dealing with four. I think three, which on current indications would allow one only from the Government side -

Hon George Cash: Not necessarily.

Hon J.M. BERINSON: Then one only from the Opposition side. Either way, I would say it does not allow a breadth of consideration which is appropriate in the circumstances.

I hardly need to get into the principle of equal numbers on committees; I simply mention it in case the Leader of the Opposition has forgotten my views on that question. I will not elaborate but will simply say that in principle we have made it clear throughout that we always should have even numbers. In the present case, where the subject matter is of such a distinctive nature and is agreed on all sides to be non-contentious from a party or ideological point of view, no reasonable consideration remains for having any other than equal numbers. For those reasons I oppose this amendment and I hope the House will as well.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [4.53 pm]: I support the amendment moved by Hon Peter Foss, which proposes that rather than have a Select Committee of four members of the Legislative Council we have a Select Committee of three members. The Standing Orders of the Legislative Council provide that Select Committees shall comprise three members unless otherwise ordered, and it seems to me that the onus is upon the Attorney General, the mover of the original motion, to justify why there should be four rather than three members on the Select Committee.

In my view the Attorney General has failed to do so, although it is true that in his concluding comments he stated that the reason was, in general, those principles which he has enunciated before when we have discussed the composition of Select Committees in this House.

Hon J.M. Berinson: That was my last reason only.

Hon GEORGE CASH: In my view that was the only substantive reason the Attorney General advanced in respect of his argument. I took the opportunity of going back over the last six Select Committees established in the Legislative Council to try to better understand why the Attorney General continues to want Select Committees of even numbers. It would appear that the reason is based on the very distinctive nature of previous Select Committees, some of which could be described as being very contentious and, indeed, very political. I can therefore understand the political motives of the Attorney General in wanting even numbers in those cases. Given that the Attorney General himself admits - and this was confirmed by Hon Peter Foss in his comments - that this Select Committee is not anticipated to be of a contentious nature but really is a research and report committee, there is no need to revert to those matters raised earlier by the Attorney General in seeking even numbers. A Select Committee of three members would be quite adequate.

Without wishing to canvass the other amendment that Hon Peter Foss has indicated he will move, it is clear to me that if it were a Select Committee of three members and it were to be a joint committee, then a joint committee of six would be much less wieldy than a committee of more than that number. However, I will not argue that at the moment.

Hon Garry Kelly: Do you know the most efficient number?

Hon GEORGE CASH: The member should tell me.

Hon Garry Kelly: One.

Hon GEORGE CASH: I suppose Hon Garry Kelly lends support to my argument in wanting fewer members on the Select Committee rather than more members.

Hon Peter Foss: It is an uneven number as well.

Hon GEORGE CASH: Indeed, it is an uneven number. Unfortunately, much as I would be very pleased to agree that the proposition for a Select Committee of one person would probably be the way to cut through red tape and get on with the business, the Standing Orders do not provide for that and we cannot have it. I believe that a committee of three, and as such a committee with an uneven number of members, would enable that committee to make progress. It could be argued that the majority of work to be conducted by this Select Committee will be done during the parliamentary recess; that is, after the House rises on Thursday, 5 December.

If it were a committee of four members and if for reasons unknown at this time the committee should be deadlocked, it would be unable to function until the House resumed some time in the new year and considered that deadlock.

Hon J.M. Berinson: When has such a situation ever arisen over the years we had equal numbers? It did not once arise.

Hon GEORGE CASH: The Attorney General has had his opportunity to speak. He has failed to substantiate why there should be four members rather than three. I suggest to the House that there is a need for three members to enable the Select Committee to progress its work and not find itself deadlocked during the recess and unable to consider the very important matters contained in the motion.

It is agreed by the Opposition that a Select Committee should be established, for the reasons set out in the motion. The only two matters that concern the Opposition are, firstly, the number of members that comprise the Select Committee; and, secondly, the fact that it should be a Select Committee of this House and not a Joint Select Committee. I ask members to support the amendment moved by Hon Peter Foss so that we can get on with the job, establish the Select Committee and let it do the important work which we all acknowledge needs to be done.

Division

Amendment put and a division taken with the following result -

Ayes (15)

Hon J.N. Caldwell
 Hon George Cash
 Hon E.J. Charlton
 Hon Max Evans
 Hon Peter Foss
 Hon Barry House

Hon P.H. Lockyer
 Hon Murray Montgomery
 Hon N.F. Moore
 Hon Muriel Patterson
 Hon P.G. Pental
 Hon R.G. Pike

Hon W.N. Stretch
 Hon Derrick Tomlinson
 Hon Margaret McAleer
(Teller)

Noes (16)

Hon J.M. Berinson
 Hon J.M. Brown
 Hon T.G. Butler
 Hon Reg Davies
 Hon Cheryl Davenport
 Hon Graham Edwards

Hon John Halden
 Hon Kay Hallahan
 Hon Tom Helm
 Hon Garry Kelly
 Hon Mark Nevill
 Hon Sam Piantadosi

Hon Tom Stephens
 Hon Bob Thomas
 Hon Doug Wenn
 Hon Fred McKenzie
(Teller)

Pairs

Hon D.J. Wordsworth

Hon B.L. Jones

Amendment thus negated.

[Questions without notice taken.]

HON PETER FOSS (East Metropolitan) [5.32 pm]: I move an amendment -

To delete subclause (5).

HON J.M. BERINSON (North Metropolitan - Attorney General) [5.36 pm]: I have no objection to the amendment. I make clear, however, that this is really based on the aspect of practicability that Mr Foss expressed rather than on his more general comments relating to the nature of joint House committees altogether. Given that we have four members on that committee, I believe the House committee alone is adequate for the purpose.

Amendment put and passed.

Motion, as Amended

HON MAX EVANS (North Metropolitan) [5.37 pm]: I congratulate the Attorney General for bringing this matter before the House. He mentioned professional liability to me just before the House rose about two months ago. I supported what he said. It was my intention during this session to examine the New South Wales legislation. I commend the Attorney General for the terms of reference set out for the Select Committee and the reference to the New South Wales legislation. Like Hon Peter Foss, I do not think we should be restricted to that legislation.

I have been interested in this subject since the early 1960s when I wrote to the Institute of Chartered Accountants to ask how much professional indemnity cover one should have. The institute wrote back saying it did not understand the problem, that nobody had asked that question before and why was I worried about how much cover I needed. The institute said it had referred to its brokers Bowring Swain, who were Lloyds brokers and who replied to me that they could not see the problem, that as one could afford more cover so one took it. That seemed to me to be good for the insurance brokers but not for the professional firms. That was 30 years ago. At that stage the main claims against chartered accountants in England related to taxation advice and not to audited accounts. The largest amount involved was about £16 000 and not many large claims had been lodged at that stage. During the past 20 years claims totalling hundreds of millions of dollars have been brought against accounting firms in the United States of America. I presume the legal profession has faced the same problem, mainly because companies are so large and the documentation they deal with relates to such large money values. It is important we consider this matter because it affects many professionals and other individual service providers in the community.

Four or five years ago the Institute of Chartered Accountants in Australia raised at the Ministerial Council meeting the subject of limited liability for chartered accountants. The Attorney General may have been in Melbourne when that happened. I gather that an

agreement had been reached but the Victorian Attorney General reneged on the deal and so it never went through as it required full agreement of the Ministerial Council to do so. In 1984 or 1985 that was just for chartered accountants, but now we are referring to all professional service providers.

As Hon Peter Foss says, many professionals cannot hide behind limited liability. Auditors cannot. Their names appear in the partnership papers. They sign the accounts in their names. Liquidators and receivers incur personal liability in the work that they do. They cannot carry out that work with limited liability. Many suburban accountants register a name, such as Joe Blow Pty Ltd, and they are able to do this because of the nature of the work they are doing. The major firms do not have this facility.

As has been found in the past, rarely does anyone have sufficient insurance cover when a claim is made. One might take out insurance cover in 1980, and a claim may be made five or six years later, by which time the company has gone into liquidation and the value of money has changed. Most of the large claims against the accounting profession in recent years have been made by liquidators who are doing exactly what Hon Peter Foss says, knowing that the firm has a large insurance cover. They go for the firms with insurance cover and obtain the money to pay their fees in order to make a distribution to unsecured creditors. This is unfair. Much of the time it is blackmail because firms have threatened to take action against accounting firms for professional negligence in the hope that the firms will pay up through the insurance company to protect their names and to prevent any adverse publicity. In the United States of America some 10 or 15 years ago this was happening frequently. Many out of court settlements were made in the accounting profession. A lot of pressure was put on firms to go to court and fight matters because too many claims were being paid out under duress. The first large claim in Australia was Pacific Acceptance in respect of Price Waterhouse. Staff members had missed something in the accounts. It was a simple error, but it created a lot of hardship and worry in that firm.

Every day people make errors. This Government's Ministers have made many errors of judgment and bad decisions during the last 10 years, but they have not had to pick up any liability. These Ministers were appointed to make decisions on behalf of the people of Western Australia, and those decisions have proved wrong. Accountants, lawyers and doctors who have to do their job every day, sometimes at speed, have made mistakes, but they can be sued for their last penny.

Cambridge Credit was one firm which folded in the late 1970s. The first claim was for \$149 million against Fell and Starkey. The liquidator was charging one of my very good friends who was seen to be the wealthiest member of the firm. Over the years many of these partners grew old and died, and their estates were held up. There was no distribution to beneficiaries because of these claims hanging over their heads for something like 10 or more years. There was hardship for the beneficiaries of those estates because the assets might end up being wiped out and there would be nothing at the end of the day. A very major settlement was made by the lawyers in Cambridge Credit to cover the legal costs of both parties. It was nowhere near the original claim. This happened in many cases. One accounting firm in America was put out of business as a result of one huge claim. It did not involve negligence; the company was dealing with a fraud. This has happened again and again over the last 10 or 15 years. The National Companies and Securities Commission, or the Australian Securities Commission, still has to take directors to court for fraudulent behaviour, but they want to charge the auditors because they claim they should have found these things. However, when the board covers things up it becomes very difficult.

Insurance cover has become more and more expensive. In fact it is often very difficult to get the cover one wants. One of the big worries is whether the insurance company will still be there when the claim is made. As Hon Peter Foss says, a company might have cover for \$100 million, but many insurance companies have rolled over in the last 10 or 15 years, particularly those carrying a lot of public indemnity insurance. There is some fear that they might not be there to pay the claims. Companies pay huge premiums over the years, often running into hundreds of thousands of dollars, and even millions of dollars in the case of some law firms. It might be eight or nine years down the track before a case is settled in court and by that time there may be no insurance company to pay the claims.

One way of limiting liability has been for partners to transfer their assets to their spouses, or

out of their own names, well ahead of time. The Family Law Act was introduced in recent years. Very often a house is put in the wife's name. At the time of separation the husband would get half back, provided he did not have a public indemnity claim against him. This has been one way professional people have protected their assets. Obstetricians may be sued years later for defects in children caused at the time of birth. Many of them may go out of business for fear of losing their total assets as a result of claims which may be made. This has happened in America, where claims are made through law firms and a percentage goes to the law firm instead of having costs paid by the loser.

It is not only lawyers and accountants like Hon Peter Foss and me, but doctors and surgeons are worried about this the whole time. They must sometimes make very quick decisions in their professional capacities to save somebody's life, and some time later they might be found to be negligent. In America, doctors rarely stop by the roadside to help somebody in an accident, because they have been known to be sued for professional negligence, although they are receiving no fees. They just drive off and leave things. That is an absurd situation. Physiotherapists and occupational therapists also have worries about what they do to people. Paraplegic and quadriplegic people can break limbs, and the physiotherapists can be sued for negligence. People are getting more and more into suing because it is seen as a way to obtain a large, tax free benefit. They think that it will not hurt the person concerned; the insurance company will pay.

Surveyors need protection. They have staff in the field. Other people can move their pegs and the surveyors can be sued for putting the pegs in the wrong places when a building is put up too close to a boundary and the local government authority takes some action. Architects can be sued over a building problem when they make mistakes, like putting a building too close to a boundary. These are honest errors, not criminal ones. We are not talking about criminal acts; they are different. A professional indemnity policy does not cover criminal acts. Architects need protection when they are dealing with big buildings involving large sums of money far out of proportion to their own personal wealth. They would never be able to cover the claims in the event of an allegation of negligence. Why should they be put at risk when so many other people like directors of public companies, Ministers of the Crown and public servants can make mistakes and are not at risk at all? They do not have to put their last dollar on the line. Civil engineers and construction engineers are also at risk when they are constructing these huge buildings. They do not knowingly make mistakes; they have their own professional pride. They must have a certain standard of education and training to get where they are.

Insurance brokers must cover themselves just to protect their clients. At the end of the day it might turn out that they do not have sufficient cover for a particular person or business. The amount of damages could be far in excess of what they have. People sue them because they feel their insurance policies are inadequate and have not come up to expectations. Every time they insure against claims, the fees are increased. As Hon Peter Foss said, a firm can pay \$1 million or \$100 000, or even a sole practitioner can pay up to \$10 000 for professional indemnity insurance. That is a lot of money when the sole practitioner is battling to make more than \$60 000 or \$70 000 a year and around \$10 000 of that amount will be paid for professional indemnity insurance. At the end of the day the firms or the sole practitioner may not have sufficient cover. Valuers of properties have been sued as a result of making incorrect valuations. Someone may have sold a property and may not have received the correct return. Pharmacists are in much the same situation, as Hon Joe Berinson will realise, because they run the risk of filling a prescription incorrectly. The range of risk is very wide in relation to professional and occupational liability both for firms and sole professional people. The sooner we appoint a Select Committee to inquire into the situation, the sooner the firms and professional people will have peace of mind.

Large international firms have enormous claims against them which may set them back a number of years. The various partners worry about the pressure of legal costs, and fighting a claim can affect their professional standard of work. In most cases, at the end of the day the claims are settled out of court and covered by the current insurance cover of the firms or of the sole practitioner. Insurance companies usually want to carry a case to its final conclusion, and may go back through the previous five or eight years' records in order to fight a claim. In the case of Cambridge Credit they went back seven or eight years into the balance sheets of the company that were said to be incorrectly audited.

More than just the professional fees and the cost of professional insurance cover are involved; it is more than just the loss of assets. We should remember the cost to the public and to the professional efficiency within firms while these matters are being considered. I support the establishment of the Select Committee.

Question put and passed.

Sitting suspended from 5.53 to 7.32 pm

AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED (NMRB) BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

HON MAX EVANS (North Metropolitan) [7.32 pm]: The Liberal Party gives its full support to this Bill. Without reflecting on the Attorney General, where has the Bill been over recent weeks? A letter was sent to the Leader of the Opposition in the Legislative Assembly, Mr Barry MacKinnon, on 25 October from the ANZ Bank in Melbourne, and the legislation must have been under consideration at that time. This morning Hon George Cash received a telephone call from Melbourne from a representative of the bank who stated that he had heard that the Bill was before this Chamber and indicated that it must be passed on Thursday. Hon George Cash looked at today's Notice Paper and could not find this legislation listed as it was dealt with in the Legislative Assembly at approximately 11.10 am today as its first item of business.

The second reading speech reads -

The purpose of this Bill is to supplement the principal legislation in Victoria which provides for the vesting of the undertakings of the National Mutual Royal Bank Ltd (NMRB) and National Mutual Royal Savings Bank Ltd in the ANZ Banking Group Ltd and ANZ Savings Bank Ltd. The NMRB and the ANZ trading and saving banks are all incorporated in Victoria. The supplementary Western Australian legislation is necessary to the extent that the banks also operate in this State. Similar supplementary legislation has also been prepared in other States and territories where the banks operate.

It was considered to be expeditious for the banks to arrange their business affairs in the manner indicated in the second reading speech, rather than to transfer the assets across from the National Mutual Royal Bank to the ANZ in another form. The second reading speech continues -

The Reserve Bank of Australia require that steps be taken as soon as possible to integrate the operations of the two groups and for the NMRB trading and savings banks to then surrender their banking licenses. It has been agreed between the Reserve Bank and the ANZ that these licenses be surrendered on 15 November 1991 and consequently the ANZ is seeking the passage of all necessary legislation giving effect to the integration, including the Western Australian Bill, by that date.

Today is Wednesday, 13 November and on Friday no bank licence will be available for the National Mutual Royal Bank; this would create many problems if this legislation were not passed. I now quote from the letter sent to the Leader of the Opposition in another place -

This Bill will transfer the banking and other financial businesses and undertakings of NMRB and National Mutual Royal Savings Bank Limited (NMRSB), and their related assets and liabilities to ANZ and Australia and New Zealand Saving Bank Limited (ANZSB). This will involve the transfer of over 700 000 accounts and the transfer of the borrowing arrangements of more than 85 000 customers. The bulk of this business is in New South Wales and Victoria but a considerable volume of business is involved in South Australia, Queensland, Western Australia and the A.C.T.

The matter of stamp duty has been handled in similar transfers before. The Governments of each State have looked at this with the two banks concerned so that adequate stamp duty is paid rather than applying it to separate documents. This would reduce the problems involved

in having all customers re-sign documents. We support the legislation and look forward to its passage tonight so that the banks can relax in the morning in the knowledge that the legislation has passed through this Parliament.

HON PETER FOSS (East Metropolitan) [7.35 pm]: I am not sure that we should pass the Australia and New Zealand Banking Group Limited (NMRB) Bill. It is quite evident that this House has not had the slightest opportunity to consider the terms of this legislation or to discover its intent. I do not say that anybody in the Government or within this House is at fault, but someone has left the introduction of this Bill until an awfully late stage. Now we are asked to pass the Bill because of its urgency. Somebody must have taken time drafting the legislation, and somebody must have known that the Parliament would have to consider it. The attitude appears to be that the Parliament would simply rubber stamp this legislation because the ANZ Bank and the National Mutual Royal Bank are involved.

It is worrying that we run around looking after the people who want this Bill passed; many other citizens have needs to be served by this Parliament, yet they must be put aside to deal with these institutions. This legislation will save a lot of money in the transactions of these banks. Many other businesses are spending a great deal of money on Government regulations; however, the Parliament does not seem to be overly concerned about that. Meanwhile, these two institutions make special representations to implement measures to save them money, and it seems the Parliament must act. I do not know whether the institutions are paying anything to recompense the State for this activity.

The legislation relates to a commercial transaction between the banks which has placed them in a situation for which they require our help. If these institutions require assistance from the Parliament, they should ensure that the legislation is introduced into the Parliament in good time so that members can consider it and know the full situation. Otherwise members will be saying, "It seems to contain a lot of words and we all want to help ANZ and the National Mutual Royal Bank, so we will pass it." This is a contemptuous way to treat Parliament. Although I will go along with all members in voting for the legislation, the manner of its introduction is a disgrace. I hope that the Parliament will not be asked to pass legislation in this manner again, because eventually we will jack up and say we will not simply pass this sort of legislation quickly. If legislation is to be passed, we should be able to read and understand it and consider the reasons for its introduction.

Question put and passed.

Bill read a second time.

Committee

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

Clause 1: Short title -

Hon PETER FOSS: What is the saving that is expected to be made by virtue of this legislation rather than having the transactions being carried out in the normal way?

Hon J.M. BERINSON: I am unable to quantify that. In fact, I cannot go much beyond the detail provided in the second reading speech. From that it will be apparent that the only alternative to the passing of this Bill is a series of approaches by the ANZ Bank to all customers and borrowers of the institutions being absorbed to make individual arrangements. I do not know how many of those customers and transactions are currently in this State. However, it will be self-evident that, however many there were, would involve quite pointless, costly and time consuming procedures to deal with otherwise than by the provisions of this Bill.

As I did not reply to Mr Foss' speech in the second reading debate, I take this opportunity to say that, as far as I am aware, any need for urgency in dealing with this Bill is not of the Government's making.

Hon Peter Foss: I did not say it was.

Hon J.M. BERINSON: I appreciate that he did not say that, but I emphasise that, as far as I am aware, the issue came to the Government only recently and the need to meet a deadline of Friday this week only came to my own attention earlier this week. Having made that much

clear, I repeat that I am unable to make the other situation any clearer than has already been done.

Hon Max Evans: The Attorney General may have become aware of this only this week. Hon Barry MacKinnon received a letter on 25 October. Something must have got lost in the other House. I think the ANZ Bank has been a bit slow.

Hon J.M. BERINSON: It was not lost in the other House. I do not think the Bill was ready until the end of last week, although I am not sure about that.

Hon PETER FOSS: I am not sure whether the process of a private Bill would in any way serve to effect the same purpose. We have had very few private Bills in this Parliament in this century that I can recall. It seems to me that that process may be appropriate if it served the purpose, because my understanding of a private Bill is that a person preferring a private Bill would bear all of the costs of actually preferring the Bill and pays some fees for doing so. It seems to me that this State is spending a considerable amount of money and legislative time in order to save these two parties money. I am pleased to see that the revenue has been protected by virtue of the collection of stamp duty. We should look at this situation. Where the Parliament passes legislation for the convenience of individuals it should use private Bills rather than public Bills so that the costs are not borne by the State but are borne by the individual. They would also take into consideration that they would not get a rubber stamped, easy ride through if they did not make sure that the Parliament was appropriately informed about it.

Clause put and passed.

Clauses 2 to 30 put and passed.

Schedule 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 Hon J.M. Berinson (Attorney General), and passed.

MOTION - MT LESUEUR NATIONAL PARK

Creation Support

Debate resumed from 4 June.

HON BARRY HOUSE (South West) [7.52 pm]: Mt Lesueur is a very special area in Western Australia. It has been fairly convincingly established that Mt Lesueur contains areas that have a unique diversity of species and, in particular, Cockleshell Gully contains very special natural characteristics. However, consideration needs to be given to the Dandaragan Shire Council's long established and legitimate claims to gravel reserves in that general area, which I believe this House should consider. Many shires throughout the State face the common problem of not having access to road building materials. The problem must be addressed throughout Western Australia. In my part of the world, the South West Development Authority is taking the lead in trying to establish a mechanism for shires to negotiate with Government departments, particularly the Department of Conservation and Land Management, to gain access to road building materials such as gravel and limestone.

Amendments to Motion

Hon BARRY HOUSE: I move -

To add at the end of the motion the following -

but in doing so recognises -

- (1) there are substantial reserves of coal beneath the area which with ongoing research may be capable of recovery in such a manner as not to affect the environmental worth of the area or its enjoyment as a national park;

- (2) that it is not in the national interest or the interest of the State that these reserves of coal be made unavailable for further research and development within the framework of existing legislation;
- (3) that the leaseholders have lawfully expended money with due diligence in exploring and proving these reserves and have a legitimate interest to develop those reserves when it is demonstrated to be both environmentally and economically appropriate to do so;

and imposes as a condition to its agreement to the declaration of the area as a national park the following -

The Council does not consent to the declaration as a national park unless -

1. it is expressly provided that the declaration is without prejudice to the development of selected coal reserves in the area where that can be carried out in an environmentally acceptable manner and subject to all other proper governmental controls;
2. reasonable rights, subject to proper environmental controls, are granted to the leaseholders to carry out further exploration and appropriate rehabilitation research work in the eastern block (VCL) of the proposed park other than in the Cockleshell Gully area (which overlies the Gairdner deposit of coal reserves);
3. it is expressly provided that in the event that permission to mine the area is sought, the further consent of Parliament and of the authority in which the national park is vested is not required;
4. the national park be expressly created by Act of this Parliament providing for these matters and providing for the leaseholders to be able to carry out the work referred to in the areas permitted by paragraph 2 as if they had not been included in a national park;
5. the State Government has provided to any local authority dependent on gravel supplies in the proposed national park satisfactory and binding arrangements to provide for their gravel requirements at no extra cost to the shire.

HON P.G. PENDAL (South Metropolitan) [7.55 pm]: I support the amendment moved by my colleague, Hon Barry House, and thank him for doing so because it was only by the mechanism of his moving an amendment, for which I have responsibility, that I now have an opportunity to explain the Opposition's attitude in this matter. Members will be aware that it is the second time in as many months that the declaration of the Mt Lesueur area as a national park has been before this House. The Government decided to seek parliamentary sanction for this declaration, but it is worth remembering that Governments, and not Parliaments, declare areas as national parks. Therefore, it is within the capacity of the Minister for the Environment to wake up tomorrow morning, take his signature to the Governor, and declare Mt Lesueur a national park. The Minister has chosen not to take that action and one can only speculate as to his bona fides in that regard. I repeat that the Minister for the Environment has the capacity to bring about the declaration of Mt Lesueur as a national park tomorrow if he so chooses. Instead, the Minister decided to bring the matter to Parliament, and therein lies the core of this matter.

Mr Pearce in reality is not interested in finding a solution, because that solution is already in his hands. More to the point, he is making a political statement. I do not mind that: Parliament is about making political statements. Governments make political statements to maintain office, and Oppositions make them to achieve office. I have no great difficulty with the Minister's playing politics with this issue. However, the core of this new amendment is that the Cockleshell Gully area, which is without question a most important ecological part of the whole area, will now move from the scope of my previous amendments, and the new amendment will provide for it to be incorporated into the national park. Since the matter was last before the Parliament, the leaseholder has done its own reassessment and has taken the

attitude that it would prefer to forgo access to Cockleshell Gully in order to avoid having all the coal reserves locked away. Therefore, the proposed amendment is intended to be a statement by the Parliamentary Liberal Party that Cockleshell Gully should come within the national park and that, at the same time, we should preserve those other coal leases on the eastern part of the proposed national park for future mining if it becomes viable to do so.

This matter is a real test for the Government. The Government knows to its political cost, and it knows it more this year than it has known it in most other years, that the question of environmental controls in Western Australia ought to be motivated by the question of balance. I believe that the method used by the Opposition some months ago was the best way to achieve that balance. However, I acknowledge that not every member of the Parliamentary Liberal Party shared that view. If I recall correctly, my colleagues Hon Peter Foss and Hon Margaret McAleer thought differently, as they are entitled to do. A number of important issues prevented them from supporting the bulk of the Opposition members. The amendment now before the House is of sufficient importance to attract the support of all members of the Liberal Party. Therefore, I request the Government that it establish its bona fides to achieve a balance between environmental concerns on the one hand and commercial and mining concerns on the other. There are other differences between the amendment now before the House and the approach previously taken by the Opposition to this matter, but Cockleshell Gully is by far the most significant. I will come later to the preservation of what I think is the proper right of the Shire of Dandaragan to the gravel reserves about which it has been concerned.

As I lead into those remarks, I repeat that we on this side of the House are seeking to inject some balance into what is the Government's intention for Mt Lesueur. In doing that, I ask all members of the House to consider the reason that the Labor Government, for the first eight years of its life, declined to act on Mt Lesueur. One can make a number of assumptions about that, but one reason was clearly that the Government saw the Mt Lesueur area as an important economic reserve. There is no greater evidence that the present Government saw the economic value of the coal reserves than the fact that in recent years the Government induced and enticed the leaseholders - CRA Exploration Pty Ltd - to spend about \$30 million to prove up those resources. One could, therefore, have some sympathy - and I would go so far as to say that I have a lot of sympathy - for CRA, which was induced into a program of exploring and proving up the resource, but was told at the last minute that it could not have access to that resource. That sort of stop-start, erratic behaviour has landed the Government in more trouble than it knows how to handle. A company like CRA, despite its size and strength, does not have unlimited resources. I doubt that any corporation in Australia has the capacity to absorb easily a loss of \$30 million, because that is what the decision of the Government will effectively amount to, unless it supports our proposed amendment. I would like the Minister for Education, who I understand is handling the debate, to tell the House in response what is the attitude of other Ministers to this matter; that is, Ministers other than the Minister for the Environment. Her colleague the Leader of the House has in recent times been a Minister for Resources.

Hon J.M. Berinson: Don't you think the Government as such has a view?

Hon P.G. PENDAL: I know what the Government's view is.

Hon J.M. Berinson: So what is the point of the question?

Hon P.G. PENDAL: The point of the question is to place firmly on public record that Government members are far from unanimous about this matter.

Hon Kay Hallahan: You were the one who had problems with your membership. It was not us with our membership.

Hon P.G. PENDAL: That is not the case now, because I have proposed an amendment that all members of the Parliamentary Liberal Party will support. I am saying that the Minister for Education acts on behalf of the Minister for the Environment.

Hon Kay Hallahan: I act on behalf of the Government.

Hon P.G. PENDAL: Yes, but the Minister knows that other Ministers in her Government do not share her view, and I imagine that that view might have been argued at the time by the Leader of the House. I do not want members to be under any illusion about where the Government stands. I invite the Government tonight to support this amendment, which will

give us the best of all worlds. It will put the Cockleshell Gully area into the national park so that it cannot be mined in any way that is not in accordance with what this Parliament may ultimately decide. The fact that mining cannot take place in a national park unless it receives the consent of both Houses of the Parliament is at least something that has gained the bipartisan support of all three parties in this Parliament. Therefore, Cockleshell Gully would be placed into that category, but we would preserve those coal reserves to the east which the company and the Opposition believe ought to remain in a position where they can be mined - subject, of course, to all of the stringent environmental controls that the State has to offer - in five, 10 or 15 years from now if it becomes economic to do so.

I referred earlier to the Government's clear lack of bona fides in this matter.

Hon J.M. Berinson: You are a fine one to talk about bona fides when two minutes before this debate commenced you lobbed in this House an amendment of this nature. You have had six months to do that, and you gave the House two minutes' notice.

Hon P.G. PENDAL: Do not give me that hypocrisy.

The PRESIDENT: Order! The Minister should know that he ought not to interject, and Hon P.G. Pendal knows he ought not to react. I suggest he not do so.

Hon P.G. PENDAL: It is worth noting for the record that a few moments ago a major piece of legislation was lobbed in this House - to use the Attorney General's words -

Hon J.M. Berinson: You are comparing the two. What a fraud!

Hon P.G. PENDAL: I am definitely comparing the two, because if the Attorney General is suggesting that it is more difficult to absorb the one page of typed amendments that I have given him than it is to absorb 30 pages, or something like that, of a banking Bill, then his powers of logic are a lot less than I imagined them to be.

Hon J.M. Berinson: If you believe what you have just said, you will believe anything. You know the two are entirely different.

The PRESIDENT: Order!

Hon P.G. PENDAL: We know the Attorney General is at the end of his tether.

The PRESIDENT: Order! Honourable members, the total disregard for me and for this Chair when I call for order is starting to make me angry, and members know what happens when I get angry. I suggest that Hon P.G. Pendal talk about the one page of amendments to which he is speaking and forget about what happened on the banking Bill.

Hon P.G. PENDAL: One can understand the sensitivity of the Government over the matter because it is a known fact amongst the environmental movement - that is, those people most concerned to see the creation of new national parks - that the Government is widely regarded as having a zilch record in its eight years in office.

Hon Kay Hallahan: Have you asked them what they think of the Opposition? You don't even rate.

The PRESIDENT: Order!

Hon P.G. PENDAL: I am grateful that the Minister for Education chimed in, as she usually does, just at the right moment; because it bears repeating in this House that in fact the environmental movement in this State openly acknowledges that the previous coalition Government had a far better record in the creation of national parks -

Hon Kay Hallahan: Don't tell lies.

The PRESIDENT: Order!

Hon P.G. PENDAL: What did the Minister say?

Hon Kay Hallahan: Don't misrepresent the environmental movement.

Withdrawal of Remark

The PRESIDENT: Order! The Minister is not allowed to use that term in this House. She knows it and all the members know it, and I ask her to withdraw it and not to use it again.

Hon KAY HALLAHAN: Mr President, I withdraw the words "Don't tell lies" and leave the rest of what I said on the record.

The PRESIDENT: Order! I did not ask the Minister to withdraw the rest of it.

Debate Resumed

Hon P.G. PENDAL: Since we are talking about the creation of a national park I will use the occasion to bring the Minister up to date about what the record does show.

Hon Kay Hallahan: On the amendment, I suppose?

Hon P.G. PENDAL: Yes.

Hon Mark Nevill: You want to turn our duck population into doonas.

Hon P.G. PENDAL: We will deal with the member's ducks any time he likes, and then we will deal with the possums that are the subject of the Bill in another place. However, for the time being I point out to the Minister something of which I was not aware until a very senior member of the conservation movement pointed it out to me; that is, that in the nine years of the Court and O'Connor coalition Governments the area under national parks in Western Australia doubled from just over two million hectares to well over 4.5 million hectares. In the eight years since then, which is a comparable period, we have virtually gone nowhere with the creation of national parks.

Hon Kay Hallahan: That is not true.

Hon P.G. PENDAL: We have gone from the 4.5 million hectares when the coalition left office to in the order of 4.8 million hectares.

Hon Mark Nevill: Which one should we create?

Hon P.G. PENDAL: That is why Labor members, and in particular Hon Bob Pearce and Hon Kay Hallahan are very angry and are very sensitive to the environmental movement.

Hon Kay Hallahan: That is rubbish.

Hon P.G. PENDAL: They know that the environmental movement has said, "You have been in office for eight years but you have increased the national park listings in a minor way only and have increased the national park estate by only a marginal amount; therefore, you will have to get a move on and put a few runs on the board between now and the next election."

Hon Kay Hallahan: That is not defined by you.

Hon P.G. PENDAL: Does the Minister dispute that in that nine year period of coalition Government the area under national parks increased by more than 100 per cent and that since the Labor Government has been in office the area of the national park estate has increased by a mere fraction?

Hon Mark Nevill: I do not dispute that, but I will tell you why. It all came from the 1974 Conservation Through Reserves Committee's report, which was done by a Labor Government.

Hon P.G. PENDAL: But the Labor Government did not do anything.

Hon Mark Nevill: The report was brought out in 1974.

Hon P.G. PENDAL: That is the complaint made by people - Labor produces a lot of reports.

The PRESIDENT: Order! We will start again. The members who are interjecting may wish to stay in here and vote on this amendment, but they are going the right way about not being here. In the meantime, Hon Phillip Pendal is not to talk to the motion; he is to talk to the amendment moved by Hon Barry House. He is not to talk about anything else.

Hon P.G. PENDAL: I was talking about precisely that to which Hon Barry House referred.

The PRESIDENT: Order! I am saying that Hon Phillip Pendal was not; he was talking about what happened in 1974 and that has nothing to do with the amendment moved by Hon Barry House.

Hon P.G. PENDAL: Hon Barry House moved an amendment containing a method by which we could create a national park in Western Australia, and that is relevant to the current Government's motives for bringing on the creation of Mt Lesueur National Park, because it must make up for many years of abysmal lack of activity in the creation of national parks. That is how the matter relates.

Hon Fred McKenzie: Let's do it.

Hon P.G. PENDAL: I agree with Hon Fred McKenzie - let us do it. This is the invitation I extend to the Government tonight: Create the national park by way of including Cockleshell Gully but effectively excising those other coal reserves in parts of the proposed national park that even the environmentalists will acknowledge are of less environmental value than the very important part encompassed in the Gairdner block.

The first part of Hon Barry House's amendment is a set of observations which set out to place on record the Opposition's belief that some balance is needed. The Government may not share that view, but I am inviting it to do so. The first observation in the amendment is to have the Parliament recognise that there are substantial coal reserves beneath the surface that may be capable of recovery in a way that does not degrade the area environmentally. That observation does not lock anyone in. The second observation is that it is not in the national interest to lock away our resources permanently so that they are made unavailable for further research and development. Again, I suppose a House of Parliament could spend a week discussing that as an observation or a principle, but I might say it is a principle that the Prime Minister of this country endorsed when he talked about the Coronation Hill reserves in the Northern Territory. In other words, there should not be a great deal of difficulty on the part of the Government in accepting either of those first two observations.

The third observation in what is effectively the preamble asks the Parliament, and the Minister in particular, to recognise that CRA, as the leaseholder, lawfully expended the money to which I referred earlier - that is, the approximate \$30 million - in proving those reserves. I must admit that it would be a little more difficult for the Government to recognise that because in effect it would have to acknowledge that it induced the spending of that \$30 million when Mr Parker was the resources Minister. Again, this notion is not expressed in abrasive language and it merely invites the Minister and the Government to acknowledge that CRA acted in good faith when it spent a great deal of money, with the full support and concurrence of the Government of the day.

The amendment then refers to the conditions under which the Opposition supports the creation of a national park at Mt Lesueur. This is expressed in a number of parts. I sincerely urge the House to recognise that no real impediment exists to the Government's endorsement of all five points of the amendment. Whatever happens at Mt Lesueur, Cockleshell Gully will for all intents and purposes be locked away. People say to me, "That is not really correct because it can be unlocked by virtue of the action of two Houses of Parliament." However, the political reality being what it is -

Hon Kay Hallahan: You want to impose it on everything else. It is very interesting to hear your speech tonight.

Hon P.G. PENDAL: Impose what?

Hon Kay Hallahan: You want to bypass the Parliament; you do not want to recognise the role of the Parliament.

Hon P.G. PENDAL: I may draw some pictures for the Minister because part 4 of the amendment invites the Government to introduce a Bill to create the Mt Lesueur National Park by way of legislation. As far as I can recall the only body capable of passing Bills is the Parliament. For the Minister to interject and suggest that we are seeking to exclude the Parliament from this process makes as much sense as her earlier interjection.

Cockleshell Gully will be part of the national park and it will not be up for grabs for mining. The leaseholders are effectively prepared to cut their losses and to look at other reserves. CRA is effectively saying that it will give way on Cockleshell Gully provided that society will protect its interests regarding other coal reserves. The company has a number of reasons for doing that; the principal reason is that it does not want to throw the baby out with the bath water. The company says to itself, "If we lose Cockleshell Gully and the coal in the Gairdner block, at least we can ensure we do not lose all the coal." That seems to be a reasonable proposition.

The amendment invites the Government to introduce a Bill to create the national park. Again, that is something of a departure for the Parliament and for the Government. Until now all national parks were created as a result of Government or ministerial decision. Therefore, I hope that no member is under the illusion that a national park has ever been

created by the Parliament. However, the Government's new policy under the resolution of conflicts document is to bring Parliament into the role of the creation of such parks, and the Liberal Party's view on this is expressed in part 4 of the amendment.

The fifth and final part of the amendment seeks to do no more than protect the right of the Shire of Dandaragan to a gravel resource. It is fair to say that Dandaragan does not care too much about how it continues to have access to a gravel resource; it simply wants to ensure it retains one. As members would be aware, if they can visualise the map, the current gravel reserve is in the bottom left hand corner of the proposed national park. If the Government does not want to excise the gravel reserve, it has a responsibility to discover an alternative resource somewhere within the vicinity. Also, that alternative resource should not cost the shire more than the existing one; the Government should meet any additional cost.

The Opposition makes this proposal as a matter of equity. If Western Australian society wants that part of the proposed national park not to be used as a gravel resource, society in turn should bear the additional cost to the shire of going elsewhere for that resource. That was a principle, which was ultimately accepted by the Parliament, that I asked the Liberal Party to include in the heritage legislation. That effectively said that if society insists that someone's property be retained, and if the person loses by that action, society has an obligation to compensate the person accordingly.

I do not suggest that the Shire of Dandaragan should be treated differently from anyone else. Perhaps the day has arrived in which the State - no matter which Government is in office - needs some comprehensive policy regarding gravel extraction. I have been astonished since I have been the Opposition spokesperson on environmental matters at the number of environmentally sensitive gravel reserves located from one end of the State to the other. People become very concerned about extracting uranium, gold or other minerals, but no-one becomes excited about gravel extraction. However, time has caught up with us on that matter and throughout the State examples exist of communities being told they cannot have access to those gravel reserves which in some cases they have had for many years. This amendment does no more or less than preserve the rights of the shires.

In summary, the opportunity is available, if the Government seriously wants a bipartisan approach, to accept the amendment moved by my colleague tonight. It is the only effort made so far to balance the undisputed conservation value of the area and the undisputed economic value of the coal reserves. It occurs to me that we will be confronted with this matter year in and year out, decade in and decade out. If we are not able to resolve matters as relatively simple as this, I doubt whether we will be able to resolve many things in the future. In view of this amendment, it is unreasonable to say we should sacrifice Cockleshell Gully because of its conservation value. However, the motion also says it is unreasonable to sacrifice the coal reserves. Surely that has considerable appeal to Government members because they have gone through the trauma and agony this year of making a decision about a coal fired power station at Collie in preference to a gas fired power station. As Parliamentarians they must know the value of an economic resource such as that. This amendment invites them to give the same level of respect, if one likes, to the Mt Lesueur coal reserves as they clearly gave to the Collie coal reserves by their decision in March this year. It represents the best of all worlds. The amendment is an invitation to the Government to take a bipartisan view and, probably early next session, to come back to the Parliament with a Bill which will embody points one to five. It may be a good thing in a pre-election year for the community to see that the Government and the Opposition are capable of working through what the Government acknowledges is one of the most difficult situations to work through.

Only 12 months ago the Government was responsible for the document called "The Resolution of Conflicts of Mining in National Parks". The fact that the Government has been able to make some exemptions in three cases means unanimity exists on that point alone. Some people argue that since the resolution of conflicts document was released, those three exemptions have increased to six. I do not know whether members are aware of that. Certainly the people in the environmental movement are now accusing the Government of selling out and doubling the number of exemptions. The Government is going through the same process at the moment with D'Entrecasteaux National Park. It is the Government's view that a large part of that should be saved for future generations, but also that the best of the mineral sands should be extracted. That is a commendable and courageous view.

Hon Mark Nevill: It will make those reserves less radioactive.

Hon P.G. PENDAL: I understand. Nonetheless, the political reality is that the Government made a courageous decision, supported by the Opposition. That demonstrated to everyone in Western Australia our desire to see a balance struck between preserving important parts of the natural estate and ensuring that what is exploitable should be exploited and that people should have no great conscience about that. If members opposite were able to support their Government on the resolution of conflicts document a year ago, they should be more than capable of supporting this motion tonight because it uses the same principle. Therefore, to do that in Mt Lesueur should be no different from doing it in D'Entrecasteaux or other parts of the State where exemptions have applied. I hope the Minister and her colleagues will take that on board and support the amendment moved by Hon Barry House.

HON MARK NEVILL (Mining and Pastoral - Parliamentary Secretary) [8.37 pm]: I have no wish to harangue the House. However, Hon Phil Pendal argued, not for the first time in this place, that during previous conservative Governments' terms a greater number of hectares of national parks were created than during the term of recent Labor Governments. I am happy to acknowledge that, but it is an irrelevant argument. If the Government declared the Nullabor a national park tomorrow its efforts would eat alive the conservatives' achievements.

The Report of the Conservation Through Reserves Committee to the Environmental Protection Authority 1974 under the auspices of the Environmental Protection Act is one of the best environmental documents ever prepared in this State. The report was compiled by a committee comprising the chairman; Dr Ride, a specialist on reptiles from the Western Australian Museum; Professor Appleyard; Basil Baume, a palynologist from the department of geology at the University of Western Australia; and Mr J.F. Morgan, the Surveyor General at the time. They did an excellent job and recommended many new national parks.

I do not know which Government created the reserves that existed in 1974, but some were created in the 1940s. Scott River National Park; the Fitzgerald River National Park, to which the present Labor Government added 80 000 hectares; Cape Le Grand National Park, a beautiful park east of Esperance; Chichester Range National Park in the Pilbara; Hamersley Range National Park; Cape Range National Park and many others were created before 1974. During the term of the Court and O'Connor Governments many of the recommendations in this Labor Government report were put into practice. The Labor Party should not claim credit for those reserves which were declared during that Government's record. However, that fact is not very significant. Many of these reserves would have been created no matter who was in Government.

However, it is relevant that some of the issues surrounding the designation of parks in recent years have involved difficulties; for example, the Shannon River drainage basin. In 50 years, people may judge that to have been an exceptionally courageous decision. Marine parks are new areas that have been proclaimed. The matter of national marine parks was probably not a major issue 10 years ago, but now Ningaloo, Shark Bay and the Swan estuary have become important national parks. Purnululu National Park, commonly known as the Bungle Bungles, is another new park. To argue about the number of hectares is irrelevant.

Hon P.G. Pendal: The conservation movement raised this matter with me.

Hon Kay Hallahan: One member.

Hon P.G. Pendal: A senior member.

Hon Kay Hallahan: Still, only one member.

Hon MARK NEVILL: If that is how the conservation movement judges the Government's conservation record I am not interested in what are its views, because the matter should be put in perspective. We must tackle those difficult areas. I have different views on the Mt Lesueur National Park than have other people but we must create parks in difficult areas. It was easy to create national parks such as Rudall River and Drysdale River because not much opposition existed to the creation of those parks. The real challenges are ahead and it will be difficult for any Government to set aside new areas.

HON KAY HALLAHAN (East Metropolitan - Minister for Education) [8.41 pm]: The Government opposes the amendment.

Hon P.G. Pandal: Opposition for its own sake.

Hon KAY HALLAHAN: The Government considers this amendment to be extraordinary and an attempt at an ambush by a member of the Opposition.

Hon P.G. Pandal: That is an untruth.

Hon KAY HALLAHAN: It is true and the member knows it.

Hon P.G. Pandal: Let's adjourn the debate until next year so that you can study it.

The DEPUTY PRESIDENT (Hon J.M. Brown): Hon Phil Pandal and Hon Kay Hallahan should stop having differences of opinion across the Chamber. I ask Hon Phil Pandal to desist and the Minister to address her remarks on the amendment to the Chair.

Hon KAY HALLAHAN: I will, Mr Deputy President, because the Government has outlined to the Parliament the reasons the national park is considered a special area and worthy of preservation and protection and why the mechanisms, should the decision be made that it is viable to mine for coal or any other minerals in that area, should exist. That matter should be brought back to the Parliament so that the views of the community of the day are taken into account. Access will then be granted. That is the fundamental position regarding Mt Lesueur.

Mt Lesueur is a unique area, and in case Hon Phil Pandal, who alleges to be interested in environmental matters and seems to have a close discourse with one senior member of the conservation movement, is unaware, that is the reason the Government has moved, with great support from the community and the environmental movement, to create the Mt Lesueur national park. This area includes 821 known species of flora, seven of which are declared rare and endangered and 45 of which are recorded as being found in only that area. When an extensive list is compiled it is expected that the list of rare and endangered species could be extensive. In May and June we went through the reasons the Government believed it was doing the right thing in preserving a unique and precarious ecosystem.

Hon P.G. Pandal: Why did you change your mind?

Hon KAY HALLAHAN: Our position has not changed on that matter.

Hon P.G. Pandal: You sat in Cabinet with David Parker and supported the exploration.

Hon KAY HALLAHAN: Our position has not changed. The handling of this amendment has been extraordinary. Hon Phil Pandal may have been working with CRA for six months to get this matter through his own party. He has indicated that he had difficulties in this area, and the Liberal voting pattern previously is evidence of that. He has indicated that he had difficulty receiving support from all his party members and that that is why he brought the amendment forward without the usual tabling of an amendment. It is extraordinary that in such an important matter an amendment should be introduced without any discussions being held.

Hon P.G. Pandal: You brought it in for debate tonight. Do you forget that the Government raised it and not me?

Hon KAY HALLAHAN: The Government did raise it. Before dinner it was mooted that an amendment was proposed but nobody could have a copy of it even though it would have serious implications. The Government believes that this amendment is a sophisticated guise for rejecting the creation of a national park. The amendment is not appreciated and will be opposed.

HON E.J. CHARLTON (Agricultural) [8.45 pm]: The National Party recognises that the amendment, proposed by Hon Barry House and supported by Hon Philip Pandal, is an attempt to achieve the best of both worlds. The National Party's concern is that the entire Mt Lesueur area will be made a national park for all the reasons the National Party put forward publicly long before the Government decided to bring this motion to the Parliament. The amendment does not fit in with the National Party's stated public position and that is a consequence of a Bill introduced into another place by my colleague, Mr Bob Wiese, which sets out the areas of the park and ensures that the area of gravel is excised. The National Party supports that part of the amendment which provides that the Dandaragan Shire should be given long term use of the gravel reserve until such time as other reserves of gravel are made available. However, the National Party maintains that the whole area should be made a national park.

The National Party also recognises the commitment that CRA was given by the Government, as a consequence of which the company spent large sums of money on research into and promotion of the power station. The National Party considers that if the commercial viability of that project were possible some time in the future and that coal could be extracted from within areas in the national park, CRA should have the first option to do that. However, it is difficult to try to write into a motion dealing with a national park a provision that would allow CRA to continue down that path when a proposal for mining has not been put forward. The National Party has consistently agreed with the recommendations of the Bailey report, which recommends that any request to mine in a national park should be agreed to, provided the Ministers for Mines and the Environment agree to the proposal and it is agreed to by both Houses of Parliament.

The National Party upholds the recommendations of the Bailey report. If the day comes when all the environmental aspects can be implemented, all that CRA Exploration Pty Ltd needs to do is to put its proposition to both Houses of Parliament. Obviously, that is an ongoing opportunity and it would be similar to the way in which this Government has allowed activities to take place in three national parks in recent times. We cannot justify locking up the coal reserves forever. The National Party does not support those aspects of the amendment which deal with the coal deposits. It does agree, in principle, to that area which will be used by the local authority as a gravel pit. The National Party will move an amendment in that direction at a later stage if it has the opportunity.

HON PETER FOSS (East Metropolitan) [8.51 pm]: I support the amendment moved by Hon Barry House. In some ways it is surprising to hear various members in this House express a considerable degree of sympathy for the principles set out in this amendment, although it will not receive everyone's support. What is embodied in the proposed legislation is what everyone in this House would hope is the situation; that is, that there be a national park; that it have the boundaries set as outlined in the motion; that we do not for all time lock up the coal reserves; and that we state quite categorically that Cockleshell Gully is not suitable for mining. The only difference in what has been said by Hon Eric Charlton and what is proposed in the motion is that at the current time, with the proper legal processes, CRA Exploration Pty Ltd has obtained leases in that area. Again, following the proper legal processes it has expended some \$30 million on exploration. If we were now to change the status of the Mt Lesueur area to that of a national park we would deprive CRA of the benefits of what it has put into the State of Western Australia with a legitimate expectation that it would be able to take the fruit of its work.

Hon P.G. Pental: Shifting the goal posts after the game is under way!

Hon PETER FOSS: That is correct.

I do not believe that CRA has ever expected to be free of its obligation to conform with proper environmental controls. That concept is maintained in the first of the conditions referred to in this amendment; that is, that it be carried out in an environmentally acceptable manner and subject to all other proper governmental controls. There is no suggestion that CRA will, in any way, be given a better position than it has at the moment; it will still be subject to the same environmental controls. If it is unable to satisfy those environmental controls that will be the end of the matter. No benefit or exemption is being conferred on the company. All that has been said is that if it can be environmentally done its position will be made no worse. It is better off than the companies which have not spent \$30 million on exploration.

Furthermore, the amendment expressly states that we are making a decision now that Cockleshell Gully will be different from the other areas. This is the area over which I expressed some concern in my inability to support the Liberal Party earlier. Cockleshell Gully is different, and proper environmental controls will not allow surface mining in that area. At this stage we are able, with some certainty, to say that Cockleshell Gully must be excluded from this area. It does not mean that at some future time, following the requirements of the Acts relating to national parks, there may be some underground mining at Cockleshell Gully. For the time being we are saying that Cockleshell Gully is different and that is a very important part of this motion.

The third condition is very important. Hon Eric Charlton would say that if the company is able to satisfy those environmental controls it can come back to the Parliament for

permission to mine in the area. If it can satisfy the environmental controls why not say now that the Parliament will give it the permission? While this area has not been declared a national park CRA still must satisfy the environmental controls, but it does not need parliamentary approval. Why are we, as a Parliament, saying that when the company comes back to the Parliament it will be given permission?

Hon E.J. Charlton: No, we are not saying that. We are saying, "When you have something bring it to the Parliament."

Hon PETER FOSS: If the company can get proper environmental controls, we should not impose something on it which the company does not presently have imposed on it. We have encouraged the company to explore in this area in the belief that if it can satisfy proper environmental controls it can have the right to mine it.

Hon E.J. Charlton: We did not do that, the Government did.

Hon PETER FOSS: I agree with that, the Government certainly gave it active encouragement, but we, as a matter of law, encouraged it. We may not have personally encouraged the company to look at the area, but as the law stands it gives the company a legitimate expectation that if it obtains exploration leases and expends money, and provided it observes certain environmental controls, it will get certain rights. It has already been stated that the leaseholder lawfully expended money with due diligence in exploring and improving these reserves and has a legitimate interest in developing the reserves when it is demonstrated to be both environmentally and economically appropriate to do so. We must recognise that the leaseholder is in a different position from everyone else. If we do not have a special piece of legislation which recognises its position the company will be put in the same position as everyone else. CRA will be left with the difficulty of having to go to a future Parliament to say, "We are special. We have spent \$30 million and we did get the leases at a time when there was not a national park; therefore, we should be treated differently." If the company does not get special treatment from this Parliament now, how on earth do members expect it to get special treatment in years to come if it comes back to the Parliament? If the Parliament is not prepared to recognise its special position when at the moment there is no legal disability on it, we know that it has spent \$30 million, and we are proposing that its legal position be changed, how on earth will it get it in the future if there is some suggestion that those deposits be mined?

What will the company show in its balance sheet for that \$30 million it has spent? It cannot show the hope that Parliament will be fair to the company in future. It cannot show that it expects at some stage in future to be treated differently from everybody else because that is the best it can say. However, if an Act of Parliament says that CRA is still to comply with environmental controls but has preference over everybody else, CRA is at least recognised as having a prior right which is bankable and something it can show in its balance sheet - "We have a right under an Act of Parliament to be recognised ahead of everybody else. We know we will still have to comply with all environmental and other Government controls, but we are in first and have guaranteed rights under an Act that nobody else has." I believe that is the least we can do for a public company which must in some way account in its balance sheet for the effect of its expenditure of \$30 million. If at that time the property has been taken into a national park and the company's rights have been extinguished, leaving the company in the same position as everyone else of having to satisfy Parliament that it should be given priority, then the consequence for the company's balance sheet would be more adverse than it would be under the proposal I am putting forward.

Hon P.G. Pendal: I should think that in the current economic climate that would have some pull on the Government.

Hon PETER FOSS: Yes. Even if the Government and the National Party members were unable to reconcile themselves to these words, I thought both would be trying to put forward some sort of recognition of the company by way of a resolution. I believe we must go further and say that that recognition must appear in an Act of this Parliament. Resolutions are not bankable, but Acts are. That Act should guarantee the company's prior position. I believe all members recognise the legitimacy of that approach. I do not believe I have heard any member of this Parliament say that he does not recognise that CRA holds a legitimate concern and has a legitimate right to be considered before all other persons when future consideration of development of deposits in national parks takes place. It worries me that we

are unable to work on this motion to satisfy that requirement. That is why I believe it is proper for Hon Phillip Pendal to suggest to the Minister that if she holds concerns about this matter as outlined in her speech on the amendment then we should talk about the substance of what we are discussing and not the form or the procedure so that we can work out what this Parliament really wants to achieve for Western Australia.

We all recognise that in substance the question of mining in national parks will always be in the balance and something that we must consider. I do not believe Hon Mark Nevill had anything to say against that approach. The Government's policy indicates that by its reference to the three to six national parks it considers capable of being mined. If we recognise that the national interest and the conservation interest must be balanced then what we must try to do here, rather than say, "Let us make it a national park and we will deal with CRA's concerns later", is deal with the matter now. Instead of introducing a Bill later to fix any problems that arise, let us see if we can work on a Bill now that will satisfy everybody.

Having listened to the debate in this House, I believe that the parties are not far apart. I do not know that we are apart at all. We merely seem to be involved in semantics rather than talking about the substance of the matter. If we have a problem with semantics then it is time to pause to ascertain whether as a group we can put forward something which recognises the position of CRA and its priority but which also recognises the conservation worth of the Lesueur area.

Hon J.N. Caldwell: What happens if CRA sells its rights to that area, which it has the legal right to do, to an overseas company and we then have to deal with a fly by night group?

Hon PETER FOSS: I am glad Hon John Caldwell asked that question. I too believe that CRA should be entitled to sell its rights. I also believe that if we do not do something it will have nothing to sell. That is my precise point. One cannot sell warm and fuzzy feelings about CRA in this House. One cannot sell the guilt or sensitivity one may feel for people who have spent \$30 million. When I talked about this right not being bankable I should have pointed out that not only is it not bankable in CRA's balance sheet but also it is not saleable. Members will notice that the Bill refers to "leaseholders" and to the extent that those rights are transferable it is important we have an Act of this Parliament which allows those rights to be transferred. Hon John Caldwell would be aware when he talks of selling to foreigners that Commonwealth controls exist on selling such rights to foreigners. What about selling to an Australian company?

I believe that CRA should have something bankable which can be shown in its balance sheet and which can be disposed of. As I have said previously, one cannot sell a warm, fuzzy feeling. If in 10 years' time CRA tried to pass its rights to people who said they wished to develop this mine, and they paid money to CRA to get those rights, we would probably say, "Who are you?" We would not have warm, fuzzy feelings about those people and we would probably ask, "Why should we allow you these rights that we were prepared to give to CRA?" If that were to be the situation, CRA would lose that asset and that expenditure for all time. We are trying to provide the company with some value for what it has spent.

Hon Tom Helm interjected.

Hon PETER FOSS: It is not that the company has spent money and found nothing, as it has spent money and found something. Hon Tom Helm is absolutely right. One of the hazards in mining is that money is spent and sometimes nothing is found. It involves high risk, with a company spending money and only sometimes finding something. The problem is that if a company finds something and then has it taken away the overall swings and roundabouts of mining are obviously changed. The other thing is that a company may spend money finding something and then not be allowed to develop it for environmental reasons. Companies still have that problem. Whatever we give them now will still be subject to environmental controls; companies will always face that problem. I do not think we should take something from a company that we need not take from it. We should not take something from a company and leave it in the same position as everybody else in the community when it has spent \$30 million.

Hon Tom Helm interjected.

The DEPUTY PRESIDENT (Hon J.M. Brown): Order! The honourable member interjecting should cease doing so. If Hon Peter Foss wants the *Hansard* report to show an

intelligent debate that can be followed then he must be able to be heard. Then, if any discord arises I can adjudicate on it. I have allowed a wide-ranging debate on this matter, which is now going beyond what I consider are the terms of the amendment. I have been quite flexible in this matter. I have not been able to understand all the interjections and the cross-Chamber conversations. Hon Peter Foss will understand what I am referring to, and I am sure he will consider addressing his remarks to the Chair.

Hon PETER FOSS: I am grateful for some of the earlier interjections by Hon Tom Helm, because he is seeking to bring out the essential points of the amendment. He elicited what the amendment seeks to achieve.

Hon Bob Thomas interjected.

Hon PETER FOSS: Hon Tom Helm is genuinely trying to raise points he would like to have clarified by me, and I think his remarks have helped to bring them out more clearly. I am not quite sure if I understood his last remark.

Hon Tom Helm: About the big environmental problem.

Hon PETER FOSS: If there is a big environmental problem, what the company has will probably not be worth a lot of money. It has spent \$30 million, which means that the company is hoping to achieve far more than \$30 million. The worth of a mining asset, notwithstanding the fact that the company has spent \$30 million exploring - it can be considerably more than \$30 million, or perhaps considerably less - depends on what it finds, or whether it is allowed to recover it, or whether there is some economic reason for mining it. For instance, there may be no benefit from having that coal at the present moment because it can be used only for a coal fired power station close to Mt Lesueur. The Government may not be thinking of erecting that power station at the moment, it may be 10 or 15 years away, but the coal is still an economic asset. A company the size of CRA must own many properties capable of being developed at the appropriate time. It must keep exploring to ensure that something will be available when the time is appropriate. A company may spend money and find a product. It may be prepared to comply with environmental controls, but for some reason, although everyone thinks the company should be first in and its position should be preserved, the company will say, "We will preserve that deposit until later." That company will be seriously disadvantaged, not because of the law as it was, but because the Government is planning to do something now which will change its position.

It is correct that we are doing something now which will change the position of the company, and that is the making of that national park. However, I urge the House to minimise the effect of changing the company's position to the degree that we are able to do so. We should preserve the interests of the people who want to have a national park. We should preserve any particularly essential parts of that national park, but we must maintain the balance. Conservation is all about balance. Conservation must recognise that we as human beings are part of the environment. We cannot do things which prevent human beings from living and from sustaining themselves. We are part of the environment, just as much as are the flowers, the birds, and the plants. There must be a balance between the benefits that we give to humans for their material existence and the benefits that we gain from preserving our environment. Good environmental practice is always a matter of balance. People who supposedly protect the environment by throwing the balance completely one way are being environmentally unsound.

If we look at the balance and say, "There is a valuable resource there" we must keep open the possibility, as far as the legislation allows us to, of mining that resource. We should recognise the fact that CRA, under the current legal situation, has legitimately expended \$30 million and should have its position preserved so far as possible. This amendment says that, except for the Gairdener block and Cockleshell Gully, the company can treat the eastern area as if the national park had not been proclaimed. As far as everyone else in the world is concerned, it is a national park. If the area is mined and rehabilitated, it will remain part of a national park, but the important thing is that we should recognise that CRA has rights which we are infringing. We must preserve its position as much as we are able to.

I have considerable pleasure in supporting this amendment which I believe achieves what I was very keen to achieve last time; that is, the preservation of vital aspects of the proposed Mt Lesueur national park. Cockleshell Gully is preserved. The proposal includes the area to

the east, which it is important to have as part of the national park, not so much because that must remain undisturbed, but because it is important to have around a national park a sufficient area of land to give it the bulk to make it easier to control. One thing which has become clear about national parks is that some of them are far too small to be effective.

Hon N.F. Moore: Some of them are far too big.

Hon PETER FOSS: More importantly, it does not deprive CRA entirely of the benefit of its work. It does not remove an asset from the company's balance sheet overnight so that it is left with nothing to use either for transfer or as a bank for future prospects. We should always try to achieve that sort of balance between development and conservation. It is always possible to strike a balance between the two, and this amendment does that. If any parts of the wording or semantics are difficult to understand, I urge the Government to seek to adjourn this matter so that we will be able to arrive at a wording which will satisfy everyone. From what I have heard tonight, I believe that is entirely possible.

HON MARGARET McALEER (Agricultural) [9.18 pm]: This amendment is a compromise which accepts the recommended eastern boundary of the proposed national park for management purposes, and at the same time retains the possibility of developing the known eastern deposit of coal, in combination with the two northerly deposits. If any further deposits were discovered on the eastern side, they could be developed at some future time in an environmentally acceptable manner. That would appear to be desirable in the national interest. Like many compromises, this one runs the risk - perhaps the certainty - of pleasing no-one completely. Conservationists may very well feel that protection against the mining of the south eastern deposit is not strong enough, and CRA will regret the loss of the south westerly deposit which lies at the top of Cockleshell Gully. The company will be aware of the special constraints on exploring in a national park, and feel no great confidence that it will obtain permission to mine there in the future.

I do not see this amendment as ensuring the return on the \$37 million already expended by CRA in exploring the area and undertaking feasibility studies and rehabilitation studies in preparation for its tender for the power station. As I understand it, CRA had the opportunity to tender for the power station which has now been awarded to Collie, and it failed to match the tender of Mitsubishi-Transfield. It is true that the Environmental Protection Authority report which was brought down subsequently pretty well ruled out a power station in the area, as well as the development of the coal reserves with present technology. At that time, CRA believed or claimed that it needed all four known deposits in the Mt Lesueur area - the two in the area proposed for the national park and the two northern ones on the freehold land. Since then it has been reported that the company believes that it might economically develop the three deposits which would remain to be mined under our proposed compromise. However, I certainly would agree that if mining were ever to be allowed in the Mt Lesueur area, CRA should have the title ahead of any other company. It is no secret that I would be sorry to see mining take place within the proposed boundaries of the national park. I find it hard to believe, of course, practically speaking, it would prove economical to develop the coal for, say, a power station, compared with the availability and cost of gas; however of course with changing technology and the impressive combinations of the use of coal and gas it may be that some other use could be found for the deposits. I still think it is important that not only should all environmental concerns be set as stringently as possible but also that coal mining should not be allowed unless for a truly significant development in the best interests of the State, not just simply any development.

The wording of the motion may seem in some respects rather loose - and I should be sorry to say that when Hon Peter Foss may have had a hand in it - but it is only a vehicle for the proposition that a park be created by an Act of Parliament with certain conditions carefully drafted which might be subject to further negotiation. The motion in itself represents a real effort on the part of the Liberal Party to progress the declaration of the park, and it is for that purpose I support it tonight. There is a need to get on with the establishment of the park; there is a need to formulate a management plan and to implement that plan. The preservation and conservation of Mt Lesueur will be much better served by accepting a compromise solution now than by leaving the area unmanaged for the next few years.

Before leaving the subject, I should like to refer to the last point in the motion which, of course, concerns itself with the gravel arrangements for the shires. I think it was said in

debate in another place some months ago that people quite readily accepted that coal should be locked up but locking up the gravel could be regarded as straining at a gnat while swallowing a camel. All the same, it has practical significance for the Shires of Dandaragan and Coorow. Over all the months when the Minister for the Environment was supposed to be honouring his promise to define and establish alternative reserves for the shires, especially for Dandaragan, very little progress has been made. We have reached the stage where the Minister has said he has done all that he can; that it is up to the shires to carry on from this point; that he will give the Dandaragan Shire three years to access the gravel within the Mt Lesueur pits, and after that the shires will be on their own. As Hon Barry House said, this is part of a very general and difficult situation in which the shires find themselves with road making materials across the State, where the EPA is establishing more and more reserves and is making access to gravel deposits within reserves almost impossible or very difficult for the shires. No other road making material is available in many cases, or only at great distance, and as everybody knows, that makes the cost of roads astronomical. This is not the time to load local government bodies with extra costs.

In respect of the gravel deposits already being worked in Mt Lesueur, rehabilitation can take place. However, the area we are talking about has no pristine or untouched vegetation, nor any rare or endangered species. Either the Government should bite the bullet and excise the area for the use of the shires or it should honour its promise to locate and test alternative sources. As matters stand, the credibility of the Minister for the Environment regarding his undertaking to provide gravel sources could not be lower. I support the amendment.

Division

Amendment put and a division taken with the following result -

Ayes (12)		
Hon George Cash	Hon P.H. Lockyer	Hon D.J. Wordsworth
Hon Reg Davies	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon Muriel Patterson	(Teller)
Hon Peter Foss	Hon P.G. Pandal	
Hon Barry House	Hon W.N. Stretch	
Noes (15)		
Hon J.M. Berinson	Hon Graham Edwards	Hon Tom Stephens
Hon J.M. Brown	Hon Kay Hallahan	Hon Bob Thomas
Hon T.G. Butler	Hon Tom Helm	Hon Fred McKenzie
Hon J.N. Caldwell	Hon Garry Kelly	(Teller)
Hon E.J. Charlton	Hon Mark Nevill	
Hon Cheryl Davenport	Hon Sam Piantadosi	
Pairs		
Hon Derrick Tomlinson		Hon B.L. Jones
Hon R.G. Pike		Hon John Halden
Hon Murray Montgomery		Hon Doug Wenn

Amendment thus negatived.

HON J.N. CALDWELL (Agricultural) [9.30 pm]: I move -

To add after the end of the motion the following -

but requires the Minister for the Environment to excise Reserve 35593 from the national park by use of the powers conferred on the Minister under the Conservation and Land Management Act until such time as alternative sources of supply of gravel are proven to the satisfaction of the council of the Shire of Dandaragan.

The National Party is concerned that the legislation does not address the problem of gravel reserves for the Dandaragan Shire Council. If this area of land is to be made a national park

it will take away the rights of the Dandaragan Shire Council to obtain gravel from the existing reserve. The National Party made it clear from the outset that the Government should make good another area of similar quantity and quality to replace that gravel reserve. As yet that has not been done to the satisfaction of the Dandaragan Shire Council. Most people in this place will have received a letter from the shire to that effect.

HON E.J. CHARLTON (Agricultural) [9.33 pm]: The National Party has moved this amendment on the basis of the position it took when the initial motion was introduced by the Government earlier in the session. The National Party was looking forward to seeing the Government rectify the difficulties that had resulted from the Government's proceeding to make this area a national park without taking into consideration the very critical and important aspect of the gravel reserves for the Coorow and Dandaragan Shire Councils. The Coorow Shire Council is not totally satisfied with the proposal put to it by the Minister for the Environment, Mr Pearce. However, although the position is not satisfactory, that shire hopes that at some time in the future it will be able to resolve the problem which the Government has forced onto it.

The same cannot be said of the Shire of Dandaragan. Its representatives met with the Minister earlier this year and the Minister gave an undertaking that an area containing gravel would be set aside for the shire. Consequently, the Minister formed a task force to seek alternative sources of gravel in the area for the future needs of the shire. The shire not only has ongoing needs for gravel but also may be required to use gravel resources in what is not an economical area. It is one thing for this House to make a decision to establish a national park and not consider the case of a particular shire which has legally been taking gravel from a reserve - namely reserve 35593 - for a long time; however, it is another matter to move an amendment requesting that the shire be able to do that. The shire was agreeable to using gravel made available in another area; however, that has not occurred. It has taken several months for this matter to be discussed in this place. It is abundantly clear to every person in the State who has been awaiting a decision on the national park that the Government did not want to raise this question for further debate. In addition, the Government led the Dandaragan Shire to believe that it could continue to use the gravel reserves until such a time as it had identified other sources of gravel. Unfortunately, the Minister, having given a commitment - I will not go into a kick by kick description of what took place - sent a person to the area with a bucket and spade to identify alternative gravel supplies.

It is ludicrous that proper and respectable negotiations did not take place with the shire to identify other resources. Had an area been set aside for the shire the Government, without considering the seriousness of this situation, would have proceeded with the shire's back up information. The shire, in conjunction with Government representatives, would have embarked on a full investigation which would have led to the setting aside of an area. That did not happen and consequently we have now reached the stage where the whole area will be set aside as a national park. The National Party will not agree to that proposal unless the Minister is required by this House to excise a reserve to ensure a supply of gravel to the shire. If in the future the Minister or the Department of Conservation and Land Management find an alternative source of gravel for the shire, only then should a suitable amendment be moved to include in the national park the reserve now in use for gravel. Surely that is not too much to ask. It is a simple and straightforward proposition.

The National Party supports the implementation of the national park but, because the shire has not been given an alternative supply of gravel, and because the current reserve used by the shire is to be included in the national park, it will not support the motion. We cannot force a shire into taking on considerable expense through no fault of its own because the Government, out of expediency, has decided to make an area a national park. I have held discussions with members of the Shire of Dandaragan and I have given them a commitment on behalf of the National Party that it will not agree to this motion until such time as the Dandaragan Shire's concerns are met. The shire's requests are not outlandish; they are fair and reasonable. It is a decent negotiating practice to agree to finding an alternative source of gravel before prohibiting the use of the current source. Not one person in this State, regardless of his environmental concerns or desires to establish national parks, would argue against that. In fact, the representatives of the Conservation Council of Western Australia said that they would rather find alternative sources for gravel before proceeding with the establishment of the national park.

It is fair that the whole area should be made a national park and that CALM and other environmental groups take the appropriate action to ensure that areas be identified. As a consequence of the Government's decision to go down the path of setting up a committee and negotiating with the shire and then coming back and proceeding without those negotiations, the National Party moves this amendment to excise reserve 35593 until such time as alternative gravel sources for the shire are found.

Adjournment of Debate

HON REG DAVIES (North Metropolitan) [9.49 pm]: I move -

That the debate be adjourned until the next sitting of the House.

Division

Question put and a division taken with the following result -

Ayes (14)		
Hon J.N. Caldwell	Hon Peter Foss	Hon P.G. Pandal
Hon George Cash	Hon Barry House	Hon W.N. Sretch
Hon E.J. Charlton	Hon P.H. Lockyer	Hon D.J. Wordsworth
Hon Reg Davies	Hon N.F. Moore	Hon Margaret McAleer
Hon Max Evans	Hon Muriel Patterson	(Teller)
Noes (13)		
Hon J.M. Berinson	Hon Kay Hallahan	Hon Tom Stephens
Hon J.M. Brown	Hon Tom Helm	Hon Bob Thomas
Hon T.G. Butler	Hon Garry Kelly	Hon Fred McKenzie
Hon Cheryl Davenport	Hon Mark Nevill	(Teller)
Hon Graham Edwards	Hon Sam Piantadosi	
Pairs		
Hon Derrick Tomlinson		Hon B.L. Jones
Hon R.G. Pike		Hon John Halden
Hon Murray Montgomery		Hon Doug Wenn

Question thus passed.

Debate adjourned.

FARM DEBT BILL

Second Reading

Debate resumed from 23 October.

HON MARGARET McALEER (Agricultural) [9.53 pm]: We are all aware of the general situation which this Bill seeks to address. Our major agricultural and pastoral industries are in a depressed state, incomes from these industries are depressed, and a number of farmers who have a high level of debt to equity will soon have great difficulty servicing their loans. The extent of these difficulties and the number of farmers involved is harder to quantify. A recent study conducted by the Australian Bureau of Agricultural and Resource Economics and published in the *Agriculture and Resource Quarterly* No 3 of September 1991 indicates that on a national scale the average debt servicing for all broad acre farmers in 1990-91 was estimated to be 37 per cent. However, it was also estimated that half the farmers had a ratio of less than 20 per cent debt. The article continued -

This is not to suggest that there is not a large number of farmers in difficulty. It was estimated . . . that a quarter of all broadacre farms in 1990-91 had a debt servicing ratio in excess of 87%. Interest payments for these farmers therefore account for at least 87% of their gross cash income.

Farmers in the sheep-beef and mixed livestock crops industries were particularly adversely affected with the interest payments of 25 per cent of those farmers being at 90 per cent or worse. The article continued -

Farm incomes are expected to remain depressed in 1991-92 and so the financial situation of many of these farmers is likely to worsen.

Reductions in the debt servicing ratio in future years will depend on increases in income, a fall in broadacre debts and/or a fall in interest rates.

The article added -

In particular prices received by farmers for the three broadacre commodities - wool, beef and wheat - are expected to be well below the prices received in the 1980s.

We certainly know that while wool is overhung by the stockpile, we cannot expect high wool prices for at least four years, and we may well see a continuation of the present rather violent fluctuations. World wheat prices are dominated by cut throat competition in subsidised wheat between the European Economic Community and the United States of America, with Australia squeezed between the two. At the same time, other wheat growing countries - notably Canada and the USA - are specifically targeting our markets by developing hard white wheat and looking to the noodle market in Asia. The article further pointed out that for the next few years debt will remain high and values low because of the depressed property market and low rural returns. It also stated that an increase in debt for some farmers is likely because of the need for finance to carry on business and for working capital. That applies especially to those farmers affected by drought. The article concluded -

While a large number of farmers have zero or very low debt, many farmers are likely to face considerable financial pressure over the next year or so . . . Low income may limit the scope for adjustment towards a long run over the next year or so. At the same time banks are starting to tighten their lending policies and they may limit the availability of debt finance in the short run.

Bank restraint to date has been predicated on a reasonable return this year and, of course, it has obviously not taken into account seasonal conditions which are producing much lower returns than average for the outer wheatbelt in particular but in patches throughout the whole wheatbelt. Given that this is a reasonably accurate picture of the present national situation, and one that could quite fairly and conservatively be adapted to Western Australia alone, it is important to ask whether the Bill before the House presents appropriate means for improving the situation. A fortnight or so ago, in company with Hon Ernie Bridge, the Minister for Agriculture, Hendy Cowan, the Leader of the National Party - who organised the visit - and Hon Eric Charlton, I visited the shires of Mt Marshall, Trayning, Nungarin and Mukinbudin, parts of which are badly affected by drought. I understood the chief message given to us by the shire council spokesmen and farmers whom we met was that they could not tolerate further increases in debt but, given assistance with interest payments, especially for further debt that might be incurred to plant next year's crop, they might or could - according to individual circumstances - manage to survive. These farmers, for the most part, still had equity in their farms, but their difficult circumstances were greatly exacerbated by the loss of this year's crop and, consequently, the amount of money - \$70 000 or more - which it had cost them to plant it.

The Mt Marshall submission to the Minister for Agriculture states -

The major assistance for farmers is seen as a twelve month moratorium on interest charges against farm loans and a substantial reduction in interest rate charges over the balance of the life of the farm loans.

It appears that this form of assistance for drought affected areas has been adopted by the Government, as announced by the Minister for Agriculture, and it will be applied to Ravensthorpe, Perenjori, Koorda and Esperance, in addition to the four shires we visited. One cannot help noting that, apart from the use of the word "moratorium" with respect to interest charges, the remedy suggested by the Mt Marshall Shire Council has no direct relationship to the provisions in the Bill before the House. The vehicle for implementing it was obviously the Rural Adjustment and Finance Corporation and the Minister indicates that the Government intends to utilise that body. Generally speaking, it seems to me that if special financial assistance is to be provided for farmers in extreme difficulty, who have yet the possibility of trading out of their present troubles, it should at least be partly provided by the general community through such a medium as RAFCOR, and not left wholly to individual businesses - whether banks, stock firms or any other creditors - some of whom

may be as dangerously situated financially as the distressed farmers. Complaints about the Rural Adjustment and Finance Corporation are numerous enough and are often unfair, but with the money it already has, which is said to be approximately \$7.9 million, plus the additional dollars from the Commonwealth and the States, giving a total of \$20.2 million, and with broader guidelines, it should be able to help more farmers with interest subsidies than it has been able to help to date. This, in turn, should encourage the banks to continue to provide credit for the next season to clients whom they might otherwise have abandoned at the end of this year. That is not to say that I think that will be enough to cope with the situation in its more extreme forms, and I agree that other business practices and arrangements should be energetically encouraged.

Farmers - and when I say farmers, I have in mind also pastoralists to the north of the agricultural region - will have a better chance if intervention can occur before the point of technical insolvency is reached. This intervention can be either in the form of assessment and advice by a farm consultant or by mediation with the principal creditors. If this fails, the cutting off of credit or forced sales should be delayed so that it can be ascertained independently whether a farmer's situation is really hopeless or whether, with reasonable arrangements, he could be expected to trade his way out of difficulty. Both of those means of dealing with the serious debt problems of farmers and pastoralists are already being attempted by the Western Australian Farmers Federation and the Australian Bankers Association, with their latest arrangements which combine the use of the farm assessment scheme with the extended activities of the rural land sales liaison committee. Agreement has been reached about the mechanism of the scheme, but it is not yet in operation so it is not possible to tell whether it will be effective. It will, of course, depend upon the cooperation of the banks not just to accept the time delays built into the scheme to allow for assessment and mediation but also to accept arrangements such as deferral and/or waiving of capital and/or interest repayments where they are recommended. The banks appear to be willing to do this.

If the scheme has a weakness, it may be that it is focused on the banks, when the probability is that heavily indebted farmers have other large creditors - stock firms, finance brokers, loans from private individuals, or credit arrangements with private persons under contracts of sale - any of whom may not be willing or even able to take part in the scheme. In this respect, the scheme seems to be less comprehensive than the Farm Debt Bill, which will place a moratorium on all the secured creditors of an accepted applicant. One advantage of the WAFF-ABA scheme is that it has been agreed to voluntarily by the banks, whereas they rejected the Farm Debt Bill and suggested that it would influence unfavourably the provision of further credit to the farming and pastoral industries. It is not clear to me from my reading of the Farm Debt Bill and the Commercial Tribunal Act whether creditors could be compelled to extend additional credit for a farmer for carry-on finance or whether a farmer might incur further heavy debt from interest accumulated during the protected period, nor whether in certain circumstances, as Hon George Cash pointed out, the Bill could prevent unsecured creditors from stripping the farmer of unsecured assets, thereby ruining any chance the farmer might have of recovery, and damaging the secured creditors at the same time.

The very lack of guidelines which are meant to give flexibility to the workings of the tribunal seems to beg many questions. A tremendous amount will be demanded of the people who may be appointed to the tribunal in respect of their expertise and experience, and perhaps also their ability to cope with the volume of work. Perhaps there should be several tribunals in different parts of the rural area. Perhaps RAFCOR, with its larger organisation, would be better able to administer the scheme.

For those reasons, and the other financial reasons and difficulties raised by my colleague Hon George Cash, I believe that the Bill should be referred to the Standing Committee on Legislation for further examination and, perhaps, suggestions for improvement. It is not enough to say - as, indeed, I have heard Hon Eric Charlton say - that the scheme may or may not work when it also seems to have the potential to do damage to those farmers who invoke it, to other people who are associated with them in business, and also, very likely, to the credit of the industries it is meant to help. However, many distressed and desperate farming families see this Bill as a real hope, and it would be cruel as well as unreasonable not to give it a full examination so that its possibilities can be better determined. I do not believe, given the broad way in which the Bill is written, that it can be properly examined at the Committee

stage on the floor of the House, nor do I think that we as members are equipped to examine it without expert assistance. For those reasons, I hope Hon Eric Charlton will agree to send this Bill to the Legislation Committee before the second-reading is completed.

HON D.J. WORDSWORTH (Agricultural) [10.06 pm]: The plight of the rural industries has been well documented. We have seen the collapse of the wool growing industry and the reserve price scheme, and we have a legacy of 4.5 million bales of wool in store and a debt on that wool of some \$2.6 billion. The Federal Government is literally the mortgagee and is directing the sale of that stock pile at its convenience, which hopefully will not be contrary to the interests of wool growers. Today the indicator price is in the vicinity of 500¢ a kilo, with a tax payable of 12 per cent. This compares with the long term reserve price of 700¢ and a peak reserve price of 820¢, with a wool tax of only eight per cent. A quick calculation shows that wool growers who sold their wool in the last quarter - assuming that they had sold the same amount - received in the vicinity of half of what they would have received two years earlier. Unfortunately, the collapse of wool prices has meant that very little, if any, fertiliser has been used in the wool industry, and this alone will bring down production dramatically and, of course, also personal incomes. Unfortunately, with the collapse of the wool price we have seen the collapse of the live sheep price. Four and five year old ewes are worth about \$3 each, and shipping wethers for the Middle East about \$7, yet both of those categories of sheep would normally be worth about \$20. That in itself is bringing additional hardship to the wool industry.

As to the wheat industry, while from current forecasts it appears that we will get \$150 a tonne without a Government subsidy, producers are still suffering very much from the effect of last year's prices, which were nearer to \$130; and while there is perhaps less threat today from the European Economic Community and the United States subsidy battle because of shortages in Russia and elsewhere, the longer term outlook for wheat is a little grim. The costs of inputs continue to rise and many areas are affected by drought. Today in the majority of Western Australia there is a need for a debt moratorium Bill to prevent or at least delay foreclosures and to lay down conditions of capital and interest repayment.

I have the greatest sympathy for the primary producer, not only because I represent the Agricultural Region but also because I am farming under these very trying conditions and share many of the difficulties with these farmers. The Liberal Party has made the examination of this legislation its highest priority. We have a very active rural committee which has met on many days and put probably 100 hours or so into this legislation. We have had meetings with farm leaders, the Australian Bankers Association, the Rural Action Group and one of its interstate speakers, the Farm Advisers Association, the Rural Adjustment and Finance Corporation, Department of Agriculture economists, field officers and others. Our object was to find out, firstly, the effect on the farm community of the reduced income; secondly, the number of farmers who were at risk of being sold up; and thirdly, the amount of money required to get the industry through what is hoped and expected to be confined to a few years.

There are considerable variations between the number of farmers at risk of forced sale as calculated by the banks and others, and the number calculated by those actually farming, as they see it. Nobody has to explain to the farming community the seriousness of the situation today. Farmers know they cannot live off the farm and must borrow to survive, in the hope that the future will be more rosy. Those farmers who have debts know they cannot service them and that the conditions to which they originally agreed, whether repayment or interest, cannot be complied with and they are in default of what they originally signed up for. Those who were not previously in debt - and there were a few in the industry - realise that they cannot continue in this way and that they are deficit budgeting and will have to seek loans. They realise also that they will have to be very lucky to be able to comply with the conditions laid down by the banks and others. Technically, anyone who is in receipt of a notice of non-compliance can be sold up. This undoubtedly is very unsettling and brings a great deal of mental anxiety to those who have received such a notice, often leading to mental and marriage breakdown and even suicide. It must be realised that such a notice often represents the failure of a lifetime's work. It is not only dollars and cents that are lost, but decades and even generations of love and tender care. Managing a farm is akin to bringing up a family: One battles from season to season, often without great returns, the profit being expressed in the asset. Of course, the sale of the farm means the sale of the

family home, and to be expelled from one's farm is to be thrown out of one's home where one has brought up one's children. Without doubt the wrench is immense.

I want to draw attention to the good work done by Ag-Care and other voluntary groups which are endeavouring to help farmers through this very difficult situation. It is an enormous wrench for farmers to leave their farms. Most consider the factors that have caused their difficulties are not within their control; indeed, most have blamed the politicians for the various things that have happened and I suppose we have to accept a certain amount of blame in some areas. However, generally speaking there are two ways in which farmers or others can get into trouble: Firstly, if they do not meet their day to day debts; and secondly, if the total debts are such that no-one considers the farmer is a safe enough bet to lend any more money to. The first problem - not being able to meet one's day to day debts - can often be overcome by outside help, with someone showing the farmer that he can borrow more money. Often farmers are unfamiliar with the field of banking and that side of things. They have always endeavoured to get along without borrowing money and seem quite incapable of going out into the field and borrowing money. These people can be and are being helped.

One of the problems, particularly when a farmer is coming to the end of the line and cannot borrow any more money and receives a letter notifying him that the loans have not been complied with, is that the farmer just closes up completely. He refuses to answer letters from his bank; he just works all the harder and probably takes it out on his wife and children. Unfortunately this often brings on an action by the banks and other lenders. These farmers literally close up; they will not talk or answer letters and the banks feel that they are being insulting and that it is time to take action. It is great that we have various organisations which are willing to help these farmers overcome their situations. It is very important that farmers go to see their creditors. In most cases, provided banks and others can see some light at the end of the tunnel, they are willing to continue to finance those farms. Unfortunately we probably see a five per cent turnover of farms every year, even in good times, and it is perhaps this five per cent with which we are having difficulty today.

Some farmers should have got out of the industry when prices were good; that is, when wool was at a guaranteed 820¢. However, we now have an accumulation of those farmers who would be better off out of the industry, and few buyers are around. It is with this in mind that it is believed a moratorium is necessary in case the banks should suddenly decide to take action. Unfortunately, this very legislation has encouraged the banks to send out notices of non-compliance, because if they act before the legislation is passed they will not be encompassed by it. I understand that a few of these notices have been sent out in areas suffering from drought as well as other problems. I am told that between 40 and 70 notices of non-compliance have been issued within the Shire of Ravenshorpe. No doubt, those who have received notices are concerned and are looking for some protection such as that they hope to receive from this Bill.

Not all of those who are mortgagees are banks. Quite often a farmer who is selling his property will leave money as a first mortgage for the incoming farmer. It may be that the outgoing farmer is not clued up on the world of finance, or he considers the value of his farm to be a secure investment. This often involves retired persons who regard this as a form of pension system. I am concerned for these people because many farmers who sold their property and financed the incoming farmer have committed themselves to other purchases, be it a home or another business. If these people are caught by this legislation they could well find that they do not have the protection of a moratorium and could lose the deposit they have made on the business or the house. In many cases these people could be in a worse position than the farmer whom this Bill is designed to help. Currently these people are protected by common law, and it could well be argued, "Why should the lender have the risks of the farmer transferred to him?"

As farmers we must admit that when we take on a business we make an assessment of the risk involved and decide whether to borrow money. It could be argued, "Why should the person who lent the money under this legislation have to accept the risk and leave the farmer with no risk?" At the stage of a moratorium under this legislation coming into effect the farmer has near enough lost his farm - he can lose little else - but with the moratorium he can wait and hope that land prices will increase over the next couple of years and his money will be returned. However, what about the person who left his money in the farm? He can only

lose. This person does not receive interest when he most needs it. He receives no gain. There is no way he will be paid a bonus at the end of the moratorium.

This is one of the difficulties which arises when one changes the balance of the current law and makes life harder for persons who would normally be protected by current legislation. The legislation before the House would make it more difficult for individuals - none of us is very concerned about banks - who have left their money in farms as mortgages. There are two categories of lenders of money for farms: Those who are secured by a mortgage and those who fall into the category of non-secured. Current legislation provides for both of these categories.

I and others are concerned about changing the balance of law, as this Bill will do. Although the legislation is designed to affect the secured debtors, it will also affect those who are unsecured. The secured debtors have a mortgage and have some protection from that. However, it is a little harder for an unsecured debtor watching a bank forgoing repayments of interest and capital, which are just added to the person's mortgage. In such cases the mortgagee has some security but the unsecured debtor is moving further away from repayment. Banks are in a more secure position; they know that they lent money on terms which make it harder for the unsecured lenders. The unsecured lenders often are storekeepers, fuel depot proprietors and other small businesses in the town. Members must consider the consequences of this legislation on those people. It is interesting that those people still have the ability to carry out the bankruptcy procedures against the person who has the protection of the moratorium. In some ways this appears to negate the whole object of the legislation. Indeed, it has even been suggested that one secured lender could carry out an action and call in a receiver even when a moratorium is in place under this legislation.

Another concern arising from this legislation is that although it appears of benefit by placing a moratorium upon secured debtors so that the farm cannot be sold while a moratorium is in place, and that this will have great benefit for the farming community, in fact it may well scare away people who would otherwise lend money to the rural industry. Farmers are undergoing a period when every farmer wants to increase his borrowings. If we make it harder for the lending industry to put more money into agriculture, it will put its money into other industries and projects, and farmers will find themselves short of finance. Even if the industry decides that it will put more money into agriculture, it could assess the risk as being greater because it can no longer foreclose or make an agreement with the farmer. Therefore, the industry may say that it will put up its interest rates. We have been warned about that already by the Australian Bankers Association. We must look at the total industry, and not only at that in which there could be foreclosures.

I do not intend to get into a debate about the Rural Adjustment and Finance Corporation. We have already debated that on many occasions. However, it has, without doubt, a very limited field in which to be active. I object strongly to the current Federal Minister for Primary Industries and Energy, Mr Simon Crean, saying that he will literally wipe off the effect of high interest rate on the farming community by giving RAFCOR an extra million dollars or two to provide interest subsidies. He does not have to be a great mathematician to work out that Australian farmers are in debt to the tune of billions of dollars and to realise that the few million that he is giving the RAFCOR to alleviate high interest rates will get to only a small percentage of farmers and alleviate very little of the interest on the total debt.

The areas about which we are concerned are as follows -

- (1) We are concerned that the Bill lacks detail and does not reflect the sentiments indicated by the proposer in his second reading speech.
- (2) Because those farmers who have already received notices of non-compliance from their bankers are not protected by the Bill if passed, the banks have sent out an unnecessarily large number of notices reminding their clients that they are behind in interest and capital repayments. That has had a detrimental effect on the farming community.
- (3) Those who are successful in having the committee recommend the moratorium - farmers have taken it for granted that they all deserve a moratorium - will not be able to raise the additional finance to carry on for the

two years that they may be granted and there is no way that the Bill can force secured creditors to lend additional funds other than to capitalise unpaid interest. It will be very hard for these farmers to attract new unsecured creditors.

- (4) By secured creditors being able to capitalise unpaid interest, unsecured creditors fall further behind in their chances of gaining repayment. It seems that the bankers and first mortgagors are relatively safe and the small storekeepers, fuel agents and others will suffer.
- (5) The Bill does not prevent unsecured creditors from taking out bankruptcy proceedings against those who have been granted a moratorium, so the moratorium may as well not exist.
- (6) We are concerned that by placing restrictions on secured debtors being able to recover unpaid interest and/or capital, the total loan capital available to primary producers will be reduced and diverted into other fields of lending which are not so restricted.
- (7) That the interest rates will increase on capital that may still be made available to primary producers commensurate with the extra risk that lenders consider they are being subjected to through this legislation.
- (8) We are concerned about the non-banking mortgagors, such as retired farmers who rely on interest for their retirement and will have their funds cut off. It is common practice for a farmer who wishes to sell his farm to leave much of the purchase price on the property as a mortgage either to encourage its sale or because they consider it a safe investment and as helping a young man get started. Many of those selling their farms buy homes and businesses on the assumption they will be paid or that they can recover under common law. Because of this legislation, they could well find themselves in default on agreements made in good faith and lose deposits and other payments.
- (9) This legislation transfers the risk of farming in today's difficult scene from the farmer onto the creditor in spite of the creditor not being in a position to influence how the farmer manages his affairs. Should - hopefully they will - times recover, the farmer gets the benefit of increased land prices while the mortgagee can only lose.
- (10) We are unable to determine what common law is affected by the legislation, be it Federal legislation or State, and not until new decisions are given in our courts and matters settle down will we be able to assess the effects of the legislation. That can only distract from the much needed capital injection so urgently needed at this time of deficit budgeting.
- (11) We are concerned that neither the Pastoralists and Graziers Association nor the WA Farmers Federation have supported this legislation and that Ag-Care and other groups working closely with those farmers who are in trouble have not embraced the legislation. The only group, other than the National Party, which supports the legislation is the Rural Action Group.
- (12) The Government, with its ability to seek legal advice far beyond that which is available to us or the National Party, consider the legislation is not workable.
- (13) The WA Farmers Federation has, together with the bankers association, agreed to set up a tribunal not greatly unlike that which was desired by Hon E.J. Charlton. While it may not have enforcement by law, it has the two parties concerned acting voluntarily and without coercion. I believe it would be better to give the proposal a fair trial with the assurance that I will reconsider the legislation should such a tribunal fail in the future.

HON MURRAY MONTGOMERY (South West) [10.38 pm]: I support the Farm Debt Bill proposed by Hon Eric Charlton. It was inevitable that, when the Bill came before the House, it would cause, at first, a stir because people had to understand that at which the Bill was directed and how it would work. It is interesting that, in addition to the jockeying for

positions by the various interested groups, some controversy would be caused by the expectations of people and those who were at loggerheads on the principles proposed in the Bill. It is clear that the banking industry has reacted to it and taken a step backwards because of the way it views the imposts that the legislation may put on it. I said "may" because obviously it needs to look closely at the problems that exist in the farming community which would have placed an impost on the banking industry anyway.

It is also interesting to note that farmer organisations have been trying to find methods of assisting the farming community. The Western Australian Farmers Federation has come up with the idea of a voluntary code for banking organisations. Obviously, there will be some concerns about different facets of voluntary codes. Perhaps consideration should be given to how voluntary codes can be implemented and the effect they will have on the farming and banking communities.

As far as I am aware, no-one disagrees with the objectives of the Bill; it is the implementation of those objectives that is creating some difficulty. Voluntary codes need some legislative backing because people can withdraw from them quite easily. This Bill is about conciliation and consultation and it will assist farmers who are facing financial problems, not because of poor management but because the markets for their produce have collapsed. Members are aware of the collapse of the rural sector and the pressure it has put on rural communities and this Bill assists in trying to keep farmers on their farms.

I suggest that between 10 and 15 per cent of farmers in rural Western Australia are under threat. Each time that percentage of farmers withdraws from the industry the bottom 15 per cent of remaining farmers fall into the same hole. Therefore, 15 per cent of the farming community are always under threat. That has been the situation since I have been involved in farming and we must ensure that that percentage is kept to a minimum.

Without a Bill like this secured creditors will always have the negotiating power to do exactly what they want to do. In many cases they have recognised the risks they took in lending funds to farmers and they have increased interest rates accordingly. They have had their pound of flesh, but they want more. It is interesting that unsecured creditors will lose nothing as a result of this Bill. Unsecured creditors can institute bankruptcy proceedings to demand their money, but there is no guarantee they will get it if the farmers concerned owe money to secured creditors. If farmers are forced to sell their farms the unsecured creditors remain at the bottom of the list of creditors. This Bill does not impinge on them in any shape or form. If unsecured creditors wish to institute proceedings they will end up in exactly the same position they find themselves in today.

The National Party's concerns can be demonstrated by what occurred in the northern wheatbelt recently. A finance company which had a lien over a harvester purchased by Bruce Quicke, who has a property north of Geraldton, seized it and left the farmer with no means of taking off his crop which would have assisted him in paying some of his debts. Under this legislation the finance company would be involved in all the negotiations pertaining to the farmer's situation to ensure that he is provided with the means to continue his farming operation. It was fortunate for the farmer north of Geraldton that his neighbours helped him harvest his crop. Creditors will be disadvantaged if a crop is not harvested and this Bill will ensure that they cannot take any action against the farmer until he has undertaken that task. We all know that if a crop ripens and is left to stand in the paddock it loses its monetary value.

Earlier this year Hon Eric Charlton took a group of members of Parliament who represent city regions on a tour of the north eastern wheatbelt to show them some of the hardships being faced by the farming community. It was an educative process and it is one of the reasons that this Bill should receive support, particularly from those members who went on that tour.

The Bill is not a quick fix cure and it does not address the rural crisis.

[Leave granted for speech to be continued.]

Debate thus adjourned.

[Continued on p 6589.]

SITTINGS OF THE HOUSE - EXTENDED AFTER 11.00 PM*Wednesday, 13 November*

On motion by Hon Graham Edwards (Minister for Police), resolved -

That the House continue to sit and transact business beyond 11.00 pm to consider Orders of the Day Nos 7, 8, 9 and 10.

FARM DEBT BILL*Second Reading*

Debate resumed from an earlier stage of the sitting.

HON MURRAY MONTGOMERY (South West) [10.52 pm]: The Bill does not address the causes of rural crises. It may be that some of the areas of crisis thrust upon the rural sector are the result of factors outside its control. This is one area where we are seeking to ensure some protection for rural enterprises. Once this Bill becomes an Act it is likely that a number of applications will be made for protection orders to be lodged with the tribunal set up under the Bill. It is likely that a lot of voluntary agreements will be reached between farmers and financiers. That obviously includes all secured creditors. Where a workable agreement cannot be reached orders will be issued by the tribunal. This will be done by the tribunal using expert people to advise it. That will obviously include people of experience from the farm advisory system and the Department of Agriculture.

No-one has said that everyone on the tribunal will have all the answers to farmers' problems. However, the farmers in trouble may be assisted through their problems. If the tribunal gets farmers through their problems it will not only encourage the secured creditors but also help the unsecured creditors, who may not get their money if a farm is sold up. To say that people will not assist the farmers when they see they will get some money is incorrect. The banks wrote off funds for the corporate sector for which they took huge risks, much greater risks than they take with the farming sector or than the farming sector would ever ask financiers to take. Farmers are noted as being some of the best debt payers in the community. We are trying to ensure that the power struggle between the banking and finance sector and farmers does not escalate. The Parliament should be looking at the best interests of the State while at the same time trying to serve the rural community and farmers by helping them to work together to solve our problems so that the State benefits and so that people are not at loggerheads to see who will come out on top.

This Bill seeks to ensure we find a process of negotiation. We are using legislation to do that, but at times that is the only way to achieve an end. The banking industry has indicated that although it is not entirely happy with the Bill it can live with it. I urge members at this time when the farming community is being battered to look where they are going and to ascertain where they can help the farming community during this economic downturn. The comment has been made numerous times in this place that this is the worst depression in 60 years. We should be seeking to show leadership to overcome the problems in our community and be putting people before politics. I urge members to support the Bill.

HON J.M. BROWN (Agricultural) [10.56 pm]: I have a number of comments on the Farm Debt Bill. I am aware of the Government's attitude to the Bill because of the comments of the Parliamentary Secretary when he spoke to the Bill in October, expressing the Government's opposition to it. I share the opinion held by the Government. In doing so I recognise the meaningful approach of the National Party through its leader, Hon Eric Charlton, in introducing this Bill to provide relief to the farming community.

I remind members of the steps the Government has taken to help the rural community, particularly farmers. I have spoken before on this matter and talked about the guaranteed price for wheat given on 26 March this year on the steps of Parliament House to members of the Rural Action Movement. That action met with strong opposition throughout Australia and in Western Australia from the WA Chamber of Commerce and Industry, the Confederation of WA Industry and the Chamber of Mines of WA, along with a number of members of the Liberal Party. Those people probably thought they had good reasons for their opposition. I had an opportunity to go to the York Peninsula in South Australia as a representative of the State Government. The attitude expressed to me there was an eye

opener. People spoke about the approach taken by the Premier of Western Australia in giving a guaranteed price for wheat. That action was surprising for reporters from the radio and newspapers who sought an opportunity to report what I had to say about why the Premier had given that guaranteed price. I suggested to them that we are no longer the lucky country, and certainly have not proved to be the clever country, but that the Premier's action was making us the commonsense country.

It was plain commonsense to give that guarantee, because without it there would have been a great deal of disruption - which is probably the kindest word I could use - in the country areas of Western Australia, particularly among the wheat farmers, and that embraces most of my Agricultural Region. There would have been despair among the rural people if this plan had not been implemented. This commonsense decision by the Premier was probably the foremost step ever to be taken in the 1990s. Indeed, the people of South Australia recognise their shortcomings. They do not have the confidence to put in their own crops, although this year was one of the best seasons they could have enjoyed. I saw the crops myself, but the farmers indicated to me that they would produce only something like two million tonnes of grain this year, compared with 2.7 million tonnes the previous year.

Compare that with what we will achieve. Members have mentioned the areas which are suffering from drought. I have witnessed this in areas close to me like the Ravensthorpe, Mukinbudin, Nungarin, and Mt Marshall shires, and the area stretching through to Koorda. Of course the drought is a great disappointment to these people, but it must be a source of tremendous satisfaction to know that this year, for the fifth year in succession, Western Australia will produce more grain than any other State in Australia. As I was told at Pingrup the other day, that guarantee of \$150 a tonne offered by Carmen Lawrence was the saviour not only of Western Australian farmers but also of the Australian Wheat Board. The analysis put forward by that farmer from Pingrup proves what a great saviour that guarantee has been for the Australian Wheat Board as our sole exporter of wheat. We do forward selling, we have contracts, and we would not have been able to meet our obligations without that guarantee. We would have been buyers rather than sellers of grain if it had not been for that guarantee.

I pay tribute to those people who belong to the Rural Action Movement. It was Lloyd Young from Pingrup who spoke to me about the commonsense plan the Premier put forward and the saving of the Australian Wheat Board. The Rural Action Group has inspired the farmers to stand up and be counted, and to seek support because of the enormous drift of people from the country to the metropolitan area. This drift is really disastrous for our long term future.

In some respects I disagree with Hon Murray Montgomery and do not share his concerns. He believes that no-one disagrees with the goals of the Bill. The Bill has not been finally processed, but I think it has achieved some tremendous goals already. It has received publicity, and it has received general support within the community for the relief it will give. According to a newspaper article on 19 October 1991, the President of the Western Australian Farmers Federation, Peter Lee, said the Bill should be left on the Notice Paper until an arrangement about debt mediation he was about to finalise with the Australian Bankers Association had had a chance to work.

I do not intend to mention the political side of his comments; that is for others to mention. I do not have a great deal of confidence in the mediation process, but it has been proposed. At least there is now an awareness that something must be done. Bankers are aware that something must be done because they have met with the political parties. I have a transcript of a meeting of the bankers' association with the Liberal Party. I will not relate those comments to the House because I want to deal with the fundamental point of whether we should or should not support the Bill. It has already resulted in a better understanding within the banking industry. The banks understand that the farmers must be kept on the land; they should not be forced out. The Government understands that also. The Rural Adjustment and Finance Corporation has played a very significant role in ensuring that farmers receive loans for carry on finance, farm buildup, debt reconstruction and finance to leave their properties. That is coming from taxpayers' funds.

The money farmers receive has an interest component no higher than nine per cent as a result of a three per cent relief down to four per cent, and that must be of tremendous value. Despite continual bleatings about RAFCOR, it has made a contribution to the farming

industry in Western Australia and has been of tremendous value to those who have had the opportunity to receive finance.

Members will notice that I have not mentioned interest subsidies which are available for the farming industry. Another package has been put forward by the Federal and State Governments, with part B of the Rural Adjustment and Finance Corporation proposals which will give complete interest relief to a borrower who needs additional funding above his existing debt and who qualifies under the program. In other words, the interest payment for the farmer under his borrowings under part B will be paid jointly on a 50:50 basis by the Commonwealth and State Governments.

The Minister for Agriculture has said that drought relief will be provided for those areas which are declared drought affected. That process has been in place for many years and has been expanded and improved. Unfortunately nothing anyone can say or do will mitigate the drought problems. I am amazed at how our wheat industry has managed to be so productive this year and produced such a great crop. It is difficult to understand why we should have a great crop this year when superphosphate sales are down by 47 per cent from 1.3 million tonnes to about 800 000 tonnes.

Hon E.J. Charlton: That is mainly in the grazing areas.

Hon J.M. BROWN: It is hard to relate the superphosphate situation to that industry when certain parts of the area face a different situation. I appreciate Hon Eric Charlton's comments about top-dressing and about the wool industry, but where would CSBP be this year if not for the guaranteed price for wheat?

I will not mention any names but I wish to relate a story about two people from the districts of Mullewa-Morawa and Moorine Rock - two places an enormous distance apart. One person said that he would not put in a crop at all but finished up putting in 4 000 acres because of the Government guarantee. Another farmer from Moorine Rock put in 3 000 acres, even though he had not intended to put in a crop either. Those people were in the fortunate position of having sufficient funds to carry on without putting in a crop. However, by putting in a crop they have enabled this State to be the largest producer of grain for the fifth consecutive year. At Moorine Rock 2 000 acres will produce 10 bags to the acre but 50 kilometres away people are experiencing a drought. That is the risk that people take in this industry; it is nothing new. That will occur again from time to time. The Government offered a great incentive with its commonsense decision to ensure that the production in Western Australia would benefit not only the producers of grain but also the thousands of people involved in the industry, either directly or indirectly - the farm workers, the transporters, and the waterside workers.

I should refer to another saving, because we often hear how bad is the Waterside Workers Federation. I will continue to jump to the defence of the waterside workers. I refer now to an article in *The West Australian* on 7 November 1991 by Shaun Menegola entitled "Dock reform pays off for wheat farms". It reads -

Wheatgrowers are reaping the benefits of the waterfront reform process.

The Australian Wheat Board estimates it is saving at least \$10 million a year through increased efficiency at grain loading ports.

It revealed yesterday that the average time taken to turn grain ships round at Australian ports had almost halved - from 4.52 days to 2.4 days - since 1988-89.

This did not happen yesterday; it is since 1988-89. The article continues -

Stevedoring costs had been cut 50 per cent and the savings were being passed on to growers.

AWB managing director John Lawrenson said Australian ports were now among the most efficient grain loading ports in the world.

"The really significant achievement is the boost this success has given us in international shipping circles," he said.

Mr Lawrenson said investment in new technology at grain terminals had made it possible to reduce the workforce by up to 70 per cent.

"Each time we speed up the turn around of a ship it means that the wheat gets to its destination faster and Australian wheatgrowers get paid faster. In this way we save interest costs of around \$3000 a day," he said.

"The cost of running a ship could vary from \$8000 a day to \$35,000 a day, depending on the type of ship. When we save a ship owner a day, that has to be reflected in lower freight rate charges to the buyer and that in turn gives us an additional bargaining chip when we're negotiating the price of wheat."

Federal Transport Minister Kim Beazley this week attacked critics of the waterfront reform process.

And further on -

Mr Beazley said productivity improvements had exceeded target figures by as much as 100 per cent.

Condemnation of the waterside workers - not only those in Western Australia - which often takes place in the political and public arena, has been unfounded over the past three years. It has demonstrated that the people who eat the bread from the wheat we produce are an important part of the process of drawing Australia out of the recession. That represents a tremendous effort at the national level despite what I consider to be the ill conceived withdrawal of the guaranteed minimum price for wheat - the linchpin of the success of the grain growing industry. Perhaps future legislators will realise the folly of their actions.

I want to talk about Simon Crean, the Federal Minister for Primary Industries and Energy, who was so readily condemned when appointed to that position. The industry is finding out what a great asset he is and what a great job he is doing. Despite the report of the meeting he attended at Lake Grace during his visit last month he was well informed; the expectation of a lively and volatile meeting was something he was prepared to cope with in his endeavours to ensure the further progress of the industry. That in itself is very important.

I refer now to the difficulties we have faced as a result of clearing one million acres of land each year. That has not been good for us. The "get big or get out" slogan has not been good for us either. Some of the people who made these suggestions, and who are leaders in commerce and industry, are the ones who have probably been responsible for the problems that we are facing now. People have borrowed \$100 000 or \$200 000 under rollover techniques on the advice of top management in the field, at 23 per cent interest rate charges which have caused the downfall of very financial and successful farmers. That has been part of the evil of attempting to progress. Dr Henry Schapper, for example, advised people not to take out insurance policies; he advised them to buy another 1 000 acres, because at the end of the day people could sell the acres. Who could believe such a thing could happen now? People can sell 1 000 acres for a quarter of the price those people paid. I remind the National Party, and specifically Hon Eric Charlton, that the banks have been culpable by their actions. The banks should not go unscathed. This is part of the institution of finance that we embrace, and we must remember the role of the banks. For example, interest rates went down one per cent last week; the week before the fall in interest rates, the interest paid on savings accounts went down one per cent. The rates dropped one per cent on the Friday before the announcement on 6 November; one week earlier the banking institutions, in a disservice to the people they serve, introduced a drop in interest rates on those people's savings. The finance institutions have a lot to answer for in our efforts to achieve economic recovery in this State. Because of the mistakes they made they are plundering the people of Western Australia in their endeavours to come out onto that level playing field that the institutions caused to be uneven. The banking institutions have a lot to answer for as we grapple with the problems that exist today. It was their inability to come to grips with the lending processes over which they believed they had control that created much of this problem. I do not even want to talk about Tricontinental or the State Bank of South Australia, just to mention two institutions where billions of dollars were wasted. Those institutions then relied upon the community as a whole, not just the farming community, to pay their debts.

I recognise the importance of what Hon Eric Charlton is endeavouring to do, but he will understand that I will be supporting the Government's position in this matter and will not be supporting his Bill. However, the Bill has done more for the rural community than perhaps we want to recognise and for that I commend the member for his actions.

HON J.N. CALDWELL (Agricultural) [11.22 pm]: I signify my absolute support for the Farm Debt Bill. In a nutshell, we need this legislation because of the enormous downturn we have seen in the rural industries and the loss of the income that was once gained particularly from wool and wheat, which are the main sectors which have felt the brunt of falling prices. Of course, it has been necessary for all Governments across Australia to attempt to help farmers to survive, and without help more of them will disappear from the industry. The pity of it is that the industry is losing all its young farmers, and we can ill afford to lose them. They are the up and coming brains of the agricultural industry, the people we must rely on for future advances in the industry. I do not have to remind members how terribly important the rural industry is to the economy of Western Australia. Farmers have been affected by the economic downturn and costs, which have continued to spiral upwards. They are caught in a web from which they cannot disentangle themselves.

The Government has provided rural counsellors, who have been well received and are doing a reasonable job in a very difficult situation. I attended a meeting at Pingrup last Friday and it was gratifying to see that bankers are at last coming to these meetings. The R & I Bank Ltd at Lake Grace and the Westpac Bank at Katanning were represented. I am not sure whether representatives of banks have been to these meetings previously because I have not been to every meeting, but it the first time I have seen two bank managers at such a meeting. They attempted to defend their position. There was also a representative from the Rural Adjustment and Finance Corporation, which was good to see. Unfortunately it is almost too late and that is what the National Party is trying to rectify with this Bill. The National Party foresaw this cash crisis in the rural industry prior to 1991. I remember meeting with representatives of RAFCOR in 1990 and warning them that it was about to happen. They attempted to put in place some assistance, but the turnaround time for RAFCOR applications was not acceptable so RAFCOR put on more people to try to cope with the applications. We all know that applications increased dramatically and that the turnaround time was unacceptable.

The reason that a Bill such as this is necessary is highlighted by a front page article in *The West Australian* of 22 October. A farmer by the name of Bruce Quicke had had a header repossessed. The terrible thing was that it was taken away just before he was about to commence his harvest. I do not know whether it was a finance company or a bank which repossessed the header, but this is not something that a thinking person would do. I will guarantee that the header is probably sitting in a shed somewhere not being used, because nobody has the money in today's rural scene to be able to afford to buy a \$50 000 header. That header would have been lying idle in a shed, yet Mr Quicke had to call on his neighbours to take in his crop.

Hon J.M. Brown: No; his neighbours rallied to help.

Hon J.N. CALDWELL: We must all pull together. Finance companies, banks and farmers must all rally around to get out of this very tight situation.

Another reason why this Bill has come before the Parliament, and I hope will be passed, is that farm values have fallen by half. My comments are backed up by an article by Liz Tickner in *The West Australian* of Wednesday, 23 October. She was interviewing Elders Real Estate. The article stated that Elders had almost 500 WA properties listed for sale. That is an indication that the predicament is real and has got out of hand.

I understand why the Government has increased the presence of the Rural Adjustment and Finance Corporation and is trying to assist as much as possible, but it is not doing the most important thing; that is, preventing farmers from moving off the land. It is great to offer somebody between \$35 000 and \$70 000 to relocate elsewhere - unfortunately often in Perth - but this Bill does not attempt to do that. It is aimed at keeping a potentially viable farmer on the land for at least two more years. During that time, it is possible that commodity prices will rise. We have already witnessed a 25 per cent increase in the price of wool during the last month and in the price of wheat over the last month or so. That is most gratifying. Who knows by how much those prices may increase in 12 months' time? That is one of the vagaries of farming - a farmer cannot budget for future events. It is my guess, and I am sticking my neck out, that prices will increase further. That sentiment is embraced in the intent of this Bill. A farmer who is having financial difficulties may approach the tribunal and, if that tribunal sees fit, it can exercise the moratorium provision and give the

farmer up to two years in which to trade out of his difficulties. If the tribunal finds that a farmer has no viability at all and is unlikely to survive no matter what, it will not exercise its right to place a moratorium on the farm. It will give individual farmers a chance to survive. Those are the people we must try to help in one way or another.

I agree with Hon Jim Brown that banks in many cases have not been responsible. Not only have they been irresponsible with hundreds of millions of dollars in the corporate sector, but also they have been irresponsible in lending money to farmers. The deregulation of banks did not help. At that time there seemed to be plenty of money and plenty of lending. I recall that my maiden speech in this House centred around the activities of banks at that time. In 1984-85 bank officers were walking the streets asking clients whether they wanted to borrow money. One bank manager approached me and, when questioned, indicated that he could lend me any amount up to \$1 million. I nearly passed out because I never thought anyone would be prepared to lend me that large a sum. Fortunately, I rejected that offer but if I had taken it up, I am sure that I would not now be the part owner of a farm. I am aware of three farmers in my district who took up similar offers; they all live in Perth now and they all went broke after the interest rates on those loans increased considerably.

Hon J.M. Brown: How long had they been on the land?

Hon J.N. CALDWELL: Their fathers had been on the land and they were hand-me-down farmers. They tried to increase their holdings too quickly and the loans which were taken out with interest rates between 12 per cent and 14 per cent doubled to 28 per cent or thereabouts within 12 months. Some farmers have been irresponsible in the way they have managed their farms and financial affairs, but in many cases banks have also been irresponsible. There are many glaring examples, apart from those to which I have referred.

This is not a political move. The idea has been considered for some time. Politics have played no part in the introduction of this legislation. Hon Eric Charlton suggested this measure in February of this year and the National Party decided to see whether it could help farmers. This is one way in which the National Party thought it could help the industry out of a very difficult situation. I agree with Hon Jim Brown that it has made the bankers think hard about the situation. They have attempted to talk to politicians and they have attended meetings, which has not been their practice in the past. At last they have become conscious of what is going on in the rural sector. Some of the bank managers contacted in Perth recently said they had never heard of any great problems and that nothing had been brought to their attention. That was most disappointing. However, this problem has now been brought to their attention as a result of the introduction of this Bill and they have been asked to sit up and take notice. If this Bill is passed, it will help members of the farming community to survive. If it is not passed, I hope that what is in place now will in some way help the industry. The voluntary scheme to be set up by the Farmers Federation and members of the banking institutions does not have a great future because voluntary committees very often fail. Those things set up with legislative backing usually have a good chance of success. That is why the Bill has been introduced in this place.

God help the rural industry if recovery does not take place in some areas soon. The industry is hurting and, as a result, Australia is hurting. Let us do something about it and support the Bill.

HON W.N. STRETCH (South West) [11.39 pm]: I have great sympathy with the Farm Debt Bill introduced by Hon Eric Charlton. It is a very dramatic attempt to meet a very desperate situation. As has been said several times tonight and in the past, the situation has been brought about by a combination of falling markets and drought in the east and north east of the State. It is a deadly combination for farmers and it underlines the difficulty of tailoring specific financing packages for rural industries.

I am not a bank basher and I do not intend to bank bash tonight, because 500 years ago a wise man called William Shakespeare said, "Neither a borrower nor a lender be, for lending loses oft itself and friend and borrowing dulls the edge of husbandry". Unfortunately, that was before we got into the popular Keynesian economics when Australia was convinced that deficit financing was the way to go and we moved away from the old fashioned method of saying that "If you do not have the money to pay for it, you do not get it". That is now history. We are lumbered with deficit financing, and I think all of us here use it. If we are not using it, we are probably not making the best use of our resources. The reason that I will

not engage in bank bashing is that I have never yet met a bank manager who forced me to borrow money. I borrow money because I believe there is an opportunity to improve my lifestyle, make more money, or expand my operation. For that reason, it is not useful to blame the finance houses for the problems that people have got themselves into. It is certainly a fact that interest rates have increased at a rate far higher than Governments and some borrowers anticipated that they could. However, the fact remains that farming is now a very hard, low margin, tough and competitive business, and it is weeding out many people who have spent more time farming than they have financing. That is very easy to do, but it is unfortunate and fatal. Farming is becoming increasingly a financial business, and if we do not appreciate that, and if our farmers do not come to grips with that fact, we will see more of these crises develop, because in the same way that the banks do not owe us a low interest loan, neither does the rest of the world owe us a market. Farmers know particularly that the world of marketing is a tough, hard world, and we must make our own opportunities and create our own competitiveness. I do not share Hon Jim Brown's praise of the waterfront reforms. The waterfront has improved a little in places but it still takes far too long to turn around our ships.

Hon J.M. Brown: That is not what the General Manager of the Australian Wheat Board thinks. You are not bank bashing, but you are bashing the waterside workers.

Hon W.N. STRETCH: I do not bash them.

Hon J.M. Brown: You were not complimenting them.

Hon W.N. STRETCH: No, because there is a long way to go to get them up to international competitiveness.

Hon J.M. Brown: What a lot of nonsense you are talking.

Hon W.N. STRETCH: I am not talking nonsense. I am making an observation that I can back up with facts. It may be getting too late in the night for Hon Jim Brown. I will give the member the facts, and he can work out how long it takes to load a container in Australia.

Hon J.M. Brown: Wheat is not loaded in containers.

Hon W.N. STRETCH: I know that. I am talking about waterfront reform generally. We are dragging our feet in that regard.

The difficulty I have in this debate and in deliberating on the Farm Debt Bill is the difficulty of getting hard facts and statistics. We must look at the general situation in Western Australia to help us to put the matter into perspective. *The West Australian* of 19 October this year stated that bankruptcies in Western Australia had hit a record high. There has been a 112 per cent increase in the number of bankruptcies in Western Australia, which outstrips the bankruptcy rate in any other State of Australia. The farm sector has not yet reached that stage. I hope sincerely that it never will, and we have been working very hard to ensure that it will not. According to the November 1990 statistics, nearly 42 000 people work in agriculture in Western Australia, and nearly 4 000 people work in associated industries that service agriculture. The Australian Bureau of Agricultural and Resource Economics estimates of the farm cash operating surplus, including a 12 per cent wool tax, indicate that the falls have been quite staggering. In 1989-90, wheat and other crops fell by 23 per cent and are estimated to fall another 27 per cent in 1991-92. The sheep industry, however, fell by 85 per cent from 1989-90 to 1990-91 and is anticipated to fall another 96 per cent in 1991-92. Therefore, while the wool industry has had the major cut in income, the wheat industry and those industries which have a mix of livestock and heavy cropping operations are making out a bit better.

Hon Eric Charlton underlined in his second reading speech the difficulty of long term financing. I believe, if I can be constructive, that the banks must look at a longer term vision for the farming industry. There is always a cyclical swing in markets and in seasons. Farming is not an area into which one can go on an annual overdraft limit. Farmers must structure if they want to borrow over longer terms so that they will have the security of finance to get through the downturns. In many cases this has been addressed by the Primary Industries Bank, but that bank is a large lender. I think loans start at \$250 000 and will give interest only loans for the long term, but many farmers are either not game or not in a position to borrow such a large amount of money for that length of time. Much of Hon Eric Charlton's speech addressed the impact of Federal issues on Western Australian farmers, and

he was correct in his statements. The lack of backbone by the Federal Government to control interest rates for the industries that export has hurt those industries badly and has made us uncompetitive on world markets.

I am pleased that the Bill points out "that it is not an attempt to throw a lifeline to farmers who are hopelessly in debt and have no prospect of recovery". One of our difficulties has been to identify the actual number of people who are in that position. I make no apology for the leaked rural Liberal Party minutes. I am disappointed that they were leaked, but that is water under the bridge. We had to get some idea of the extent of the problem and try to get some policies in place. We did not succeed in getting hard facts, and I am not really surprised, because no-one can ever tell who will fail and who will not. We have all been surprised by farmers who we thought were sound and who have suddenly seen their operation fall over. We have seen that happen up and down the Terrace and in small businesses throughout the metropolitan area, so farmers do not have it on their own. Conversely, we have seen the little Aussie battler, who we thought would never make it and who never had a hope, hang in there and in many cases build up a very tidy and profitable farm. However, despite those uncertainties the Australian Bankers Association was able to give a general indication that it expected 70 per cent of its farming clients to ride through the recession - or depression, as it is now - reasonably well; and another 20 per cent would be making major - and I mean major - adjustments to their lifestyle, mainly their personal lifestyle. There will probably be the five per cent turnover which goes on all the time, which leaves between five and 10 per cent of additional farmers who are expected to disappear from the association's portfolio. The association is as concerned about that as anybody else because it also stands to lose quite large sums of money by writing off large amounts of debt. In 1986, in the last downturn, I was the shadow Minister for Agriculture and a number of us went to talk to the Commonwealth Development Bank, which was writing off in the vicinity of \$80 000 a week of bad rural debts. So it is nothing new and it is not something banks enjoy doing. They do not like writing off money or taking on farms that they cannot sell. I do not believe that is part of their rationale, nor that they are putting pressure on in that way just for their interests, because there is no desire on their part to end up having to either keep the farm or sell it.

The Rural Adjustment and Finance Corporation's general opinion is that between 100 and 150 farms will experience very severe financial difficulties. That represents between 10 and 15 per cent of the 13 000 farmers in Western Australia. There seems to be some consensus on that figure; so what do we do? The only real solution for those farmers in very desperate trouble is the injection of a large amount of money and I am afraid that will not be forthcoming from any source. Interest rate reductions seem to be the soundest way to go and I believe that can best be serviced through RAFCOR. However, I have some difficulty with the RAFCOR guidelines and I believe there is a considerable amount of work to be done on getting that money out faster to the farmers who need it. At the same time there is a large philosophical problem, for me anyway, if we are to assist only the bottom end of the industry all the time. Hon Murray Montgomery rightly pointed out that if 10 per cent of farmers fail this time, next year it will be another 10 per cent. I am not sure whether that is not the corollary of the system of always helping those at the bottom, because often we are not putting our money where it will do the most good. If we are to give that sort of assistance we probably should give it across the board and encourage efficient operators as well as the lower level operators to become more efficient. Therefore, if we are to spread taxpayers' money around we have an obligation to be reasonably fair to all sectors of the community.

The situation with the Farm Debt Bill is as Hon Eric Charlton pointed out: It is essentially a mediation Bill, and that has been the hallmark of all the attempts that have been made to attack this problem. I have analysed as best I can the systems that are available here, and one that I know of overseas, and they all come down to the same thing. Firstly, the farmer applies for a protection order or for an investigation or assessment of his position because he has reached a serious situation. That is common to all three schemes and I quote this debt moratorium Bill; the Australian Bankers Association-Western Australian Farmers Federation-National Farmers Federation farm assessment scheme is the second scheme; and the Canadian Debt Review Board is the third. They all start at that level. They then have a meeting of the secured creditors and investigate how far they can go in advancing more finance, refinancing the package or generally tailoring clients' debts to get them into a

position where they can trade their way out of difficulty. The schemes all then have in common a third step, of selling up the farm in an orderly fashion if there is absolutely no hope of refinancing the farmer into a viable future. All the schemes have difficulties. The scheme being promoted by the Western Australian Farmers Federation at present has the difficulty that it really has no legislative teeth and needs some assistance so that it can operate before a letter of demand is issued. I believe the farmers' organisations are working on that now so that they do not have to wait for a letter of demand to be issued before they can set in place an assessment of the farmer's situation. The Canadian farm Bill does exactly the same thing but it has legislative backing and is working along very similar lines to those in Hon Eric Charlton's Bill. I will come to its major difference in a few moments.

The disadvantage of Hon Eric Charlton's Bill, to my mind, is firstly that it will set up another fairly expensive level of bureaucracy. It is another filtering system and I believe it will lead to a deep concern and a few shock waves through the financial system regarding lending to the other sectors of the agricultural community that are not in trouble. That is inevitable and it will occur with all schemes. The biggest drawback is the two year moratorium. No other scheme I can find has considered such a long term, because when many of the farmers who are in difficulty reach this stage they are paying between \$200 and \$500 a day in interest and a mere deferment of debt for two years without a major restructuring of interest rates will not get them out of trouble. It will put off the evil day, but I do not believe there are many cases - I cannot really think of any - where the recovery is likely to be great enough to overcome that sort of interest growth. We have all seen it in the past. Even with the RAFCOR interest reductions the interest bill is really what puts a farmer out the back door in the end. That is not to say that this Bill should be killed stone dead. I believe the Farm Debt Bill can be worked on and amended to align very much with the Canadian Debt Review Board legislation.

I turn now to the need for an early warning system in the financial community where we do not wait for letters of demand, where a creditor can apply to a board - or if we end up with a tribunal, to a tribunal. Consider, for argument's sake, that a farmer has missed a large payment on a header or a tractor. Obviously a problem is occurring, and a meeting of creditors should be called to outline the financial situation. To me that has always been the sadness of the cases in which I have been asked to help people. I go in and the situation has gone so far that the interest bill has killed any hope of recovery. Whatever legislation we end up with, or whatever mediation schemes are brought forward in the long term, it is essential that we build into the system a method whereby farmers can be helped early. One reason for my optimism for the farming industry generally is that the level of financial management of farmers is improving all the time. However, some farmers have never drawn up a budget; they have never really organised their finances. They have never worked out how much they owe because in good times it did not matter. Not many young farmers today take those liberties, and that is why the generation of young farmers taking on the land today are better equipped than my generation was, certainly better than the generation before mine. It has become a fast moving world of fluctuating interest rates. As I said earlier, unless a farmer has applied himself rigorously to that discipline he will run into trouble sooner or later. When I left school, interest rates were at 2.5 per cent, and over the subsequent 12 years the rate rose to five per cent. I wonder why we did not borrow more, and probably in those days we should have, but the situation changed quickly. Not so large debts can build up and with today's interest rates several hundreds of dollars of debt per day can put a person into bankruptcy very quickly.

In the longer term, of course, the recovery of the agricultural sector must depend on the Government's addressing the costs faced by the agricultural industry. The sooner that is done, the sooner we will get away from the need for legislation such as the Farm Debt Bill, and the level of competitiveness of the industry will return to an sound footing. Whatever Hon Jim Brown says, that means transport costs, taxation systems, and waterfront costs are far too high.

Hon J.M. Brown: They have all dropped.

Hon W.N. STRETCH: But not fast enough. Taxation rates are not dropping. Another urgent consideration is the need to ease the taxation burden on farmers and all business because half the trouble of paying back debt is that a farm must earn \$3 to pay back \$1 of debt as a result of the need to meet the attendant tax and interest.

This Bill should go to the Standing Committee on Legislation because it represents the skeleton of promising legislation. The two year moratorium is not reasonable but it could be shortened and still work. The mediation processes are quite workable; they are working in Canada and will work with the Australian Bankers Association-National Farmers Federation farm assessment scheme that the NFF is working on now. The inscheme is not fully operational but by the time the Legislation Committee has considered the Bill we will pick up the experience from the Western Australian Farmers Federation scheme - and if it has failed, and we can make something good of this legislation, that must be an advantage. I do not believe that the legislation is supportable in its current form because of the general lack of confidence it will engender in lending to other farmers. It is not reasonable to expect creditors to wait two years while the unsecured creditors can move in and destroy the viability of the farm anyway.

This is a complex piece of legislation. Some legal advice indicates that it cuts across the laws of contract, which will play havoc with the structure of all business from top to bottom. We must be careful about what we do with this legislation. I understand that some proposed amendments may put that concern to rest. Much work still needs to be done at the Committee stage of this legislation. That work cannot be done by the Committee of the Whole because it is too complex. It requires further expert testimony to be called, as can happen with the operations of the Legislation Committee. It is my hope that with further deliberations on the legislation we can make something of it that will be of genuine assistance to the farming community. The sentiments expressed in the legislation are laudable but the practicalities of the Bill still have some distance to go.

Another matter to be addressed in the meantime is the availability of Rural Adjustment and Finance Corporation funds. The guidelines of the corporation must be widened. A far wider range of farmers should be able to apply for those funds; if that happens the reduction in interest rates that can be achieved will be another major step towards the recovery of the industry.

I support the thrust of the Bill but I urge that the legislation go to the Legislation Committee to be worked on for the betterment of the community.

HON E.J. CHARLTON (Agricultural) [12.07 am]: I have listened intently to all the comments by each member who has spoken on the Farm Debt Bill. Not one member has failed to comment on the seriousness of the current economic situation confronting rural Australia; however, the situation is not of such proportions that nothing can be done. The problem here is that both Government and Opposition members must make a decision about what to do. This legislation was not intended to be a quick fix for the industry. The intention of the legislation is to set in place a mechanism to ensure that the efficient farmers in the industry remain to fight another day. The Bill is of such importance that I will now respond to the comments made during debate. Firstly, I acknowledge the support of my National Party colleagues who have supported the proposal from the outset. In responding on behalf of the Government Hon John Halden indicated early in the debate that the Government would not be supporting the Bill. In introducing this Bill into the Parliament I advised the Government and the Liberal Party that I would be available to respond to any questions on the proposal. I indicated that I would welcome any amendments or suggestions to improve the Bill; I signalled publicly that the National Party did not have a mortgage on good ideas on the way to deal with the rural situation. I received a visit from two representatives from the Department of Agriculture on behalf of the Government, with whom I went through the Bill closely, answering their queries. I do not suggest that those officers accepted my answers to their queries as fundamentally correct or to their liking, because as a result of these inquiries the Government was not sufficiently convinced to support the Bill.

Among a number of other points Hon John Halden said that the banks would withdraw funding as a result of this legislation. That was a comment expressed by a number of members. For the life of me I cannot understand how anyone could come to that conclusion! Banks are about lending. Their attitude to accepting deposits was discussed earlier tonight. Banks welcome deposits but a different attitude is demonstrated through the interest rates paid on deposits and those charged on borrowings. Clearly, banks are more interested in lending money than taking it in. Their business is lending money and banks will always lend money at various rates of interest with various risk factors applying. The suggestion that banks will withdraw lending to the rural industry as a result of a debt moratorium does not

hold water. Across Australia banks and other financial institutions are exposed to \$11 billion-worth of rural debt. That debt has increased by 40 per cent during the last four years, and to suggest that banks and other financial institutions will now withdraw their lending is not valid. As the debt of the institutions increases, they have no other option than to support the industry. To close farm operations would further run down the value of the industry and jeopardise the institutions' capacity to realise the value on the properties they hold. Therefore it is in their interests, regardless of what they may want to do, to maintain funding; to withdraw funding is unbusinesslike and has no economic foundation. If that were done, other businesses would be jeopardised and that would compound the situation. Although these institutions are telling us otherwise, this is largely a scare tactic. Before this Bill was introduced I suggested that that would be the response it would receive. It is interesting that the moment this Bill saw the light of day the bankers came out of the woodwork to talk to people about how the banks could improve communications with the rural industry and a whole range of other people.

Hon John Halden suggested that further costs would be passed on to farmers as a result of problems associated with the moratorium. How can anyone justify that suggestion when banks are currently passing on to farmers an extra \$4 million-worth of debt each year? Every time a farmer leaves the industry he does not take his debt with him; that is left on the property or transferred to somebody else. That is an important point which should be taken on board by all interested members. That is a key area which is causing problems throughout this nation. Unlike the corner delicatessen owner, the newsagent, the hairdresser, the video shop proprietor or whoever - this is not a criticism of those businesses - if a farmer must shut down his operation he cannot walk away from that place of business and leave it to someone else to take over its operation. In the case of the businesses to which I refer it is possible that somebody will take over that business, be it in another form, and the premises will not lie idle. We have not yet reached the stage at which farms are allowed to lie idle. We have the situation of banks attempting to sell property; agents are sought to sell the properties, unbeknown to the owner.

Hon Mark Nevill: What is land fetching today?

Hon E.J. CHARLTON: It varies and has different values in different areas.

Hon Mark Nevill: What are some of the lower values?

Hon E.J. CHARLTON: Values are holding up significantly well. However, some properties in the eastern regions are fetching \$70 a hectare; of course, that figure is substantially higher in some of the greater production areas. Importantly, people are also suffering financial difficulty in the high production areas because of the large costs involved. It was suggested by Hon John Halden that the costs associated with the proposed tribunal should be used to further assistance provided by the Rural Adjustment and Finance Corporation. Many people will be interested in that remark. With all due respect to the member, his comments did the Government a disservice as he was so far wide of the mark that it was not funny. The costs involved with the operation of the proposed tribunal would not even take care of the stamps used at RAFCOR. This department administers \$6 million a year at an administrative cost in excess of \$2 million. However, it takes RAFCOR 55 to 60 working days to turn around an application, and applying a five day week to that, this entails an 11 or 12 week administrative delay for application. That organisation is totally inefficient in dealing with applications. Again, Hon John Halden's comments do not hold water.

Hon John Halden made a comment about the State's production. Production potential peaked about two years ago. The production of this State is in a decline, though not as much as it is across the rest of Australia, as has been mentioned tonight already, largely due to the \$150 a tonne guaranteed minimum price for wheat. I remind members that the deputy leader of the National Party in the other House, Monty House, introduced the Bill at a time when the Western Australian Farmers Federation was running the rabbit backwards and forwards to Canberra to try to convince the then Federal Minister for Primary Industries and Energy that we should have a \$150 a tonne wheat price guarantee. No-one had suggested that the State could or should do it. When Monty House introduced that Bill into the Legislative Assembly there were rumblings that the State "can't, won't, or shouldn't" provide that guarantee - the money was simply not available. Of course time has gone by and we all know the history of what happened. Many people were quick to jump on the bandwagon. I

take my hat off to everyone involved, including everyone in the National Party who contributed in whatever way to ensure that happened. I want to congratulate two groups. The first is the Government, which ultimately had to make the final decision on whether to proceed. The second is the Rural Action Movement, whose members demonstrated on the steps of Parliament House with the full support of the farming community, wheat growers, grain growers and the WAFF. In the final analysis it was the Rural Action Movement which stirred up support and encouraged emotions to run high.

Hon John Halden mentioned a number of aspects of the Bill about which he did not have a proper understanding. Hon George Cash in mentioning the protection order talked about secured and unsecured creditors. That point was raised by a number of other speakers. As everyone knows, a protection order relates to a secured creditor and it really does not hold water to suggest that an unsecured creditor would interfere with the remaining assets. Any unsecured debt will not make or break or cause the demise of that asset which will be held over if a protection order is issued. Hon George Cash also mentioned the Australian Bankers Association agreement, as did many other members. We need to remember, as some members acknowledged, that the proposed WAFF-ABA agreement was not heard of until this Bill was introduced into Parliament. It was a bit like the \$150 a tonne guaranteed price for wheat: It brought a few people out of the woodwork. I was approached by the WAFF, when it knew of the National Party's intention to proceed with this Bill, to delay its introduction into Parliament. Having introduced the Bill I was encouraged to leave it lie on the Table in order that WAFF could bring more pressure to bear so that we might see a more successful implementation of the proposed WAFF-ABA agreement. Evidently in the final analysis the WAFF felt that it had some benefit.

Hon George Cash mentioned the effect of credit on farmers and said that we should send the Bill to the Standing Committee on Legislation. That is not logical any more because of the time it has taken to get to this point. If we were to send the Bill to the Legislation Committee there would be no hope in this session of Parliament that it would be passed in this House, transmitted to the Legislative Assembly and passed there in order to come into effect; and it is probable that Parliament will be prorogued at the end of the year and all legislation will be dead in the water. It is not a matter of whether it is a good or bad idea to send the Bill to the Legislation Committee, although it would be of no benefit to do that. If this Bill is defeated, which obviously it will be from comments that have been made, I will give every member in this place another opportunity by bringing forward another Bill as soon as possible to do something similar.

Of all the comments that have been made by people from the Government party and the Liberal Party, who through its spokesman on agriculture, Paul Omodei, has said it would bring in a Bill to do certain things that in principle are in line with what is proposed in this Bill, all I can say is that the National Party's door is always open, and always has been, to sit round the table and negotiate for the good of the rural industry and the State of Western Australia. I would have much preferred that the farming industry of Australia and particularly Western Australia be in a position where it did not need this sort of action.

A number of people have mentioned that this Bill does not seek to protect other industries; my response to that has been that if any member wants to amend this Bill to include other industries he should go for it. I did not include other industries because one must draw the line somewhere. However, my suggestion is to put this legislation in place for the rural industry, which cannot pass on its costs. Everyone knows that small businesses across the nation are in trouble and their troubles are growing all the time, but they trade in the Australian economic environment and can pass their costs on to the consumer. Their only problem, which is killing them, is that when they increase their costs people stop buying; that is what is sending them broke. A machinery dealer told me last week that his supplier had directed him to increase his costs by six per cent. He responded to the parent company by saying, "Put the costs up by 12 per cent. I am not selling now so you may as well increase the prices by 12 per cent; it will not make any difference to me." That is the reason small business has not been incorporated in this Bill; it can buy and sell in the Australian economic environment - as disgraceful as it is. The other difference is that the rural industry for the greater part of its operations almost totally has its input costs based on Australia's out of kilter economic environment, but must sell on a manipulated world market. It should also be remembered that the primary industry of Australia is responsible for 38 per cent of the nation's export income.

Hon Muriel Patterson gave her support to this Bill in principle, and she asked what would happen to the properties if they were to lie idle for up to two years. No decision by the tribunal could possibly be based on leaving a property unoccupied. The tribunal's terms of reference will ensure that it hears both sides of the story; that is, from the financial institution and the farmer, and it should make a decision that will benefit both parties. The member also raised a number of other points which were referred to by other members who have contributed to this debate.

Hon Margaret McAleer referred to the problems which have already been canvassed. In addition she referred to the trip undertaken a couple of weeks ago to the Nungarin, Mt Marshall, Mukinbudin and Trayning Shire Councils. The Mt Marshall Shire Council expressed its desire that no more loans be granted to farmers because they were already up to their eyes in debt. Representatives from the shire said they would like a one year moratorium which was referred to by Hon Margaret McAleer and they supported the proposal which is currently before the Parliament. There is no question about the proposal between the Western Australian Farmers Federation and the ABA. The most important point about that arrangement is that a farmer can make representations to the committee and, at the end of the day, even though it will be in a position to make a decision, there is no requirement on the financial institution to stand by that decision. The financial institutions can be involved simply because they hold the four aces, but they do not have an obligation to be part of the decision making process. The only problem confronting the committee is handing down a decision with which the banks will agree.

Hon W.N. Stretch: What will happen to the bankers if they refuse to mediate?

Hon E.J. CHARLTON: The member has raised an important point and the bankers raised that question when we met with them. The difference between that scenario and taking evidence from the financial institution, based on the evidence it prepared to support its position and the evidence put forward by the farmer, is that at the end of the day the tribunal has the power to deal with the evidence from both parties. If it makes a decision to uphold the application it will hand down a decision on the interest and loan repayment to be made. The financial institution, along with any other creditor, would be obliged to carry on that business. The alternative is what is already happening in some cases. The lender would be required to contribute more funds to allow that property to function for a further two year period. The question is: How will the tribunal make someone contribute more money to something when that person has reached a decision that he is not in a position to take that action? Many people have failed to remember that the proposed tribunal will not be in a position to approve every application. That is exactly how the banks got themselves into trouble in the first place. They have portrayed themselves to be above reproach and every time they make a decision they believe they are 100 per cent right and that everyone else involved is at fault.

This legislation will only be as good as the three members on the tribunal. Obviously, the same three people will not deal with every situation. For example, one would not expect a member of the tribunal who is a farmer from the south of the State to have the expertise to deal with the pastoral industry. It will not be up to the National Party to appoint the members of the tribunal; it will be the Minister of the day and it could very well fall over as a consequence of the wrong people being appointed to it. The troubles experienced by the Rural Adjustment and Finance Corporation are not caused by the organisation, but by the people who are employed by it. Members must remember that a bank will lend money only under two conditions: Firstly, that the loan will be serviced and, secondly, that it has security over the loan because of the equity in the property. The tribunal will not hand down a favourable decision in every case. However, in the situation where a potential borrower says he wants to borrow money to do certain things, it is up to the banking institution to determine whether to approve the loan. The problem is that financial institutions approved loans when they should not have done so and Hon John Caldwell raised that matter earlier this evening. I ask members to recall when our friend Mr Keating deregulated the banks: Twenty six new banks came into operation in Australia and they were falling over themselves trying to lend money. It did not matter whether a person's family had been with the bank for 100 years - they were about lending money to people. The money was lent according to the person's income and was subject to a specific interest rate. The people who borrowed the money and who deserve the respect of the tribunal's decision are the people who said that they would

produce X number of bales of wool, X amount of grain and X head of stock to be sold off. They have done that, but the Government of the day changed the rules of the game by increasing interest rates to more than double the previous rate. That was done by design and with no respect for this industry which could not pass the costs onto anyone else. The banking institutions sat idly by and made the decision to pass on those costs instead of joining the industries of Australia and trying to bring home to the people running this Government - or those who thought they were running the Government - that this would happen. Nobby Clark from the National Australia Bank was the only person who said that the financial policy was wrong. Members should not feel that the tribunal will make a decision which is contrary to the interests of everybody involved and which will be a burden on the banking system. The burden has been placed on this industry and the rural debt has increased from more than \$7 billion to more than \$11 billion in four years. Members should also bear in mind that the average age of farmers today is 58 years. The rural industry which is responsible, even in these depressed times, for more than 38 per cent of the nation's income is run by people of that age. The cream of our young people are leaving the industry. I know that the hour is late, but this Bill has been before the Parliament for almost three months, and it is a fact of political life that I have responsibility for summing up the second reading debate at 12.40 am. I would like the procedures in this House to be such that I could respond to members as they made their comments; however, the system does not allow that and perhaps it is just as well. Although some members may find my comments repetitive and boring, I must express the heartfelt agony felt by many people in the rural industry as a result of the current economic situation. I refer not only to those people facing eviction from their properties but also to those very successful people who know their turn is just around the corner if something does not change. This Bill is not about drawing down the cost or increasing incomes. The right decisions must be made, and obviously they have not been made in the past.

Let us not blame the Americans and a host of people around the world for our problems. Australia should blame itself for the demise of this industry and so many other industries in this nation. Hon David Wordsworth correctly mentioned the wool stockpile, seed prices and the Liberal Party's rural committee which has been looking at this problem for a long time. I can only hope that as a consequence of that input, some consideration has been given to the sad situation in which this industry finds itself. It probably could have resulted in some measures being taken which would have provided a fairer deal for everyone when the critical decisions were made.

Whatever the economic position of Australian and Western Australian rural communities today, I guarantee that it will be worse in a few months' time. Australia has not yet felt the effects of the drought in the Eastern States. The economic impact of that drought on the nation will be significant. All this talk about coming out of the recession is fraudulent because there is no hope in hell of that happening. People are playing around with the interest rates, which have now been reduced by 10 per cent. However, those reductions have not been passed to small businesses. The reductions have been made on housing loans because the Government hopes that it will encourage more people to take out their first home loan to either build a house or buy an established home. That would get the housing industry, which employs a lot of people, into action and would indicate to the nation that a turnaround had occurred in the economic situation. Any turnaround in that area is falsely created.

Hon Jim Brown mentioned a number of points which I have already addressed, but I specifically refer to his comments on Simon Crean. Mr Crean is obsessed with two words. I was told by a member of a rural action movement group that Mr Crean sounds very much like a parrot who has learned two new words and keeps repeating them - "value add, value add". That is fairly accurate because Mr Crean keeps saying those words, and he is right out of his tree in suggesting that the future of the rural industry is in value adding. He should go back to the Australian Council of Trade Unions if he wants to keep saying those words. It is true that value adding is required in Australia, that it is of great importance to Australia and that it has the potential to be of significant value. However, it is not for the rural industry to become involved in value adding. The rural industry is about producing the raw product, just as the mining industry is about producing the raw materials. Of course, some incentives - such as five year tax holidays - should be offered to other sectors to get some initiatives in

place to value add to our raw products so that they can be exported. However, Simon Crean should not go to a meeting of farmers and tell them to become involved in value adding.

Hon Tom Helm: You tell miners to make pellets instead of exporting iron ore.

Hon E.J. CHARLTON: Because they are involved in the whole spectrum of that activity. At the moment we are discussing this Bill which will help farmers to survive and to continue producing raw materials. If people are not producing raw materials in the first instance, there will be no point worrying about adding value to anything. That production of primary produce is on the downslide.

Hon Bill Stretch made a number of comments, one of which referred to bank bashing. People can take my comments as they like; I did not start this as a bank bashing exercise. It began as a way of restoring some balance in the situation because to date it has been all one way traffic. Everybody seems petrified when banks are mentioned. Many have come through a system in which bankers were looked upon as superior to others in the community. It must be remembered that they are people employed to trade in finance. They are appointed to lend money and are paid to act on our behalf in dealings in the financial sector. Too often, we tend to put people on pedestals, and that has not been to our advantage. I have stated here continually that I never started out to attack the banks. My actions are the result of a series of Government financial decisions made the past. Hon Bill Stretch mentioned interest rates of two or three per cent. Today Australia is supposed to be welcoming what has happened with interest rates. We have just been told they are down by 10 per cent. However, they are still double the rates of our competitors around the world. What an indictment of Government that Australia, a country with resources hardly equalled by any other country in the world, has made a financial decision to encourage high interest rates to get people to bring their money into Australia while our products sit on properties and on shelves and 10 per cent or 11 per cent of our people are unemployed. This has happened rather than the Government's encouraging our industries into value adding to stimulate employment. While this is happening the Prime Minister is saying to the unemployed, "Do not worry, I will ensure that you will get an increase in your unemployment benefits." He is doing that to woo the unemployed. From whom will he get that money? He will get it from the next sector that lose their jobs. He cannot get it from anywhere else because Governments have no money. That is the situation in this country. Until this country changes its financial structures completely it will go nowhere.

The National Party will be pulling out all stops to ensure that we keep efficient farmers, small business people and transport operators in business. They are the next ones on our list of people to do something about. I say to people that we must have a bit of civil disobedience where we say no to the Government because enough is enough. As a consequence of that remark some people have said I am trying to incite others to break the law. I am not. I am trying to encourage people to say no for a change so that they stop being pressured, burdened and bludgeoned and forced out of business to be put on the scrap heap and become part of the unemployed sector along with a lot of people dependent on them. Members do not have to disagree with me, they merely have to look at the unemployment figure as it reaches the million mark in this nation.

I wish to read into the *Hansard* record two provisions which appear on a mortgage document. I do not know whether these provisions have been put in place yet. The first is headed "Moratorium Not to Apply" and states -

The provisions of any statute whereby the date of payment of moneys owing under mortgages may be extended or postponed or whereby the rate of interest may be reduced or any other condition may be abrogated nullified postponed or otherwise affected shall not apply to limit or affect the terms of this deed of the Collateral Security.

The second is under the heading "Power of Attorney" and states -

The Mortgagor IRREVOCABLY APPOINTS the Mortgagee (and where the Mortgagee is a corporation then every manager and other officer of the Mortgagee for the time being authorised in that behalf by the Mortgagee) to be the true and lawful attorney for the Mortgagor in its name and on its behalf and as the act and deed of the Mortgagor to prove for all moneys owing to the Mortgagor by any party to this deed

or any Collateral Security other than the Mortgagee and to retain or appropriate at the Mortgagee's discretion any amounts so received towards the Moneys Secured.

Did members all hear that?

Hon Tom Helm: We did. Will you tell us again?

Hon E.J. CHARLTON: That is simply putting conditions in any new lending proposal to ensure that any moratorium handed down does not apply to any borrowing under those conditions.

A couple of points should be taken on board which demonstrate why we should be putting something in place. In 1960 Australia had 290 000 primary producers with a net rural debt of \$77 million; that was 30 years ago. By 1970, 10 years later, there were 250 000 farmers - so 40 000 were gone - with a net debt of \$1.224 billion. In 1985 the number of primary producers had reduced to 170 000 carrying a debt of over \$6 billion. By 1988 the number of farmers had dropped below 150 000 while their debt had spiralled to around \$8 billion. In 1990 that debt was in excess of \$11 billion. This demonstrates what has happened to this industry even though it has continued to be the greatest export earner for the nation. No-one can do without this industry, yet it has been bludgeoned and burdened to carry that debt. For whose benefit? I will quote my interest rates for the past four years. In 1988 my overdraft interest rate was approximately 16 per cent. By 25 September 1989 that had risen to 21.5 per cent. I suggest many people were paying in excess of that rate. How can any business operate when it is paying interest rates that have climbed from 16 per cent to 21.5 per cent and its competitors are paying five per cent or six per cent interest? The interest rate on term loans was 21.75 per cent.

Hon Bob Thomas: In 1988 we had a balance of payments deficit of seven per cent of gross domestic product; that is, \$7 in every \$100 spent in Australia in 1988 was borrowed from overseas.

Hon E.J. CHARLTON: Anyone who has the gall to get into an argument about the balance of payments believes that what the Government has done is correct.

Hon Bob Thomas: Of course it is correct.

Hon E.J. CHARLTON: Is it not marvellous how this nation has gone since this Government came to power? We have gone from having a relatively low foreign debt to a \$160 billion debt. The member mentions our balance of trade. It will take 40 per cent of our exports just to pay the interest on that amount. One day someone will have to pay that money back. The only way it can be paid back is to export more than we import. All this airy fairy business is merely playing around.

Hon Tom Helm: Who got all the money?

Hon E.J. CHARLTON: It does not matter.

Hon Tom Helm: Why do we have to pay it back? I never borrowed it.

Hon E.J. CHARLTON: The member will be helping to pay it back because Australia owes it.

Hon Tom Helm: I never borrowed it and the Government never borrowed it.

Hon E.J. CHARLTON: The Government deregulated the banks and encouraged a group of entrepreneurs around this nation who never started one business between them. The only bloke who started a business of any consequence in Australia in the past few years was Ralph Sarich and this Government deserted him and kicked him out; yet the Government gave \$60 million to Kodak and \$100 million to some of its other mates because they put in a few dollars over the years and let everyone else go down the tube.

Hon Tom Helm: What does that have to do with the price of fish?

Hon E.J. CHARLTON: It happens to be the basis of this nation's economic dilemma. The fact is that Australia owes \$160 billion. It does not matter how the debt got to that level; it is the responsibility of the Federal Government to manage the finances of this nation, and it has failed to do that.

Hon Fred McKenzie: Sarich still does not have an engine in a car. It is all paper money.

Hon E.J. CHARLTON: The fact is that he has produced something.

Hon Fred McKenzie: What has he produced?

Hon E.J. CHARLTON: The member knows that he has already signed contracts, and when he does produce, he will not produce in Australia. In the meantime, the Government has propped up all these people who have run away and deserted it and lost this State a lot of money. The Government has wrecked the State Government Insurance Commission and everything else around the countryside. As a consequence of the hike in interest rates, a lot of people are now in trouble. If we take the example of a \$300 000 loan, a five per cent increase in the interest rate for a couple of years represents a \$40 000 increase in borrowings. If we gave \$100 000 to every person who was faced with eviction, they would not be under that pressure and have to face the music as a consequence of the Government's mismanagement of Australia's financial operations. It is useless to talk now about how wonderful it is that interest rates are coming down. The fact is that people are still paying 14 per cent or 16 per cent interest on the increased loan of \$50 000 or \$100 000 that they have entered into. What will happen to rural industries and to the small business people of Australia over the next few years is that any profitability that they may have will go into servicing that debt. That is the reason that the National Party believed that we had to do something out of the ordinary to put in place an appeal provision. Why should anyone be denied the opportunity to appeal to what we hoped would be an independent group of people? It is obvious that a decision has been made not to support this Bill. Many people have come a long way since this Bill first saw the light of day, to the point where Paul Omodei, on behalf of the Liberal Party, is now suggesting that he will introduce a Bill into the Parliament to deal with this matter.

I look forward to that happening and to the opportunity to sit down with him - as I offered to do with other members in respect of my Bill - to see whether we can arrive at a decision that will be not in the interests of me or anybody else but in the interests of those members of the community who have their backs to the wall.

The transport industry is also relying on decisions being made. I suggest to the industry that it tell the people of this State that it does not want to hear anything about the sweetheart deals that our Premier entered into in Brisbane a few months ago which were to be part of the special Premiers' Conference that has now been abandoned. It is a good thing that we will not have that special Premiers' Conference because, hopefully, the Premiers will not make any more stupid decisions. I urge members to support this Bill, and hope that whatever may be the outcome, people will have learnt a few things and that, as a consequence, some time in the future this great industry, upon which Australia will depend for the next 20 years, and I suggest probably a lot longer, will again be able to take its rightful and respected place in the nation instead of being looked upon as a poor relation.

Division

Question put and a division taken with the following result -

Ayes (4)

Hon E.J. Charlton
Hon P.H. Lockyer

Hon Murray Montgomery
Hon J.N. Caldwell
(Teller)

Noes (22)

Hon J.M. Berinson
Hon J.M. Brown
Hon T.G. Butler
Hon George Cash
Hon Cheryl Davenport
Hon Graham Edwards
Hon Max Evans
Hon Peter Foss

Hon Kay Hallahan
Hon Tom Helm
Hon Barry House
Hon Garry Kelly
Hon Margaret McAleer
Hon Mark Nevill
Hon Muriel Patterson
Hon P.G. Pental

Hon Sam Piantadosi
Hon Tom Stephens
Hon W.N. Stretch
Hon Bob Thomas
Hon D.J. Wordsworth
Hon Fred McKenzie
(Teller)

Pairs

Hon Derrick Tomlinson
 Hon R.G. Pike
 Hon N.F. Moore

Hon B.L. Jones
 Hon John Halden
 Hon Doug Wenn

Question thus negatived.

Bill defeated.

PROROGATION OF PARLIAMENT BILL

Ruling - By the President

THE PRESIDENT: Order! I have been asked to give a ruling on Order of the Day No 8; therefore, I will not be able to put the question that Order of the Day No 8 be now taken because I am not in a position to give my response to that request. We can debate this matter, but I will not be able to put the question tonight that the Bill be read a second time.

ROAD TRAFFIC AMENDMENT BILL

Second Reading

Debate resumed from 20 August.

HON GRAHAM EDWARDS (North Metropolitan - Minister for Police) [1.10 am]: This Bill seeks to restore pre-1988 penalties which were changed following a Bill which I introduced in my representative capacity at the time. The Bill seeks basically to provide for a mandatory term of imprisonment of persons convicted of a second or subsequent offence of unauthorised use of a motor vehicle. I am sure it will not surprise the Leader of the Opposition to learn that the Government opposes the Bill.

Hon P.G. Pental: You have been soft on crime for years.

Hon GRAHAM EDWARDS: Hon Phillip Pental may recall that he supported the amendments that I introduced in 1988. Subsequent to that, members on this side of the House gave support to the discontinuance of mandatory sentences following the report of the Joint Select Committee on Parole. I do not want to get into a slanging match with Mr Pental; I would rather talk sense with Mr Cash.

I have some sympathy with Mr Cash. I suspect that this Bill reflects to some degree frustration that is being felt by the community. However, I do not believe that, by returning to pre-1988 penalties, we will address the problem in the way the Leader of the Opposition desires. That is not only my view; it is also shared by others in the community much more learned than I. The Law Society, in referring to this Bill, said -

The Society is strongly opposed to mandatory terms of imprisonment as they remove all discretion from judges and magistrates in deciding on appropriate penalties for offences when numerous factors need to be considered. The Society supported the removal of mandatory penalties when the Road Traffic Act was amended in 1988.

Further, I refer the House to the report of the Joint Select Committee on Parole which was chaired by Hon John Halden. The deputy chairman was Hon Barry House and the other representative from the Legislative Council was Hon Tom Butler. Mr Max Trenorden and Mr Bill Hassell were Legislative Assembly members of the Committee with the latter resigning on 25 May 1990 and being replaced by Mrs Cheryl Edwardes on 22 June 1990. Membership also included Mrs Pam Buchanan and Mr Ted Cunningham. Paragraph 20(i) at page 125 of that report states -

A sentence of imprisonment should be applied only if the judicial officer is convinced having regard to any guideline judgments, the nature of the offence and the maturity and antecedents of the offender that the paramount principle of the protection of the community would be placed in jeopardy, that other options have already failed, or have an extreme likelihood of failure.

Paragraph 20(ii) states -

Judicial officers should be encouraged to become more aware of alternatives to imprisonment and the development of new options and should be given complete discretion to use the full range of sentencing options, or combination of those options as they see fit.

If this Bill becomes law, that very important discretion would be removed from the courts. Although from time to time I disagree with a number of sentences passed by the courts, it is my strong view that we should be doing what we can to protect the independence of the courts. They should not be placed in a situation of not having that discretion and capacity to look at alternatives to imprisonment or to develop new options. I do not believe we achieve anything as a society by gaoling offenders, particularly young offenders, for short periods. It is often said that Western Australia has the highest incarceration rate of any State in Australia. That is not quite right. Raising that argument or calling for more gaol sentences does not indicate that we are adequately handling the problem of juvenile justice. We should be putting fewer people away, but those who are put away should be put away for longer periods. Contained in this Bill is a provision for mandatory sentences for a minimum of three months. If that became law there would be no doubt that the magistrates and servants of the court would dutifully follow the laws passed by the Parliament. I am sure they would interpret them in a way that we would see more people gaoled for that minimum period. I do not believe that the answer to our problems with such offences as unauthorised use or theft of a motor vehicle will be resolved in that way. All we would have to do is build more gaols and have more fights with the community about where they should be built. I would bet my bottom dollar that, the moment we build them, they would be filled. That is not a sophisticated or intelligent way for us to go.

Car theft and other juvenile offences have to be dealt with on many fronts and sentencing offenders to gaol terms is not the only way that we should address the problem. It is interesting to note - Mr Cash quoted the figures in his second reading speech - that more than 15 000 vehicles will be stolen in Western Australia this year. In New South Wales approximately 50 000 will be stolen this year. I know it is not possible to draw accurate comparisons because we are not comparing like with like, but the problem of car theft is not something which is peculiar to Western Australia, although we appear to have a different problem from that which is occurring in New South Wales. The problem of car theft occurs right across Australia. If we thought we could deal with the problem simply by introducing mandatory penalties, every State would have rushed to introduce mandatory penalties, but this is simply not the way to go. Car theft is of such immense concern, not only in this State but right across Australia, that it is now being addressed nationally.

I do not have any sympathy for those who go out and steal a person's car without any regard to the fact that that person might rely heavily on his vehicle as a means of transport or as a means of earning a living. It may also be a single mother's only means of transporting a young child to and from a hospital. All too often young people particularly do not think enough about the sorts of problems they are creating for individuals and for society generally. We must address this problem across many fronts; sentencing is not the only way to go.

It would be wrong, in my view, and in the view of the Government, to regress to the pre-1988 penalties. That would not be an effective or efficient means of addressing the sorts of problems which we have to address. Mine is perhaps an uneducated view compared with other views which have been put forward by people much more eminently qualified than I. While I appreciate the frustration expressed by members of the community, by members opposite, and indeed by members on my own side of the House, and while I sympathise with the Leader of the Opposition, I am not of the view that by adopting this Bill we will be doing the best that we can to address the real issues and the real problems. The Government is opposed to the Bill.

HON GEORGE CASH (North Metropolitan - Leader of the Opposition) [1.22 am]: I thank those members who have contributed to the debate, but I am somewhat disappointed with the Government's position on this Bill. I express my disappointment on behalf of the 14 410 persons whose cars were reported stolen in 1988-89, the 15 835 persons whose cars were reported stolen in 1989-90 - an increase of nine per cent during that period - and the roughly 19 500 persons whose cars were stolen during the year 1991 - a 20 per cent increase over the previous year. It is clear that a car is stolen in Western Australia every 27 minutes. Regrettably, as each year goes by, the number of cars stolen increases, hence obviously they are stolen at a faster rate. If one listens to the community, it is fair to say that the community has had enough of the problem of stolen cars and is asking the Parliament to take tough action to indicate that it is not prepared to allow this offence to continue.

In his second reading comments the Minister acknowledged that imprisoning young people is not necessarily the only way to deal with this problem. I acknowledge, on behalf of the Opposition, that any imprisonment should always be an option of last resort. Many members of the Opposition have expressed that sentiment on a number of occasions in this House. However, it is also fair to say that, although we regard imprisonment as an option of last resort when considering the unauthorised use and theft of motor vehicles in Western Australia, clearly the existing penalties set out in the Road Traffic Act are not satisfactory. Many young people in the community are clearly of the view that the sentences being handed down by the courts are inadequate, and they seem to make a habit of stealing cars. They seem quite satisfied that they can go into court and receive a slap over the wrist with a wet bus ticket, get sent on their way home, probably to steal a car the next day; and so the cycle continues.

I am aware of the attitude of the Law Society to this legislation, and of the findings of the Select Committee on Parole. However, while I recognise the views put forward by those bodies, I argue in respect of the unauthorised use and stealing of motor vehicles that the time has arrived for us to toughen up and be seen to be responsive to the demands of the community. We should not adopt an attitude which will cause the community to believe that the Parliament is soft on crime. One has only to speak to those people who have had their cars stolen to know that they believe the current sentences are inadequate. The Bill before the House provides for sentences which will more properly reflect current community attitudes. The time allotted to me by my colleagues has now expired, so I hope the House will support the Bill.

Division

Question put and a division taken with the following result -

Ayes (12)		
Hon J.N. Caldwell	Hon P.H. Lockyer	Hon D.J. Wordsworth
Hon George Cash	Hon Murray Montgomery	Hon Margaret McAleer
Hon Max Evans	Hon Muriel Patterson	(Teller)
Hon Peter Foss	Hon P.G. Pendar	
Hon Barry House	Hon W.N. Stretch	
Noes (12)		
Hon J.M. Berinson	Hon Tom Helm	Hon Bob Thomas
Hon J.M. Brown	Hon Garry Kelly	Hon Fred McKenzie
Hon T.G. Butler	Hon Mark Nevill	(Teller)
Hon Graham Edwards	Hon Sam Piantadosi	
Hon Kay Hallahan	Hon Tom Stephens	
Pairs		
Hon Derrick Tomlinson		Hon B.L. Jones
Hon R.G. Pike		Hon John Halden
Hon N.F. Moore		Hon Doug Wenn
Hon E.J. Charlton		Hon Cheryl Davenport

The PRESIDENT: The result of the division is a tie and so I give my casting vote with the Ayes.

Question thus passed.

Bill read a second time.

Committee - Defeated

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon George Cash (Leader of the Opposition) in charge of the Bill.

The CHAIRMAN: The question is that the Bill stand as printed.

Division

Question put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows -

Ayes (12)

Hon J.N. Caldwell
Hon George Cash
Hon Max Evans
Hon Peter Foss
Hon Barry House

Hon P.H. Lockyer
Hon Murray Montgomery
Hon Muriel Patterson
Hon P.G. Pandal
Hon W.N. Stretch

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

Noes (12)

Hon J.M. Berinson
Hon J.M. Brown
Hon T.G. Butler
Hon Graham Edwards
Hon Kay Hallahan

Hon Tom Helm
Hon Garry Kelly
Hon Mark Nevill
Hon Sam Piantadosi
Hon Tom Stephens

Hon Bob Thomas
Hon Fred McKenzie
(Teller)

Pairs

Hon Derrick Tomlinson
Hon R.G. Pike
Hon N.F. Moore
Hon E.J. Charlton

Hon B.L. Jones
Hon John Halden
Hon Doug Wenn
Hon Cheryl Davenport

Question thus tied.

Question thus negatived.

Report

The Chairman reported that the Committee had considered the Bill and had declined to pass it.

Report of Committee adopted.

Bill defeated.

LIBRARY BOARD OF WESTERN AUSTRALIA AMENDMENT BILL*Second Reading*

Debate resumed from 11 September.

HON KAY HALLAHAN (East Metropolitan - Minister for Education) [1.36 am]: The Government does not support this Bill, mainly because at present the Library and Information Service of Western Australia is developing a very comprehensive position paper which will go out for public comment, probably in the new year. That paper is a compilation of seven discussion papers which have been produced in consultation with professionally relevant groups. Those seven individual papers are being consolidated into a document which will come to me for consideration and then be put out for public comment. That could happen late this year but it may have to be early next year. It is a very useful document because the current Act which applies to the Library and Information Service is one of our older Acts and there is a need to update the role of the board and to consider information services in a most comprehensive way. One of the chapters of that very comprehensive document will deal with the content of this Bill.

I am happy to inform members that a great deal of research has been undertaken around Australia and all of the current concepts and practices will lead to what we believe will be a leading piece of legislation on public records. I am told it could be a very significant piece of legislation nationally and will make a contribution internationally because it will take into account updated practices, technologies and problems associated with the keeping and disposal of public records.

The discussion paper will probably focus on the whole question of the better management of public records rather than on penalties, which is really the focus of the Bill before us. It will contribute a great deal to the better management of public records and the whole question of the drawing up of schedules for materials to be disposed of. There are practices within the Public Service at present, although there is still a need for greater training within various departments about public records and the schedules for disposal which need to be understood and put in place by staff dealing with all aspects of public records.

We have before us an attempt by the Opposition to deal with an issue in an ad hoc way. The Opposition has responded to a professional opinion from a few people, and that is not representative of all archivists by any means. The matter was taken up as a result of discussion in the Royal Commission. I was interested in the situation outlined by Hon Phillip Pendal in another debate where he indicated that the Government was acting not from a policy perspective but from a political perspective. With this Bill, Hon Phil Pendal is not doing a thorough job; he is reacting to a political situation from which he may have thought some mileage may be gained. In view of the research that has been undertaken, and in view of the fact that in a short while we will have an opportunity to put out a comprehensive, well considered document for public consultation, I invite all members opposite to make a contribution at that point. Given that the publication is imminent, it is in the Government's best interests to indicate that the Government's legislation will be a ground breaker for this nation. I do not wish to denigrate the significance of the matter before the House, but legislation needs to be well done and comprehensive. The Library Board of Western Australia Amendment Bill is not that sort of legislation. For those reasons, the Government does not support the Bill, and I urge members not to support the second reading.

HON P.G. PENDAL (South Metropolitan) [1.42 am]: Mr President -

The PRESIDENT: Order! The rule regarding the reading of newspapers applies after midnight, in the same way as it applies prior to that time.

Hon P.G. PENDAL: It is not surprising that the Government opposes the Bill, given that we are dealing with a Government with perhaps an unprecedented level of nondisclosure and of covering its tracks, and an unprecedented lack of any respect for public records, and that the conduct of some Government members has been the subject of scrutiny at the Royal Commission. It was interesting to hear the Minister, in a pretty perfunctory dismissal of the matter, say that the Government intended to do something about this matter in the near future, or next year. The standard response from the Government when it is caught out - as has increasingly been the case in this place when the Opposition has been doing the Government's job - is that something is just around the corner. The Minister is out of touch if she thinks that the people in charge of the professional records in this State do not support the Bill. I could, but I will not, name the people in professional associations who prompted this Bill. At some length during the second reading debate I quoted people such as Professor Lesley Marchant, the professional archivists and historians, the people who are fed up with the misbehaviour of people in this Government whose standard conduct, it seems, is to destroy public records -

Hon J.M. Berinson: That is absolute rubbish. You have no basis for that statement.

Hon P.G. PENDAL: Mr Berinson had his chance to take part in the debate.

Hon Kay Hallahan: He is doing it now. Stop complaining and get on with it.

Hon J.M. Berinson: That does not give Hon Phillip Pendal licence to make wild claims that cannot possibly be substantiated.

Hon P.G. PENDAL: Is the Attorney General saying that the Ministry of the Premier and Cabinet staff were not instructed by his Government to tamper with the public record? That is what the Government did.

Hon Kay Hallahan: That is rubbish!

Hon P.G. PENDAL: It was a criminal activity -

Hon J.M. Berinson: I beg your pardon!

Hon P.G. PENDAL: - when the Government and its predecessors felt - and the Minister should not take a point of order, because she knows my statement is accurate.

Point of Order

Hon KAY HALLAHAN: I will take a point of order. The member's remarks about criminal activity are a reflection on the staff of the Ministry of the Premier and Cabinet.

The PRESIDENT: That is not a point of order.

Hon KAY HALLAHAN: Why is it not a point of order?

The PRESIDENT: Because I said so.

Several members interjected.

The PRESIDENT: Order! For the Minister's information, it is not a point of order. A member can say what he wants in this Parliament. He cannot say what he wants about another member of Parliament.

Hon Kay Hallahan: Oh?

The PRESIDENT: Order! It was not out of order for Hon Phillip Pendal to say what he said about the Ministry of the Premier and Cabinet, if that is what he said.

Debate Resumed

Hon P.G. PENDAL: Members would be aware of the widespread reports about sworn evidence before the Royal Commission regarding tampering with public files.

Hon Tom Stephens: Has there been a report from the Royal Commission on the incident?

Hon P.G. PENDAL: As a result, the professional historians and archivists in this State came to the Opposition and said that since the Government would not do its job perhaps the Opposition could do the job for the Government.

Hon Kay Hallahan: How pathetic!

Hon J.M. Brown: Who is pious?

Hon P.G. PENDAL: Whether members like it or not, that is what happened. Unlike members opposite, the professional people do not believe it is proper conduct when the Government destroys public records.

Hon Tom Stephens: What did you do with police files while you were in Government?

Hon P.G. PENDAL: I do not know what happened in respect of police records -

Hon Kay Hallahan: Oh really!

Hon P.G. PENDAL: However, if it is a matter of concern to Government members I am surprised that they have not raised the matter before or, more than that, done something about it. That is what the Opposition is doing in this case. In some respects, I would have been surprised to see the Government support the Bill but nonetheless I am pleased that the Government has gone on the public record as opposing -

Hon Kay Hallahan: As doing something about it.

Hon P.G. PENDAL: - a Bill which is intended to make it illegal for a Government to first of all allow -

Hon J.M. Berinson: I thought you said it was already a criminal offence.

Hon P.G. PENDAL: Yes - there are other Statutes that cover it -

Hon J.M. Berinson: Why do you need another one?

Hon P.G. PENDAL: If the Attorney General wants me to say again that it was a criminal activity, I will say that. Is the Attorney saying that he condones conduct of that kind?

Hon J.M. Berinson: Of course I am not, but you are saying that you need this Bill to make it illegal, but on the other hand that it is not necessary.

Hon P.G. PENDAL: Is the Attorney General prepared to support the Bill tonight?

Hon Kay Hallahan: It is a silly Bill.

The PRESIDENT: Honourable members should come to order so that we can get this debate out of the way.

Hon P.G. PENDAL: On that basis, Mr President, and accepting that the Opposition does not believe that the Government should have the right to destroy and tamper with the public records, I commend the Bill to the House.

Hon J.M. Berinson: What a joke!

Division

Question put and a division taken with the following result -

Ayes (12)		
Hon J.N. Caldwell	Hon P.H. Lockyer	Hon D.J. Wordsworth
Hon George Cash	Hon Murray Montgomery	Hon Margaret McAleer
Hon Max Evans	Hon Muriel Patterson	(Teller)
Hon Peter Foss	Hon P.G. Pendal	
Hon Barry House	Hon W.N. Stretch	
Noes (12)		
Hon J.M. Berinson	Hon Tom Helm	Hon Bob Thomas
Hon J.M. Brown	Hon Garry Kelly	Hon Fred McKenzie
Hon T.G. Butler	Hon Mark Nevill	(Teller)
Hon Graham Edwards	Hon Sam Piantadosi	
Hon Kay Hallahan	Hon Tom Stephens	

Pairs

Hon Derrick Tomlinson	Hon B.L. Jones
Hon R.G. Pike	Hon John Halden
Hon N.F. Moore	Hon Doug Wenn
Hon E.J. Charlton	Hon Cheryl Davenport

The PRESIDENT: The vote being tied, I give my casting vote with the Ayes.

Question thus passed.

Bill read a second time.

Committee - Defeated

The Chairman of Committees (Hon J.M. Brown) in the Chair; Hon P.G. Pendal in charge of the Bill.

Clause 1: Short title -

Hon PETER FOSS: There are some essential parts to this Bill, and the suggestion that we can wait for this Bill to be passed concerns me considerably. The suggestion was made that we need some sort of report from the Royal Commission before we can take heed of evidence given by people from the Ministry of the Premier and Cabinet that tampering with files occurred. We do not need a report on that issue when people who engaged in the activities have said that that is what they did. It is not a question of hearsay; it is not a question of credibility; it is a matter of somebody saying, "I did it." Therefore, we know that has been happening and that needs to be dealt with!

The fact is that Hon Phil Pendal is prepared to listen to the requests from the professional archivist in this State who are genuinely concerned about what has happened. The member is prepared to introduce this Bill to do something about the matter. This will offer some considerable comfort to the people of Western Australia who cannot help but be alarmed by what has taken place; I would have hoped that some members of the Government would be alarmed to hear the evidence from people indicating the things they are doing.

The Minister's suggestion that in due course we will have a brand, spanking new wonderful system, is not good enough. We have a Government which always puts things off because something else will happen. We are told that we must not deal with matters while the Royal Commission is around; we could not deal with things when the McCusker inquiry was being conducted or because prosecutions were taking place.

We are now told that we must not deal with the very things which are admitted to, and are

plainly occurring, in the Royal Commission because the Government will do something in the future.

Hon P.G. Pental: Probably because they need to buy a bigger shredder.

Hon PETER FOSS: Exactly. The worst thing is that the Minister has not really dealt with this Bill in detail at all. Her speech was vague and generalised; she said that something better would be done later, and she has not said what is wrong with this Bill at least as an interim measure. At least it tries to address the problem. This Government year after year has been covering up and concealing -

Hon J.M. Berinson: Covering up and concealing what?

Hon PETER FOSS: You have been covering up and concealing the facts of WA Inc; you know it!

Hon J.M. Berinson: You are throwing generalisations about.

Hon PETER FOSS: The Attorney General will not answer questions to this day on his involvement in WA Inc; he is still concealing these matters. This is a Government which came in on the promise of open Government -

Withdrawal of Remark

Hon J.M. BERINSON: I ask that that remark be withdrawn.

The CHAIRMAN: Order!

A Government member: Throw him out!

The CHAIRMAN: If anybody is to suggest that, it will be me. I have heard the request for the withdrawal of a remark, and I ask the member to withdraw.

Hon PETER FOSS: What am I supposed to withdraw?

Hon J.M. BERINSON: Improper conduct on my part.

Hon Graham Edwards: Disgraceful!

Hon PETER FOSS: If the honourable member asks me to withdraw my remark, I need to know the words I used. I do not think I used those words.

The CHAIRMAN: I have asked Hon Peter Foss to withdraw the words he used concerning the Attorney General.

Hon PETER FOSS: I do not know the words I am supposed to have used.

The CHAIRMAN: I will get a report of them from Hansard if the member does not know the words he said. I have asked the member to withdraw.

Hon PETER FOSS: What, Mr Chairman? I cannot withdraw words when I do not know what it is I am supposed to withdraw. I will certainly withdraw any improper words I said if I know what they are. I cannot withdraw words when I am unsure what they are.

Hon J.M. BERINSON: It may help if I elaborate on the objection I took earlier: Mr Foss made very a direct reference to my concealing, refusing to answer, misleading and in various others way acting improperly. The member did not use the words "acting improperly", but obviously if I refuse to answer questions, or if I answer them incorrectly, or deliberately wrongly, I am acting improperly. I deny that. There has never been evidence here or anywhere else to that effect and the member is not entitled to make that accusation.

The CHAIRMAN: Order! I refer the member to Standing Order No 97. This refers to offensive or unbecoming words in reference to a member. The Attorney General has taken a point of order on the member's comments and I ask the member to withdraw them.

Hon PETER FOSS: Mr Chairman, if you ask me to withdraw saying that I said the Attorney General had refused to answer questions, I cannot withdraw. The Attorney General has in fact refused to answer questions. I do not believe that that is in any way an imputation; he has refused to answer questions. I do not see that in any way as an imputation.

The CHAIRMAN: Hon Peter Foss has tried to oversimplify that to which the Attorney General has taken objection. In the member's presentation in speaking to the short title of the Bill he raised questions concerning the Attorney General in his capacity as a Minister in

the Parliament. He has taken exception to the remarks made about him and he has asked you to withdraw.

Hon PETER FOSS: I can only withdraw certain words, and if the Chairman is asking me to withdraw the remark that the Attorney General has refused to answer questions, then I cannot withdraw that because I do not see the imputation, and he has refused to answer questions.

Hon J.M. BERINSON: Of course, if Mr Foss is going to take each separate word and attempt to distract us from the whole point of his attack on me, we will have some difficulties and we probably have to refer to *Hansard*. I am prepared to say that there have been occasions when I have indicated that questions would more properly be answered at a later stage; for example, when the Royal Commission reports. That is not a refusal to answer questions but an indication that those questions should be put at another time. But Mr Foss went further than that; he indicated that answers which had been given either here or elsewhere were wrong or misleading. That is the primary point of my objection because I cannot imagine anything more offensive.

The CHAIRMAN: Standing Order No 97 reads -

No Member shall use offensive or unbecoming words in reference to any Member of either House and all imputations of improper motives and personal reflections on Members shall be considered highly disorderly, and when any Member objects to words used, the presiding officer shall if he considers the words to be objectionable or unparliamentary, order them to be withdrawn forthwith.

I have asked Hon Peter Foss to withdraw.

Hon PETER FOSS: The problem I have -

The CHAIRMAN: Order! I have asked Hon Peter Foss to withdraw. If the member does not withdraw -

Hon PETER FOSS: Which words do you want me to withdraw?

The CHAIRMAN: I am not going to repeat what I have already said. I have asked the member to withdraw.

Hon PETER FOSS: I cannot withdraw words if I do not know which words to withdraw.

Hon Mark Nevill: You accused him of deliberate concealment.

Hon Kay Hallahan: You get up there in a hyper state and do not know what you are saying.

The CHAIRMAN: I will take the appropriate action under Standing Orders and report to the President.

[The President resumed the Chair.]

Hon J.M. BROWN: Mr President, the Attorney General has sought a withdrawal of what he considers to be a reflection upon him in words spoken by Hon Peter Foss. Hon Peter Foss says that he is unaware of any offence that he may have given and has not taken steps to withdraw, so I have suspended proceedings of the Committee in order to report to you that I consider there has been an offence committed in the Chamber.

The PRESIDENT: I am prepared to listen to what the Attorney General believes were the offensive words. I will then call for the *Hansard* transcript. First, could the Attorney General tell me what the offensive words were?

Hon J.M. BERINSON: We are so far beyond the actual event that I cannot pretend to be able to produce the actual words. The effect of them was to suggest that either here or elsewhere I have deliberately given wrong and/or misleading answers and concealed the truth on the matters at which the questions were directed. I find that objectionable.

The PRESIDENT: I need to get a copy of the *Hansard* transcript. It will be some time before we get that transcript, so I will leave the Chair until the ringing of the bells. First, can Hon Peter Foss indicate whether he believes that the accusations that the Attorney General has made are correct in regard to the imputation that the member has suggested that the Attorney General has in the past deliberately misinformed the House or withheld answering questions?

Hon PETER FOSS: I do not believe I did make that imputation and certainly I had no intention of doing so. I did accuse him of refusing to answer questions.

The PRESIDENT: That is all I want to know. I will wait until I get the *Hansard* transcript.

Sitting suspended from 2.09 to 2.27 am

Ruling - By the President

THE PRESIDENT (Hon Clive Griffiths): Honourable members, I have been asked to rule on a point of order raised by the Leader of the House in regard to some comments made by Hon Peter Foss in the course of the Committee debate. I have studied very closely the transcript of what was said and I am of the opinion that there is no point of order and that the comments made are debatable material. Therefore, I cannot rule that the member should withdraw those comments.

However, I advise members that it would appear there was great uproar in the Chamber at the time the comments were made. I can understand the Chairman of Committees reaching the conclusion that he could quite properly ask the member to withdraw his comments based, if on nothing else, on the course I have always followed; that is, in this Chamber if a member does take objection to something that is said it is usual for the member to withdraw his remarks. However, if a member chooses not to withdraw his remarks we have to look at the words which were used and relate them to Standing Order No 97. That is what I have been asked to do tonight. I have no alternative but to rule that there is no point of order.

Committee Resumed

Hon PETER FOSS: The point I was raising is important; that is, that because of the history of this matter it is essential that we move as soon as possible to ensure there is no possibility of a recurrence of the matters that have been detailed in the Royal Commission. We should have some legislation immediately in place and we should not resort to accepting what we have been told; that is, that something will be done. The history of matters of this sort has been that things are put off and eventually we do not have the legislation we want. It is important we deal with this now and I am disappointed that the Minister has not dealt with the detail of the Bill to explain why it is unacceptable. During the course of this Committee stage I hope the Minister will deal with each clause and explain why it is unacceptable legislation. I ask her to give us some sound reasons why we should not enact this legislation. All we have had to date is an indication that in future we will have better quality legislation that will be a Rolls Royce job. We have a need for this sort of legislation. It is good legislation and the Government has a duty during the course of the Committee stage to go through the wording of the legislation and point out why the people of Western Australia would not be better served by having each of the matters contained in the Bill dealt with.

Hon KAY HALLAHAN: I advise Hon Peter Foss that I am never brief or dismissive in what I say and I do not believe I was tonight in representing the Government's point of view on this Bill. I made it clear why the Government did not consider this Bill to be satisfactory. It appears that Hon Peter Foss does not understand the meaning of a thorough and comprehensive approach to issues. What the Government is proposing to do will be very thorough and comprehensive and that is the desirable way to deal with something if one has a genuine concern about it. If one does not have a genuine concern, it is good to whip up a two page Bill, trot it into this House, beat the Government around the ears, and in doing so make no contribution to society or the better keeping of public records in this State. That is the behaviour we see in this Chamber this morning. It is a wicked waste of time. The Government is prepared to do something about this.

Hon P.G. Pental: That is offensive to the Opposition.

Hon KAY HALLAHAN: Nobody can say anything that will offend the Opposition. Members opposite carry on in a disgusting way. I am telling Hon Phillip Pental that professional groups have been working on this matter, as I indicated clearly in my contribution to the second reading debate, and that consultation has led to certain people approaching the Opposition.

Hon P.G. Pental: They have approached us because they do not trust the Government.

Hon KAY HALLAHAN: It has nothing to do with trusting the Government; the Government's actions have stimulated debate on this issue and that has led to people approaching the Opposition. The Government's action in stimulating debate in professional circles has created this situation.

Hon P.G. Pendal: The Government's action has been to destroy Government files.

Hon KAY HALLAHAN: Despite the comments of Hon Peter Foss, I believe I gave a very reasonable and thorough response to the debate, and I do not think anything can be gained by giving a clause by clause response. Legislation which imposes penalties will not necessarily change the culture of bureaucracies but members opposite do not appear to understand that. Perhaps that is why they do not understand the need for a comprehensive approach to the matter. This is an ad hoc Bill, and it will not do the things that members opposite expect of it. Members opposite do not want comprehensive legislation; they want to politic and create an image that a penalty system will somehow or other simplify and fix a difficulty within the process. Members opposite do not really believe that the problem lies within the Public Service, but rather they believe it lies within the Premier's department. I guess that explains the presentation of this superficial Bill. The Government is conducting very responsible, reasoned and thorough research and consultation on this matter and it will provide a public discussion document. It will then introduce legislation in this Parliament, and we shall have the benefit of the consideration of that legislation by many professional people, in addition to members opposite. The Government does not support the legislation, which is ad hoc and incomplete.

Hon P.G. PENDAL: I clarify one comment the Minister made; that is, the Opposition has no trouble with the bureaucracy with regard to this Bill, but it is concerned about the political arm of Government. Evidence was given in the Royal Commission to the effect that certain documents were removed from the files of the Premier's department, not at the behest of the bureaucracy but at the behest of a very senior Minister of the Crown.

Hon Kay Hallahan: It goes to show how little you know about public records.

Hon P.G. PENDAL: Secondly, I refer to the now famous missing file that went from one Minister's office to another Minister's office, but somehow or other was lost on the way. That is not the fault of the bureaucracy, that is the fault of -

Hon J.M. Berinson: Who are you accusing now, Mr Pendal?

Hon P.G. PENDAL: That must be explained by the political masters.

Hon J.M. Berinson: It will not be explained by this Bill.

Hon P.G. PENDAL: That situation brought about the introduction of this Bill, and it is nice to see the continuing interest of the chief law officer in these matters because one would expect him to be the first person to support the Bill. This instance brought to a head the need for legislation to be passed in this Chamber tonight. The Minister for Education can have a tantrum and throw pencils and files around, as she just did, but it will not alter the fact that the Opposition has been approached by a number of people - whose names I certainly will not mention here - whose professional reputations and status are beyond any challenge. Those people believe the public record is not being properly looked after. It has been within the power of the Government to take some action ever since it was learned that files were mysteriously going missing. If members on the Government side want to take exception to my comments they may care to explain where the files went in the first place.

Hon Tom Helm: Will this Bill find them?

Hon P.G. PENDAL: No, but it will dissuade other people from carrying on with that sort of conduct.

Hon Bob Thomas: You always get things mixed up.

Hon P.G. PENDAL: I do not have it mixed up. The reports to the Royal Commission in sworn evidence were quite clear about the removal of certain parts of certain files, and evidence was given about the direction from which the order came. The second instance related to the file that mysteriously went missing. In those circumstances I suggest the Government has used more resources on other lesser occasions to get to the bottom of certain mysteries than it appeared to do on this occasion. More is the pity that it did and more is the reason that this Bill should pass.

Division

Clause put and a division called for.

Bells rung and the Committee divided.

The CHAIRMAN: Before the tellers tell, I cast my vote with the Noes.

Division resulted as follows -**Ayes (12)**

Hon J.N. Caldwell
Hon George Cash
Hon Max Evans
Hon Peter Foss
Hon Barry House

Hon P.H. Lockyer
Hon Murray Montgomery
Hon Muriel Patterson
Hon P.G. Pental
Hon W.N. Stretch

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

Noes (12)

Hon J.M. Berinson
Hon J.M. Brown
Hon T.G. Butler
Hon Graham Edwards
Hon Kay Hallahan

Hon Tom Helm
Hon Garry Kelly
Hon Mark Nevill
Hon Sam Piantadosi
Hon Tom Stephens

Hon Bob Thomas
Hon Fred McKenzie
(Teller)

Pairs

Hon Derrick Tomlinson
Hon R.G. Pike
Hon N.F. Moore
Hon E.J. Charlton

Hon B.L. Jones
Hon John Halden
Hon Doug Wenn
Hon Cheryl Davenport

Question thus tied.**Clause thus negated.**

The CHAIRMAN: In view of the fact that the Committee has not carried clause 1, the short title, it is the practice that the Chairman report the result to the President and that the Bill proceed no further.

Report

Resolution reported, and the report adopted.

ADJOURNMENT OF THE HOUSE - ORDINARY

HON J.M. BERINSON (North Metropolitan - Leader of the House) [2.43 am]: I move -

That the House do now adjourn.

Adjournment Debate - Potato Marketing Board

HON SAM PIANTADOSI (North Metropolitan) [2.43 am]: Mr President -

Hon P.G. Pental: What is up with soccer now?

Hon SAM PIANTADOSI: Do not worry about soccer. The Potato Marketing Board greatly concerns me. Many constituents in my electorate are having to import potatoes from the Eastern States and they are experiencing great difficulties. One of those difficulties is that members opposite show very little intestinal fortitude for regulating that industry. It now looks as if the Edgell-Birds Eye factory in Manjimup will have to close because it cannot get enough quality potatoes for its product. We are always being told by the Opposition that changes need to be made in the workplace to increase productivity.

Hon W.N. Stretch: You are the Government.

Hon SAM PIANTADOSI: That is not occurring. There are two blatant examples of a closed shop in this State, the Potato Marketing Board and the Egg Marketing Board. Western Australian exporters are having to import produce from the Eastern States because not enough is being grown here. I challenge any member opposite to prove me wrong. If they have the intestinal fortitude, they should join me in setting up a Select Committee to investigate the Potato Marketing Board to bring about its demise so that horticulturists who

are represented by Mr Stretch can grow crops to provide an ample supply in Western Australia to benefit all Western Australians.

HON W.N. STRETCH (South West) [2.47 am]: The House should not adjourn until I have made a couple of comments in response to Hon Sam Piantadosi. That was an amazing statement. Who forms the Government of Western Australia? We have been asking that for some time. Many times we have suggested a need to investigate statutory marketing boards. I challenge Hon Sam Piantadosi. It is his Government.

Hon Sam Piantadosi: The last time I raised this matter, members opposite did not support me.

The PRESIDENT: Order!

Hon Sam Piantadosi: You would not give me your endorsement. Ask Colin Bell what he thinks about the matter.

The PRESIDENT: Order! I remind Hon Sam Piantadosi that he has not got a licence at this hour of the morning to ignore the Chair. I suggest that he not do that.

Hon W.N. STRETCH: I repeat, he is part of the Government. This matter does not need investigation by a Select Committee. If he believes so strongly in this matter, he should tell his colleagues and Cabinet about it, not us.

Hon Sam Piantadosi: Will you support it?

Hon W.N. STRETCH: Yes, I will.

The PRESIDENT: Order!

Hon Sam Piantadosi: Will members opposite support it?

Hon W.N. STRETCH: I promise the member that, as with all legislation, I will look closely at his legislation to investigate marketing boards. I repeat: He is part of the Government. The sooner that legislation is introduced the better. It will receive a fair hearing from me. He does not need to establish a Select Committee and he should not grandstand on this issue. I would not be surprised to hear what the Minister for Agriculture thinks about the member.

Question put and passed.

House adjourned at 2.49 am (Thursday)

QUESTIONS ON NOTICE

SCHOOLS - COOMBERDALE PRIMARY SCHOOL SITE

Moora Shire Revestment

1073. Hon MARGARET McALEER to the Minister for Education representing the Minister for Lands:

- (1) Will the Minister advise if arrangements are in hand to revest the site of the primary school at Coomberdale in the Shire of Moora as indicated in her letter to me on 6 May 1991?
- (2) When is it envisaged the revestment will be achieved as the school buildings on the site are vacant and deteriorating?

Hon KAY HALLAHAN replied:

- (1) The Ministry of Education has advised the Department of Land Administration (letter dated 30 April 1991) that the site of the primary school at Coomberdale is no longer required by the ministry and has requested that it revest the site in the Shire of Moora.
- (2) Not applicable.

INDUSTRIAL SITES - KALGOORLIE

Noxious Fumes, Gidji Roaster Areas

1179. Hon P.H. LOCKYER to Hon Tom Stephens representing the Minister for Goldfields:

- (1) Where will the proposed future industrial development land be situated in Kalgoorlie?
- (2) Have any concerns been raised with regard to possible noxious fumes affecting areas close to the Gidji Roaster?
- (3) If so, will further studies be undertaken with regard to land between the Gidji Roaster and Kalgoorlie?

Hon TOM STEPHENS replied:

The Minister for Goldfields has provided the following reply -

- (1) A recommendation to the Government on the preferred industrial site will be considered after evaluation of submissions received in response to the recent consultant's report.
- (2)-(3) Yes.

QUESTIONS WITHOUT NOTICE

PRISONS - CASUARINA

Sniffer Dogs Consideration

725. Hon GEORGE CASH to the Minister for Corrective Services:

I refer to the recent unfortunate escape of a maximum security prisoner from the Casuarina Prison. Rather than inflict retribution on prison officers who were, in my view, attempting to come to grips with the operational changes at the new Casuarina Prison, will the Minister consider the introduction of sniffer dogs at the prison?

Hon J.M. BERINSON replied:

The alternatives which the Leader of the Opposition proposes bear no relationship to each other. Mr Norm Marlborough, MLA has suggested that sniffer dogs be introduced to meet the limited problem that arose in the recent escape. His suggestion is being evaluated and I will be happy to advise the House, as I will Mr Marlborough directly, of the outcome of that consideration. On the other hand, disciplinary action taken within the

department must be dealt with on its own merits. I deplore the use of language like "retribution" which seems to import some sort of notion of scapegoats. It is a matter for the department to determine when the standards required of prison officers have not been met and when any failure to meet those standards is of a nature which makes disciplinary action appropriate. There are well established procedures, including appeal procedures, to make absolutely certain that no action against any prison officer is taken that is not appropriate to the circumstances. I make it clear that, given the way in which the question was put, there is no question of my having any personal input on the process to which I have referred. It is a professional question entirely and that means that professional judgment must be applied, and in that I have no part.

Hon George Cash: To save the Minister's time, I am more interested to hear about sniffer dogs than the Minister's part in the matter.

Hon J.M. BERINSON: I have answered the sniffer dog question.

Hon George Cash: I have asked the Minister about sniffer dogs on a number of occasions, the first time more than 12 months ago. Doesn't Hon Joe Berinson like dogs?

Hon J.M. BERINSON: I am not prepared to lose the vote of all canine lovers by denying it, but neither am I prepared to affirm it; but that is quite irrelevant to the present question. Although the sniffer dog matter is something that requires consideration, I have dealt with that fully. I cannot allow the implications of the other part of Hon George Cash's question to go unanswered. All that I wish to add to what I have already said is that there is absolutely no question - at the departmental level as well - but that there would be only one consideration in respect of the investigation and any follow up action, and that would be to apply proper professional standards to any action which is taken. No-one anywhere in the corrective services system, whether at the departmental or the ministerial level, where I am involved, has any interest in finding scapegoats. In fact, I made that point last week when I felt that some of Mr Marlborough's comments might have been encouraging a different point of view. We are interested in the safety of the public; that is the duty of the department and it should have the support of us all in carrying out that duty fully and correctly.

EDUCATION MINISTRY - EDUCATION AND TRAINING PACKAGE *School Leavers*

726. Hon BOB THOMAS to the Minister for Education:

Will the Minister outline to the House details of the education and training package for school leavers announced this week?

Hon KAY HALLAHAN replied:

I thank Hon Bob Thomas for having given some notice of his question, and I assume that the package to which the member refers is that which was announced the week before last to provide 2 700 places for school leavers. The package is the "WA Vision of Excellence for School Leavers" and brings together education and training opportunities for young people when they leave school this year, and as they approach exam time. It will take some pressure off young people because, as we know, next year will be highly competitive. That package includes 1 000 places in a unique study program and will combine the study of TEE subjects with TAFE accredited subjects for students unable to gain places at university. It is an attempt to make young people consider a broader range of opportunities, including TAFE, as it is traditional for people going through the school system to aspire to go to university. Many of those people will not gain places next year.

In addition, 500 TAFE places will be allocated to health, biological and social sciences, community services, business and computing and hospitality studies. Five hundred places will be offered to students who want to upgrade their

TEE scores and 500 places will be offered in career and employment preparation courses. Another 200 places will be available to those students who need to upgrade their education to the equivalent of year 10 graduation.

Although there is a high retention rate to year 12 in schools it is part of the youth guarantee that all young Australians will have the opportunity by the end of this decade to go to year 12. We are certainly moving toward that goal. However, a number of young people still leave school early and do not have the skills with which to choose from a number of options in life. This package will provide alternatives to attend university. It will also provide training and introduce counselling to help students to decide on what they want to do. I await the details in the Prime Minister's statement tomorrow because it will provide assistance with unemployment and deal with the training of young people. The Government has made an effort with the production of this pamphlet to bring those details together. I hope all members have now received a copy of the pamphlet.

Hon E.J. Charlton: How much did it cost?

Hon KAY HALLAHAN: I can obtain the figure for the member if he requires it - if he is more interested in costs than in content.

The PRESIDENT: Order! The Minister does not need to answer that question. She must answer the question asked by Hon Bob Thomas and no other. It is not the time to be answering questions made by way of interjection.

Hon P.G. Pendal: That takes all the fun out of it.

Hon KAY HALLAHAN: Yes, it does. This pamphlet will provide information to students who are concerned about leaving school early.

**ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF GOVERNMENT
AND OTHER MATTERS - LEGAL ASSISTANCE GUIDELINES**
Government Ministers and Officers - Solicitor General or Crown Solicitor Concerns

727. Hon P.G. PENDAL to the Attorney General:

Is the Attorney General aware of any concerns expressed by the Solicitor General or the Crown Solicitor over the application of the guidelines applying to legal assistance to Ministers, ex-Minister, officers, or ex-officers currently appearing before the Royal Commission?

Hon J.M. BERINSON replied:

Any discussions between me and the legal officers of the Crown are always held in confidence and that applies to this matter as all others.

TRAFFIC CAMERA - VICTORIA

728. Hon E.J. CHARLTON to the Minister for Police:

- (1) What will be the consequences of the discussion today about the new camera being developed in Victoria?
- (2) Will it be used in Western Australia?

Hon GRAHAM EDWARDS replied:

(1)-(2)

I am not aware of the exact technology which is part of the new camera developed in Victoria and discussed at the conference in the Eastern States. The advantage of this camera is that it can be used either as a speed detection camera or a red light camera. Its evaluation will be a matter for the police in this State to undertake. I understand that the Victorian and New South Wales Police Forces are very interested in the camera because those States probably use more cameras than we do in Western Australia. I do not doubt that the Police Force will look at that camera, but whether they use it here remains to be seen. That will be subject to evaluation.

Many people in Western Australia are cynical about the use of cameras.

However, cameras have been very effective in reducing speed. It is true to say that the major factor in road deaths in Western Australia to date has been speed. The Police Force recently purchased two more Multanova cameras which are not of the type which were the subject of discussion in the Eastern States.

**ROYAL COMMISSION INTO COMMERCIAL ACTIVITIES OF GOVERNMENT
AND OTHER MATTERS - LEGAL ASSISTANCE GUIDELINES**

Government Ministers and Officers - Observance

729. Hon P.G. PENDAL to the Attorney General:

Is the Attorney General satisfied that the guidelines applying to legal assistance to Ministers, ex-Ministers, officers and ex-officers appearing before the Royal Commission and tabled by him in this House in July 1990 are being observed?

Hon J.M. BERINSON replied:

That question should not be addressed to me. The guidelines are not my guidelines but the guidelines of the Government.

Hon P.G. Pendal: You are the Leader of the Government.

Hon J.M. BERINSON: So, I am the leader of the Government. The member may as well ask me if I am satisfied with the railway schedule.

Hon P.G. Pendal: Is the system being rorted?

Hon J.M. BERINSON: The guidelines are established by -

Hon P.G. Pendal: Tabled by you.

The PRESIDENT: Order!

Hon J.M. BERINSON: Is the member finished? I table hundreds of documents in this House.

The PRESIDENT: Order! The question is simply one of whether the Attorney General will answer the question.

Hon J.M. BERINSON: I will answer the question by saying that it is not for me to answer it. The reason for that is that the guidelines are not my guidelines but the Government's guidelines and their implementation is not my responsibility but are always dealt with directly by the Premier. Accordingly the member, if he wants to pursue this line of questioning -

Hon P.G. Pendal: You bet I do.

Hon J.M. BERINSON: - ought to now know what he may do.

JUVENILE OFFENDERS - GIRRAWHEEN 15 YEAR OLD

Unlawful Killing Conviction - 18 Months Sentence Appeal

730. Hon GARRY KELLY to the Minister for Police:

(1) Is the Minister aware that the 15 year old Girrawheen youth who was convicted of the unlawful killing of a woman in a traffic accident at Carlisle earlier this year was sentenced today to 18 months detention?

(2) If so, does he see any merit in appealing against the sentence handed down?

Hon GRAHAM EDWARDS replied:

(1)-(2)

I will request that the Commissioner of Police - whose final determination it is - appeal against this sentence. It is my view that the sentence handed down today was inadequate. I also expressed that view when the sentence was handed down following the court appearance of the person charged with the death of Neville Wilson. The difference between then and now is that an eight year sentence has been handed down in the Supreme Court for a matter similar to this case. On that basis the commissioner should be seeking advice on whether the matter can be appealed. I am optimistic that such advice will

be forthcoming simply because that sentence was handed down in the Supreme Court.

I reiterate that in my view the sentence handed down in relation to the Wilson case and the sentence handed down today are both inadequate and I hope we can appeal them.

SCHOOLS - FLINDERS PARK PRIMARY SCHOOL
Transportable Classrooms Retention

731. Hon MURRAY MONTGOMERY to the Minister for Education:

Earlier this year the principal of the Flinders Park Primary School was given an undertaking by officers of the Ministry of Education that the school could retain two demountables following the completion of the extensions at the school. One of the demountables will be used for students in the 1992 school year. The school has now been informed by the Ministry of Education that it will be able to retain only one of those demountables. Will the Minister intervene to ensure that the school can retain the other demountable?

Hon KAY HALLAHAN replied:

I thank the member for notice of the question. I understand from my discussion with him that the principal of the Flinders Park Primary School believed that officers of the Ministry of Education gave him an undertaking that the school could keep two of the four transportable classrooms it has on site in 1992, following the completion of a building program. I have investigated that allegation and am advised that both the officers concerned denied giving any such commitment. The Flinders Park Primary School will have 13 classrooms in 1992; 12 will be permanent and one will be temporary, and that equates to accommodating something like 402 students. The projection for student enrolments for 1992 stands at 382 students.

The question of transportable classrooms is raised with extraordinary regularity. Eighty of them are earmarked for reallocation at the beginning of the 1992 school year. The three transportables which are now being used at the Flinders Park Primary School will be relocated at the Walpole and Katanning Primary Schools and the Bridgetown High School. Two of these schools are in the member's region and all of them will require increased accommodation because of the projected increase in enrolments. The Ministry of Education is constantly monitoring schools to ascertain whether there will be any increase in enrolments. It also identifies the transportables which can be relocated to those areas. It must make a decision on where those buildings are needed the most. As the member described to me, the Flinders Park Primary School had plans to conduct a number of additional curriculum activities in the two transportable classrooms. One transportable will give that school some flexibility, but the ministry must consider the needs of other schools when it makes a judgment on the allocation of transportable classrooms.

I repeat that the officers concerned denied giving any undertaking to the principal that two transportable buildings would remain at the Flinders Park Primary School and it is regrettable if the school community feels aggrieved and disappointed about that.

WILSON, SUSAN - ASSAULT CHARGE

732. Hon N.F. MOORE to the Minister for Police:

I refer the Minister to the decision to charge Susan Wilson of Newman with assault and ask -

- (1) Whom did she allegedly assault?
- (2) What action has been taken as a result of the laying of this charge?
- (3) Who laid the complaint?

Hon GRAHAM EDWARDS replied:

I thank the member for prior notice of his question.

- (1) An officer of the Department for Community Services.
- (2) A summons was served on the defendant to appear before the Newman Court of Petty Sessions on 8 November this year. The defendant appeared and was remanded to appear before a magistrate in that court at a later date.
- (3) The complaint of assault was laid by local police as a result of a complaint made by the aggrieved person.

CHILDREN'S COURT OF WESTERN AUSTRALIA ACT - AMENDMENTS

733. Hon E.J. CHARLTON to the Leader of the House:

In view of the answer given by the Minister for Police to Hon Garry Kelly's question about the leniency of a sentence, will the Government take action to change the laws relating to the Children's Court?

Hon J.M. BERINSON replied:

Certainly not. I cannot imagine how any change to the Children's Court of Western Australia Act would help. That Act, following our new legislation last year, allows adult penalties in appropriate cases to be applied by the President of the Children's Court. I cannot see how that provision needs any amendment or how it could reasonably be taken any further.

Hon E.J. Charlton: Do you think we can get rid of him?

Hon J.M. BERINSON: That is an outrageous thing to say.

Hon E.J. Charlton: It is not.

The PRESIDENT: Order!

Hon J.M. BERINSON: I have heard some pretty outrageous things said in this House, but that takes the cake. If Hon Eric Charlton thinks that the way to solve juvenile crime is to keep changing judges of the Children's Court until we get one he likes, he is mistaken. It is about time members of this House learnt to appreciate the work of the President of the Children's Court. He has one of the most difficult tasks of any of our judges and he is entitled to our respect and support and not to that sort of derogatory comment. It will do nothing to solve the problem of juvenile offending; if anything, it will be counterproductive. I genuinely deplore the comment Hon Eric Charlton made. I trust he will not repeat it and I hope that nobody else will. To the extent that other members of the community do, they are deluding themselves and they are going in a direction that will not solve the problem at all. If anything, it will exacerbate the problem.

I will add something to my earlier reply to Hon Eric Charlton's question. One aspect of his question raised the possibility that the Government could do anything in respect of the sentence to which he and Hon Garry Kelly referred.

Hon E.J. Charlton: You can.

Hon J.M. BERINSON: It can do nothing and it would do nothing. The Minister for Police has properly indicated that he will be looking to the Commissioner of Police to take legal advice and in the ordinary course of events he will take that from the Crown Prosecutor. It will then be up to the Commissioner of Police to make a decision. I fervently hope that we will never reach the stage of deciding to proceed, either on the sentencing of persons or on appeals for or against sentence, on the basis of political judgment. Nothing could be more damaging to our whole system of justice, let alone that part of it dealing with juveniles.

Withdrawal of Remark

The PRESIDENT: I wish in general terms to draw to the attention of all members a

very old and substantial convention and rule of the House of Commons on which we base our operations and which relates to reflections being cast upon certain groups of people including judges of the various courts. The rule is that no reflection ought to be cast unless it is cast as a result of a substantive motion couched in the proper terms for that purpose. I therefore think, with respect, that perhaps Hon Eric Charlton would even at this stage ask for his reflection to be withdrawn.

Hon E.J. CHARLTON: I have no problem whatever in withdrawing any perceived reflection on the judge involved. I also have no problem in identifying with anything else that may have accrued from my interjection. If I had the opportunity I would have asked a further question of the Leader of the House who implied that this Parliament has no role to play in laying down the parameters within which the Children's Court operates. The fact is that that is the very place the remark was born and that is why I asked the question. However, I withdraw any reference to the judge.

Questions Without Notice Resumed

EDUCATION MINISTRY - EDUCATION AND TRAINING PACKAGE

Member for Riverton's Comments

734. Hon JOHN HALDEN to the Minister for Education:

Will the Minister comment on the accuracy of the remarks by the member for Riverton that the Government's education and training package does not add up financially?

Hon KAY HALLAHAN replied:

I thank the member for raising this question because he shares an electorate with the member for Riverton. On 1 November in an article in *The West Australian* it was reported that the member for Riverton said he believed the figures in respect of the Government's education and training package did not add up. I was extraordinarily surprised to read that comment. I was also surprised tonight that when I gave details of that package in response to a question I was confronted with not some indication that people were pleased that the Government was trying to overcome the difficulty being experienced by young people, but with comments about the cost of a publication that would tell young people about the Government's education and training package.

Hon N.F. Moore: I am sick of your Government putting out glossy brochures.

Hon KAY HALLAHAN: At a time of high unemployment that interjection is a terrible reflection on the member. If he thinks -

Several members interjected.

The PRESIDENT: Order! The Minister allows herself to be drawn into side issues every day. I keep asking her not to take any notice of interjections. Hon John Halden is sitting on the edge of his seat waiting for his question to be answered while the Minister is taking her time answering Hon Norman Moore's interjections.

Hon N.F. Moore: Which are more sensible than the question.

The PRESIDENT: Order!

Hon KAY HALLAHAN: The package announced involved the expenditure of \$5.22 million, which in my view was well spent. As I indicated to the House yesterday, I have also made representations to the Federal Government for \$15 million to assist school leavers. This topic is attracting considerable Government attention in view of the Prime Minister's statement to be made tomorrow. If the Federal Government does not respond adequately to the plight of the unemployed in this State, given that we have the highest unemployment and a particularly young population profile, that will be a serious matter. I guess we can have more to say about that tomorrow. The

Opposition would be well advised to take account of what needs to be done and to make a constructive input. I would welcome that.

Hon P.G. Pandal: Instead of glossy brochures.

Hon KAY HALLAHAN: It is abhorrent to complain about the cost of a publication like this. If one is to provide for young people one must remember that they are the same as other people and need material to communicate things to them.

Hon N.F. Moore: They need a job. Some hope!

Hon KAY HALLAHAN: The document under discussion was designed particularly to be picked up and read by young people, so thought went into it. It involved expenditure that was well worthwhile if one was to make the best use of the \$5 million-plus directed towards providing education and employment opportunities for young people who may feel absolutely distressed and discarded, and who do not know where to go at the end of the school year because whether they are looking for a job, university entrance or a place in TAFE they will have difficulties.
